AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 79 Monday,

No. 207 October 27, 2014

Pages 63807–64046

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 79, No. 207

Monday, October 27, 2014

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
PROPOSED RULES
Guidelines for Designating Biobased Products for Federal Procurement, 63841–63846
Voluntary Labeling Program for Biobased Products; Amendments, 63846–63855

Animal and Plant Health Inspection Service
RULES
Importation of Fresh Unshu Oranges from Japan into the United States, 63807–63809

Army Department
NOTICES
Privacy Act; Systems of Records, 63907–63909

Bureau of the Fiscal Service
NOTICES
Senior Executive Services Performance Review Board; Member Appointments, 64013

Centers for Medicare & Medicaid Services
NOTICES
Requests for Nominations:
Advisory Panel on Clinical Diagnostic Laboratory Tests; Establishment, 63919–63920

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Grant Reviewer Recruitment Form, 63920–63921

Coast Guard
RULES
Moving Security Zone around Crane Barge:
New York Harbor Upper Bay and Hudson River, NY and NJ, 63813–63815
Safety Zones:
Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet–Saganashkee Channel, Chicago, IL, 63818–63819
Lower Mississippi River, Mile 170 to Mile 172; Darrow, LA, 63815–63818
Sea World San Diego 2014 Winter Fireworks, Mission Bay, San Diego, CA, 63815
NOTICES
Meetings:
National Offshore Safety Advisory Committee, 63922–63923

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 63894

Commodity Futures Trading Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 63905

Defense Department
See Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 63906
Meetings:
Independent Review Panel on Military Medical Construction Standards, 63906–63907
National Defense University Board of Visitors, 63906

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Progress Report for the Access to Telework Program under the Rehabilitation Act, 63912
DC School Choice Incentive Program, 63910
Request for Title IV Reimbursement or Heightened Cash Monitoring 2, 63910–63911
State Agency Use of an Alternative Method to Distribute Title I Funds to Local Educational Agencies with Fewer than 20,000 Total Residents, 63912–63913
State Educational Agency and Local Educational Agency: School Data Collection and Reporting, 63909–63910
State Plan of Assistive Technology, 63911

Employment and Training Administration
PROPOSED RULES
Federal–State Unemployment Compensation Program:
Total Unemployment Rate as an Extended Benefits Indicator; Technical Corrections, 63859–63879
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Jobs and Innovation Accelerator Challenge and Advanced Manufacturing Jobs and Innovation Accelerator Challenge Grants, 63945–63946

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Applications to Export Electric Energy:
Frontera Marketing, LLC, 63913
Meetings:
Environmental Management Site-Specific Advisory Board, Idaho National Laboratory, 63913–63914
Environmental Management Site-Specific Advisory Board, Nevada, 63914
Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation, 63914–63915
Senior Executive Service Performance Review Board; Standing Register; Correction, 63915

Energy Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 63915–63916

Environmental Protection Agency
RULES
Significant New Use Rules on Certain Chemical Substances, 63821–63840
PROPOSED RULES
Carbon Pollution Emission Guidelines for Existing Stationary Sources:
Electric Utility Generating Units; Correction, 63882–63883
NOTICES
Proposed CERCLA Cost Recovery Settlements:
Hooker Chemical/Ruco Polymer Superfund Site, Hicksville, Town of Oyster Bay, Nassau County, NY, 63918

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Helicopters (Previously Eurocopter France) Helicopters, 63809–63811
PROPOSED RULES
Airworthiness Directives:
Sikorsky Aircraft Corporation Helicopters, 63855–63859
NOTICES
Airport Property Releases:
Paris Cox Field Airport, Paris, TX, 64000–64001

Federal Bureau of Investigation
NOTICES
User Fees:
Criminal Justice Information Services Division, 63943

Federal Communications Commission
PROPOSED RULES
Petitions for Reconsideration of Action in Rulemaking Proceedings, 63883
Regulatory Fees:
Assessment and Collection for Fiscal Years 2014 and 2013; Procedures for Assessment and Collection, etc., 63883–63889
Television Broadcasting Services:
Denver, CO, 63890

Federal Emergency Management Agency
NOTICES
Final Flood Hazard Determinations, 63923–63926
Flood Hazard Determinations; Changes, 63926–63933

Federal Energy Regulatory Commission
NOTICES
Complaints:
Calpine Construction Finance Co., L.P. v. Tampa Electric Co.; Withdrawal, 63916
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Gulf South Pipeline Co., LP, 63916–63917
Settlement Agreements:
Mason Dam Hydroelectric Project, 63917–63918

Federal Motor Carrier Safety Administration
NOTICES
Qualification of Drivers; Exemption Applications:
Epilepsy and Seizure Disorders, 64003–64004
Hearing, 64004–64006
Vision, 64001–64003

Federal Reserve System
RULES
Regulations Y and YY:
Capital Plan and Stress Test Rules, 64026–64056
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 63918

Federal Transit Administration
NOTICES
Funding Availability:
Bus Ladders of Opportunity Initiative Grant Program Project Selections, 64006–64008

Fish and Wildlife Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Coachella Valley Multiple Species Habitat Conservation Plan/Natural Communities Conservation Plan, Riverside County, CA, 63935–63937

Food and Drug Administration
NOTICES
Guidance:
Qualification for the Use of Galactomannan in Serum and Bronchoalveolar Lavage Fluid, 63921–63922

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Properties, 64013

Forest Service
NOTICES
Funding Availability:
2015 Wood Innovations Funding Opportunity, 63891–63894

Geological Survey
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 63937–63938

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
NOTICES
Interest Rates on Overdue Debts, 63918–63919

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Customs and Border Protection

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 63934–63935

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service

Internal Revenue Service
RULES
Qualified Payment Card Agent Program; Removal, 63811–63812
NOTICES
Quarterly Publication of Individuals, Who have Chosen to Expatriate, 64013–64024

International Trade Administration
NOTICES
Requests for Nominations:
Manufacturing Council, 63894–63895
Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the U.S., 63895–63896

International Trade Commission
NOTICES
Investigations; Determinations, Modifications and Rulings, etc.:
Certain Dental Implants, 63940–63941

Justice Department
See Federal Bureau of Investigation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Office for Victims of Crime Training and Technical Assistance Center: Trafficking Information Management System, 63941
Proposed Consent Decrees under CERCLA, 63941–63942
Settlement Agreements under CERCLA and the Oil Pollution Act:
Getty Petroleum Marketing Inc., et al., Queens County and Kings County, NY, 63942

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Workforce Flexibility Program, 63943–63944
Charter Renewals:
Bureau of Labor Statistics Technical Advisory Committee, 63944–63945

Land Management Bureau
NOTICES
Meetings:
John Day – Snake Resource Advisory Council, 63938
Plats of Surveys:
New Mexico, 63938–63939
Requests for Nominations:
Utah Resource Advisory Council, 63939

Maritime Administration
NOTICES
Requests for Administrative Waivers of the Coastwise Trade Laws:
Vessel PERSEVERANCE, 64009
Vessel SUNSEAMOON, 64008
Vessel ZENYATTA, 64008–64009

National Aeronautics and Space Administration
NOTICES
Exclusive Licenses, 63950–63951

National Oceanic and Atmospheric Administration
NOTICES
Atlantic Highly Migratory Species; Permits:
Exempted Fishing, Scientific Research, Display, and Chartering; Letters of Acknowledgment, 63896–63898
Guidance:
Updated Framework for the National System of Marine Protected Areas, 63899
Meetings:
Fisheries of the Gulf of Mexico Southeast Data, Assessment and Review, 63901–63902
Mid-Atlantic Fishery Management Council, 63902
New England Fishery Management Council, 63899–63900
Pacific Fishery Management Council, 63900–63901
South Atlantic Fishery Management Council, 63902–63903
Western Pacific Fishery Management Council, 63903–63904
Taking and Importing Marine Mammals:
Elliott Bay Seawall Project, Seattle, WA, 63904–63905

National Park Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Economic Assessment of the Ambler Mining District Road Access through Gates of the Arctic National Park and Preserve on Subsistence Users, 63939–63940

National Transportation Safety Board
NOTICES
Service Contracts Inventories and Planned Analyses:
FY 2012, 2013, 63951

Nuclear Regulatory Commission
NOTICES
License Amendments:
Exelon Generation Co., LLC., Nine Mile Point Nuclear Station, Units 1 and 2, 63956–63961
Exelon Generation Co., LLC., R.E. Ginna Nuclear Power Plant, 63951–63956

Occupational Safety and Health Administration
NOTICES
Nationally Recognized Testing Laboratories:
SGS North America, Inc.; Expansion of Recognition, 63946–63949
Underwriters Laboratories Inc.; Expansion of Recognition, 63949–63950

Peace Corps
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 63961–63962

Postal Regulatory Commission
NOTICES
New Postal Products, 63962–63963

Postal Service
PROPOSED RULES
Relocating Retail Services:
Adding New Retail Service Facilities, 63880–63882
NOTICES
Product Changes:
Parcel Select Negotiated Service Agreement, 63963
Priority Mail Express and Priority Mail Negotiated Service Agreement, 63963

Presidio Trust
NOTICES
Meetings:
Board of Directors, 63963–63964

Securities and Exchange Commission
NOTICES
Applications:
Precidian ETFs Trust, et al., 63971–63979
Spruce ETF Trust, et al., 63964–63971
Self-Regulatory Organizations; Proposed Rule Changes:
BOX Options Exchange LLC, 63982–63988
Financial Industry Regulatory Authority, Inc., 63996–63997
International Securities Exchange, LLC, 63992–63994
ISE Gemini, LLC, 63994–63995
Miami International Securities Exchange LLC, 63979–63981
NASDAQ Stock Market LLC, 63981–63982
Orders Granting Limited Exemptions, 63997–63999
Public Company Accounting Oversight Board; Orders Granting Approval, 63988–63991

Small Business Administration
NOTICES
Disaster Declarations:
New Jersey, 63999

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Passport Demand Forecasting Study, 63999–64000

Surface Transportation Board
NOTICES
Environmental Impact Statements; Availability, etc.:
Canaveral Port Authority; Petition for Exemption to Construct and Operate a Rail Line Extension, 64009–64013

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Transit Administration
See Maritime Administration
See Surface Transportation Board

Treasury Department
See Bureau of the Fiscal Service
See Foreign Assets Control Office
See Internal Revenue Service

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Crewman's Landing Permit, 63934

Veterans Affairs Department
RULES
Copayments for Medications in 2015, 63819–63821

Separate Parts In This Issue

Part II
Federal Reserve System, 64026–64056

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.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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.

7 CFR
319.....63807
Proposed Rules:
3201.....63841
3202.....63846

12 CFR
225.....64026
252.....64026

14 CFR
39.....63809
Proposed Rules:
39.....63855

20 CFR
Proposed Rules:
615.....63859

26 CFR
31.....63811
301.....63811

33 CFR
165 (4 documents) 63813, 63815, 63818

38 CFR
17.....63819

39 CFR
Proposed Rules:
241.....63880

40 CFR
9.....63821
721.....63821
Proposed Rules:
60.....63882

47 CFR
Proposed Rules:
0.....63883
1 (2 documents) 63883
2.....63883
15.....63883
27.....63883
73 (2 documents) 63883, 63890
74.....63883

Rules and Regulations

Federal Register
Vol. 79, No. 207
Monday, October 27, 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.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2013–0059]

RIN 0579–AD85

Importation of Fresh Unshu Oranges From Japan Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of citrus fruit to remove certain restrictions on the importation of Unshu oranges from Japan. Specifically, we are removing requirements for the fruit to be grown in specified canker-free export areas with buffer zones and for joint inspection in the groves and packinghouses by the Government of Japan and the Animal and Plant Health Inspection Service. We are also clarifying that surface sterilization of the fruit must be conducted in accordance with our regulations. Finally, we are requiring that each shipment be accompanied by a phytosanitary certificate containing an additional declaration stating that the fruit was given the required surface sterilization. These changes will make the regulations concerning the importation of Unshu oranges from Japan consistent with our domestic regulations concerning the interstate movement of citrus fruit from areas quarantined because of citrus canker.

DATES: Effective November 26, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. David Lamb, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2103.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that is caused by a complex of *Xanthomonas* spp. bacteria and that affects plants and plant parts of citrus and citrus relatives (Family Rutaceae). The regulations in ''Subpart-Citrus Fruit'' (7 CFR 319.28) prohibit the importation of fruit from areas infected with certain citrus diseases, including citrus canker, unless the fruit is imported under conditions specified in that section.

On April 10, 2014, we published in the **Federal Register** (79 FR 19840–19844, Docket No. APHIS–2013–0059) a proposed rule [1] to amend the regulations in § 319.28 that govern the importation of Unshu oranges from Japan. Specifically, we proposed to remove requirements for the fruit to be grown in specified canker-free export areas with buffer zones and for joint inspection in the groves and packinghouses by the Government of Japan and the Animal and Plant Health Inspection Service (APHIS). We also proposed to clarify that surface sterilization of the fruit must be conducted in accordance with 7 CFR part 305. Finally, we proposed to require that each shipment be accompanied by a phytosanitary certificate containing an additional declaration stating that the fruit was given the required surface sterilization.

We solicited comments concerning the proposed rule for 60 days ending June 9, 2014. We received seven comments by that date, all from private citizens. The comments are discussed below.

General Comments on the Proposed Rule

Six commenters, aware of APHIS' previous efforts to eradicate citrus canker in Florida, asked why APHIS would risk introducing citrus canker into Florida through the importation of infected Unshu oranges from Japan when past infestations were so detrimental to Florida's citrus industry.

As we documented in the pest risk assessment (PRA) that accompanied the proposed rule, APHIS has determined that commercially packed and disinfected fresh citrus fruit is not an epidemiologically significant pathway for the introduction and spread of citrus canker. The provisions of the proposed rule, which are consistent with the measures that must be applied to citrus fruit produced in the State of Florida in order for the fruit to be eligible for interstate movement, were based on this determination. We are confident that those provisions will adequately mitigate the risks associated with the importation of Unshu oranges from Japan.

One commenter expressed concern that the PRA considered citrus canker to be a medium risk pest that could follow the pathway on Unshu oranges from Japan.

While it is true that the PRA considered citrus canker to be a medium risk pest, the PRA did not evaluate whether mitigations exist to address this risk. However, this evaluation was contained in the risk management document (RMD) that accompanied the proposed rule, and the provisions of the proposed rule were based on the recommendations of that RMD. Accordingly, we have determined that, after the phytosanitary measures specified in this rule are applied to the oranges, the pest risk will be mitigated.

Two commenters were concerned about the quality of the fruit that would be imported.

APHIS' authority does not pertain to fruit quality, but to preventing the fruit from introducing or disseminating plant pests within the United States. Regulating fruit quality is under the purview of the United States Department of Agriculture's (USDA's) Agricultural Marketing Service.

Comments on Efficacy of Treatment

Three commenters were concerned that the method of treating the fruit described in the proposed rule would not kill all citrus canker bacteria on the fruit.

We agree with the commenters; the treatment may not kill all bacteria on infected fruit. However, the treatment will preclude the fruit from serving as a pathway for the spread of citrus canker. This is because packed citrus fruit is not an epidemiologically significant pathway for the spread of citrus canker. Treatment mitigates the risk posed by this pathway.

[1] To view the proposed rule, its supporting documents, or the comments that we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0059.*

Comments on Removal of Joint Inspections

Two commenters asked why APHIS proposed to remove joint inspections, since, they said, those ensured that the citrus being imported had been properly inspected by both parties for evidence of citrus canker, and removing joint inspections would be was less restrictive.

Our proposed removal of the requirements for Unshu oranges exported to the United States to have been produced in specified canker-free areas and jointly inspected by the national plant protection organization (NPPO) of Japan and APHIS in the groves and packinghouses would parallel the changes we made in 2009 to the domestic citrus canker regulations and thus harmonize these regulations with our domestic regulations. As mentioned in the proposed rule, packinghouses are still required to register with the NPPO of Japan so the citrus can be treated and packed in accordance with specific sanitary measures before being imported.

Comment on the Removal of Buffer Zones

One commenter objected to the removal of buffer zones for citrus fruit fly. However, we did not propose to remove these zones. Rather, we proposed the removal of specific distance requirements for the buffer zones from the regulations. We proposed this in order to allow the NPPO of Japan and APHIS to determine buffer zone distances based on local conditions and to adjust them as needed.

Comment on Foreign Restrictions

Two commenters asked why APHIS was proposing to lessen restrictions for foreign producers to export their goods, while Japan has stringent rules regarding the importation of food from the United States.

The United States and Japan are a part of the World Trade Organization, and we have both signed the Sanitary and Phytosanitary Measures Agreement (SPS Agreement). As signatories of the SPS Agreement, both the United States and Japan have agreed that any restrictions or prohibitions placed on the importation of fruits and vegetables will be based on scientific evidence, and will not be maintained without sufficient scientific evidence. In instances in which the United States believes that scientific evidence exists to suggest that another country reconsider its restrictions or prohibitions on the importation of U.S. agricultural commodities, we advocate for such a reconsideration.

Comment on the Removal of Joint Inspection and the Issuance of a Phytosanitary Certificate

In § 319.28, before this final rule, paragraph (b)(3) had stated that inspection of the Unshu oranges shall be performed jointly by the plant protection officers of Japan and the United States in the groves prior to and during harvest, and in the packinghouses during packing operations. As we mentioned earlier, we proposed to remove this requirement. One commenter asked how the NPPO could issue a phytosanitary certificate if they were no longer going to inspect the fruit.

In this case, the phytosanitary certificate is being issued by the NPPO based on the treatment that must be applied and therefore the NPPO is attesting that the treatment has occurred.

Comment Regarding the Economic Impacts on Small Businesses

Two commenters were concerned that removing restrictions will negatively affect local U.S. businesses and consumers in the long term.

The Japanese Unshu orange share of the U.S. market for mandarin varieties is expected to be negligible; past imports have served a specialty market during a limited time of the year; and they garner a premium price. The 500 metric tons (MT) that Japan expects may be exported to the United States would be equivalent to less than one-tenth of 1 percent of the U.S. supply of mandarin varieties in 2012. Collectively, these expectations lead to the conclusion that any effect of the rule for U.S. producers of other mandarin varieties would be small.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

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

APHIS received a request from the Government of Japan to reassess the requirements for importing Unshu oranges into the continental United States. The rule would harmonize our regulations that allow importation of Unshu oranges from Japan with our recently amended domestic regulations to prevent the spread of citrus canker disease.

Easy-peel, sweet, juicy, seedless mandarin varieties, including Unshu oranges, are gaining popularity in the United States. The United States does not commercially produce Unshu oranges, but does produce various similar mandarin varieties. U.S. production of these mandarin varieties doubled in 6 years, from 250,000 MT in 2007, to almost 500,000 MT in 2012. Production values of mandarin varieties more than doubled, from $141 million in 2007 to $336 million in 2012. In general, harvesting and marketing activities are most active between

January 1 and March 31 in California and between November 15 and March 15 in Florida. U.S. imports of mandarin varieties averaged about 142,000 MT per year, valued at $178 million, between 2010 and 2012, with Chile, Spain, Peru, and Morocco the main sources. Net imports (imports minus exports) averaged about 100,000 MT per year.

In 2012, Japan exported 2,400 MT of Unshu oranges valued at $4.5 million. Canada was the main destination, accounting for 83 percent of Japan's exports (2,000 MT). Unshu oranges have not been imported from Japan by the United States for the last 3 years. Between 1996 and 2009, the United States imported about 200 MT of Unshu oranges from Japan annually, valued at about $340,000, only during the months of November and December. They were typically sold at a premium in ethnic specialty stores and through small-package direct delivery to customers who celebrated the New Year's holidays.

Reportedly, up to 500 MT of Unshu oranges may be imported from Japan as a result of this rule. Given the much lower volumes and restricted seasonality of past Unshu orange imports from Japan (about 200 MT annually imported, and only during the months of November and December), 500 MT may be an ambitious goal.

Korea is currently the principal source of Unshu orange imports by the United States. Even if imports from Japan were to reach 500 MT, we expect any product displacement that would occur would be largely borne by Korean Unshu orange suppliers. The extent to

which U.S. producers of other mandarin varieties may be affected would depend upon the quantity imported, the degree to which consumers may substitute Unshu oranges for the other mandarin varieties, and their price competitiveness.

Under these circumstances, the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0418, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

List of Subjects in 7 CFR Part 319

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

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319–FOREIGN QUARANTINE NOTICES

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

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

■ 2. Section 319.28 is amended as follows:

■ a. In paragraph (b) introductory text, by removing the words ''paragraph (b)(7)'' and adding the words ''paragraph (b)(8)'' in their place.

■ b. By revising paragraphs (b)(1) through (b)(4).

■ c. By redesignating current paragraphs (b)(5), (b)(6), and (b)(7) as paragraphs (b)(6), (b)(7), and (b)(8), respectively.

■ d. By adding a new paragraph (b)(5).

■ e. By adding an OMB citation at the end of the section.

The additions and revisions read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(b) * * *

(1) The Unshu oranges must be imported in commercial consignments that are practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.

(2) In Unshu orange export areas on Kyushu Island, Japan, trapping for the citrus fruit fly (*Bactrocera tsuneonis*) must be conducted as prescribed by the Japanese Government's Ministry of Agriculture, Forestry, and Fisheries and the U.S. Department of Agriculture. If fruit flies are detected, then shipping will be suspended from the export area until negative trapping shows the problem has been resolved.

(3) Before packing, the oranges must be given a surface sterilization in accordance with part 305 of this chapter.

(4) The packinghouse in which the surface sterilization treatment is applied and the fruit is packed must be registered with the Japanese Government's Ministry of Agriculture, Forestry, and Fisheries.

(5) Unshu oranges imported from Japan must be accompanied by a phytosanitary certificate issued by the Japanese Government's Ministry of Agriculture, Forestry, and Fisheries with an additional declaration that the Unshu oranges were packed and produced in accordance with 7 CFR 319.28.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579–0173, 0579–0314, and 0579–0418)

Done in Washington, DC, this 21st day of October 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–25469 Filed 10–24–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0832; Directorate Identifier 2014–SW–044–AD; Amendment 39–17995; AD 2014–21–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Previously Eurocopter France) Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model AS332L2 helicopters with a certain yaw control damper support (support) installed. This AD requires repetitively inspecting the support attachment points for a crack. This AD is prompted by a report that the front attachment points of several supports were found to have cracks. These actions are intended to detect a crack in a support, which could result in failure of the support, separation of the yaw damper unit, blocking of the yaw flight control channel, and reduced control of the helicopter.

DATES: This AD becomes effective November 12, 2014.

We must receive comments on this AD by December 26, 2014.

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

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

Examining the AD Docket

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

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

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, 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 resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, 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 them 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 rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

This AD is prompted by AD No. 2014–0080, dated March 27, 2014, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model AS332L2 helicopters with a support part number (P/N) 332A25–1334–00 installed. EASA advises of several reports of cracks on the two front attachment points of the support, and that subsequent investigations determined pilot actions on the yaw pedals could generate detrimental loading conditions on the support attachment points and initiate a crack. EASA also states that a crack could lead to structural failure of the support, detachment of the damper unit, possible blocking of the yaw flight control channel, and reduced control of the helicopter. EASA AD No. 2014–0080 requires repetitive inspections of the support and, if there is a crack, replacing the support.

FAA's Determination

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

Related Service Information

We reviewed Airbus Helicopters Alert Service Bulletin No. AS332–05.00.98, Revision 0, dated March 26, 2014 (ASB), for Model AS332L2 helicopters. This ASB describes procedures for inspecting the support attachment points for a crack and, if there is a crack, requires replacing the support.

AD Requirements

This AD requires, for helicopters with 3,900 or more hours time-in-service (TIS), within 100 hours TIS and at intervals not exceeding 825 hours TIS, repetitively inspecting each support, P/N 332–A25–1334–00, at its attachment points for a crack. If there is a crack, this AD requires replacing the support before further flight.

Interim Action

We consider this AD to be an interim action. If final action is later identified, we might consider further rulemaking then.

Costs of Compliance

There are no costs of compliance with this AD because there are no helicopters with this type certificate on the U.S. Registry.

FAA's Justification and Determination of the Effective Date

There are no helicopters with this type certificate on the U.S. Registry. Therefore, we believe it is unlikely that we will receive any adverse comments or useful information about this AD from U.S. Operators.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are unnecessary because there are none of these products on the U.S. Registry.

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 AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

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);

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–21–03 Airbus Helicopters (Previously Eurocopter France): Amendment 39–17995; Docket No. FAA–2014–0832; Directorate Identifier 2014–SW–044–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS332L2 helicopters with a yaw control damper support (support) part number 332A25–1334–00 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack on a support at an attachment point, which could result in failure of the support, separation of the yaw damper unit, blocking of the yaw flight control channel, and reduced control of the helicopter.

(c) Effective Date

This AD becomes effective November 12, 2014.

(d) Compliance

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

(e) Required Actions

For helicopters with 3,900 hours time-in-service (TIS) or more, within 100 hours TIS and thereafter at intervals not exceeding 825 hours TIS, using a light source and a mirror, inspect each support at the four attachment points for a crack. If there is a crack, before further flight, replace the support.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

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

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

(h) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. AS332–05.00.98, Revision 0, dated March 26, 2014, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2014–0080, dated March 27, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2014–0832.

(i) Subject

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

Issued in Fort Worth, Texas, on October 6, 2014.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–25406 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 301

[TD 9699]

RIN 1545–BG53

Removal of the Qualified Payment Card Agent Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that will remove regulations relating to information reporting and backup withholding for the Qualified Payment Card Agent (QPCA) Program. This document also amends regulations to remove references to the QPCA Program. Enactment of the payment card and third party network reporting requirements in the Housing Assistance Tax Act of 2008 made the QPCA Program obsolete. Because no payors have applied to be designated as a QPCA (and no payors have been designated as a QPCA), no taxpayers will be affected by these final regulations.

DATES: These regulations are effective October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Hara, (202) 317–5413 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Employment Tax Regulations (26 CFR Part 31) and the Procedure and Administration Regulations (26 CFR Part 301) to remove deadwood provisions relating to the now obsolete QPCA Program. On March 24, 2014, a notice of proposed rulemaking (REG–163195–05) was published in the **Federal Register** (79 FR 15926) proposing to remove §§ 31.3406(g)–1(f), 301.6724–1(e)(1)(vi)(H), and 301.6724–1(f)(5)(vii) and amend § 301.6724–1(c)(6) to remove references to QPCAs. The notice of proposed rulemaking also withdrew proposed regulations published in the **Federal Register** on July 13, 2007 relating to the QPCA Program (72 FR 38534). No comments were received in response to the proposed regulations.

Section 6041(a) requires persons engaged in a trade or business and making payments in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of $600 or more in any one taxable year to file information returns with the IRS and to furnish information statements to payees. Among other items, the payor must include the payee's name and taxpayer identification number (TIN) on the information return and the information statement. Section 3406(a)(1) requires a payor to withhold on any reportable payment (as defined in section 3406(b)(1)) if: (1) The payee fails to furnish the payee's TIN to the payor as required; or (2) the Secretary notifies the payor that the TIN furnished by the payee is incorrect.

The QPCA Program was developed by the IRS to enhance the accuracy of section 6041 information reporting in transactions where a payment card, such as a credit card, is accepted as

payment. To implement the QPCA Program, on July 13, 2004, the Treasury Department and the IRS published final regulations in the **Federal Register** (TD 9136) (69 FR 41938) under sections 6041, 3406, and 6724. The Treasury Department and the IRS also published several pieces of guidance in the Internal Revenue Bulletin to implement the program. See Notice 2003–13 (2003–1 CB 513 (February 24, 2003)); Revenue Procedure 2004–42 (2004–2 CB 121 (August 2, 2004)); Revenue Procedure 2004–43 (2004–2 CB 124 (August 2, 2004)) (see § 601.601(d)(2)(ii)(*b*) of the chapter). In addition, proposed regulations were published on July 13, 2007 (REG–163195–05 published in the **Federal Register** (72 FR 38534) and a proposed revenue procedure (Notice 2007–59 (2007–30 IRB 135)) was published on July 23, 2007. The 2007 proposed regulations were withdrawn by the notice of proposed rulemaking (REG–163195–05) published in the **Federal Register** (79 FR 15926) on March 25, 2014.

Under the QPCA Program, a payment card organization may apply to the IRS to be designated as a QPCA. For this purpose, a payment card organization was defined as an entity that set the standards and provided the mechanism, either directly or indirectly through members and affiliates, for effectuating payment between a purchaser and a merchant in a payment card transaction. See section 5.06 of Notice 2007–59. Once designated, the QPCA was permitted to act on behalf of a payor/cardholder to solicit, collect, and validate the name and TIN of a payee/merchant, and to provide that information to the payor/cardholder to enable the payor/cardholder to meet its section 6041 reporting obligation, if any.

Section 6050W, enacted by the Housing Assistance Tax Act of 2008, Public Law 110–289, obsoleted the QPCA Program. Section 6050W requires payment settlement entities, including payment card organizations, to report payments made in settlement of payment card and third party network transactions. Regulations published under section 6050W and section 6041 provide, among other things, that payments required to be reported under section 6050W are not also required to be reported under section 6041. See § 1.6041–1(a)(1)(iv). Because payment card organizations now have a reporting obligation with respect to payment card transactions, there is no longer a need for payment card organizations to solicit, collect, and verify payee/merchant names/TINs for the payor/cardholder. Thus, enactment of section 6050W made the QPCA Program obsolete.

Explanation of Provisions

These final regulations adopt the proposed regulations without change. Accordingly, the regulations under §§ 31.3406(g) 1(f), 301.6724–1(e)(1)(vi)(H), and 301.6724–1(f)(5)(vii) are removed, and the regulations under § 301.6724–1(c)(6) are amended. In addition, Revenue Procedure 2004–42, Revenue Procedure 2004–43, Notice 2003–13, Notice 2003–37, and Notice 2007–59 are obsoleted. See § 601.601(d)(2)(ii)(*b*) of the chapter.

Effective Date

Sections 31.3406(g)–1(f), 301.6724–1(e)(1)(vi)(H), and 301.6724–1(f)(5)(vii) would be removed on the date these regulations are published as final regulations in the **Federal Register**. Amendments to § 301.6724–1(c)(6) would be effective on the date these regulations are published as final in the **Federal Register**.

Special Analyses

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

Effect on Other Documents

The following publications are obsolete as of October 27, 2014:

Notice 2003–13 (2003–1 CB 513); Notice 2003–37 (2003–1 CB 1121); Rev. Proc. 2004–42 (2004–2 CB 121); Rev. Proc. 2004–43 (2004–2 CB 124); and Notice 2007–59 (2007–30 IRB 135) (see § 601.601(d)(2)(ii)(*b*) of the chapter).

Drafting Information

The principal author of these final regulations is Michael Hara of the Office of Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Income taxes, Gift taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 301 are amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

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

§ 31.3406(g)–1 [Amended]

■ **Par. 2.** Section 31.3406(g)–1 is amended by removing paragraph (f).

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 continues to read in part as follows:

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

§ 301.6724–1 [Amended]

■ **Par. 4.** Section 301.6724–1 is amended by:

■ a. Removing the language ''or a qualified Payment Card Agent (QPCA) as defined in § 31.3406(g)–1(f)(2)(v) of this chapter,'' from the introductory text of paragraph (c)(6).

■ b. Removing paragraphs (e)(1)(vi)(H) and (f)(5)(vii).

Approved: October 9, 2014.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Mark J. Mazur,

Assistant Secretary of Treasury (Tax Policy).

[FR Doc. 2014–25475 Filed 10–24–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0886]

RIN 1625–AA87

Moving Security Zone Around Crane Barge, New York Harbor Upper Bay and Hudson River, NY and NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a moving security zone around a crane barge that will operate from Jersey City, NJ on New York Harbor Upper Bay to the Tappan Zee Bridge on the Hudson River at river mile 27.0. The moving security zone will extend 200 yards on all sides of the Left Coast Lifter crane barge. Vessels and people are prohibited from entering this security zone.

DATES: This rule is effective without actual notice from October 27, 2014 until December 31, 2014. For the purposes of enforcement, actual notice will be used from October 6, 2014, until October 27, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0886]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jeff Yunker, Waterways Management Division, Coast Guard Sector New York; telephone 718–354–4195, email *Jeff.M.Yunker@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port New York
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
NYSTA New York State Thruway Authority
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because specifics associated with the crane barge transit were not received in time to publish an NPRM and seek comments before the subject transit. Publishing an NPRM and delaying the effective date of this rule to await public comments would be impracticable and contrary to the public interest since it would inhibit the Coast Guard's ability to fulfill its statutory missions to protect and secure the ports and waterways of the United States. Upon completion of the vessel's transit to the construction site, the Left Coast Lifter crane barge will be operating within the Regulated Navigation Area established for this project and published in the July 25, 2014, issue of the **Federal Register** (79 FR 43250).

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**. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define security zones.

The New York State Thruway Authority has requested that the Coast Guard establish a temporary moving security zone on the waters of New York Harbor Upper Bay and the Hudson River during the transit of the Left Coast Lifter crane barge from Jersey City, NJ to the Tappan Zee Bridge. The purpose of the regulation is to ensure the security of the crane barge, facilities, and the surrounding areas and provide safety of life on the navigable waters in the COTP zone. Accordingly, the COTP has determined that this security zone is necessary to protect the crane barge and facilities.

C. Discussion of Rule

For the reasons discussed above, this rule establishes a temporary moving security zone within a 200-yard radius of the Left Coast Lifter crane barge as it transits on the waters of New York Harbor Upper Bay and the Hudson River from Jersey City, NJ to the Tappan Zee Bridge on the Hudson River at river mile 27.0. This temporary security zone will be in effect from 5 a.m. on October 6, 2014 until 8 p.m. on December 31, 2014.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

This determination is based on the limited time that vessels will be restricted from the zone as the crane barge transits past their location. The temporary moving security zone will only be enforced for a limited duration from approximately 5 a.m. to 12:30 p.m. on October 6, 2014 as the crane barge transits to a staging area at the bridge site and from approximately 12 p.m. to 7 p.m. on October 8, 2014 as the barge transits from the staging area to the bridge. If necessary, this rulemaking allows for an enforcement period through December 31, 2014 due to any unforeseen circumstances delaying the vessel's schedule. Thus, the Coast Guard expects minimal adverse impact on mariners from the zone's enforcement based on the limited duration of the enforcement period. Moreover, the Coast Guard also expects minimal adverse impact on mariners in light of the limited geographic area affected and because mariners may request authorization from the COTP or a designated on-scene representative to transit the zone. In addition, before and

during the enforcement period, the Coast Guard will issue maritime advisories widely available to users of the waterway, including verbal broadcast notice to mariners and distribute a written notice to waterway users online at *http://homeport.uscg.mil/newyork.*

2. Impact on Small Entities

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

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of New York Harbor Upper Bay and the Hudson River between Jersey City, NJ and the Tappan Zee Bridge at river mile 27.0.

This temporary security zone will not have a significant economic impact on a substantial number of small entities for all of the reasons discussed in the ''REGULATORY PLANNING AND REVIEW'' section above.

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** section above.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a security zone and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0886 to read as follows:

§ 165.T01–0886 Security Zone, New York Harbor Upper Bay and Hudson River; NY and NJ.

(a) *Location.* The following area is a temporary moving security zone: All waters of New York Harbor Upper Bay and the Hudson River within a 200 yard radius of the Left Coast Lifter crane barge as it transits between Jersey City, NJ on New York Harbor Upper Bay and the Tappan Zee Bridge on the Hudson River at river mile 27.0.

(b) *Definitions.* For purposes of this section a ''Designated on-scene representative'' is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on the COTP's behalf. A designated on-scene representative may be on a Coast Guard vessel, or onboard a federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

(c) *Effective and enforcement period.* This rule will be effective and enforced from 5 a.m. on October 6, 2014 until 8 p.m. on December 31, 2014.

(d) *Regulations.* In accordance with the general regulations in 33 CFR 165.33, no person or vessel may enter or move within the security zone created by this section unless granted permission to do so by the COTP or a designated on-scene representative. Entry, transit, or anchoring within the security zone described in paragraph (a) of this section is prohibited unless authorized by the COTP.

(e) *Notice.* The COTP will provide notice of the establishment and enforcement of this security zone in accordance with 33 CFR 165.7.

(f) Vessel operators given permission to enter or operate in this security zone must comply with all directions given to them by the COTP or a designated on-scene representative.

(g) Vessel operators desiring to enter or operate within this security zone shall telephone the COTP at 718–354–4356 or a designated on-scene representative via VHF channel 16 to obtain permission to do so.

(h) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: October 3, 2014.

G. Loebl,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2014–25500 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0846]

Safety Zone; Sea World San Diego 2014 Winter Fireworks, Mission Bay; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Sea World San Diego 2014 Firework safety zone on November 15, December 12, and December 31, 2014. These reoccurring annual firework display events occur on the navigable waters of Mission Bay in San Diego, California. This action is necessary to provide for the safety of the marine event crew, spectators, safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations for the marine event listed in 33 CFR 165.1123, Table 1, Item 7, will be enforced from 7 p.m. to 7:30 p.m. on November 15, 2014 and from 8:30 p.m. to 10 p.m. on December 12, and December 31, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7261, email *Giacomo.Terrizzi@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in Mission Bay for the Sea World San Diego 2014 Winter Fireworks, listed in 33 CFR 165.1123, Table 1, Item 7 from 7 p.m. to 7:30 p.m. on November 15, 2014 and from 8:30 p.m. to 10 p.m. on December 12, and December 31, 2014.

Under the provisions of 33 CFR 165.1123, persons and vessels are prohibited during the fireworks display times from entering into, transiting through, or anchoring within the 800 foot regulated area safety zone around the fireworks barge, located in approximate position 32°46′03″ N, 117°13′11″ W, unless authorized by the Captain of the Port, or his designated representative. Persons or vessels desiring to enter into or pass through the safety zone may request permission from the Captain of the Port or a designated representative. The Coast Guard Captain of the Port or designated representative can be reached via VHF CH 16 or at (619) 278–7033. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter, or impede the transit of official fireworks support, event vessels or enforcement patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in patrol and notification of this regulation.

This notice is issued under authority of 5 U.S. C. 552 (a) and 33 CFR 165.1123. In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Coast Guard determines that the regulated area need not be enforced for the full duration stated on this notice, then a Broadcast Notice to Mariners or other communications coordinated with the event sponsor will grant general permission to enter the regulated area.

Dated: September 16, 2014.

J.A. Janszen,

Commander, U. S. Coast Guard, Acting, Captain of the Port San Diego.

[FR Doc. 2014–25484 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0780]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, Mile 170 to Mile 172; Darrow, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River from mile marker 170 to mile marker 172 extending the entire width of the river, in the vicinity of the Houma's House Plantation and Garden, Darrow, LA. This safety zone is necessary to protect persons and vessels from potential safety hazards associated with a barge based fireworks display on

the Lower Mississippi River at mile marker 171. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) New Orleans or a designated representative.

DATES: This rule is effective and enforceable from 9:00 p.m. to 10:00 p.m. on November 15, 2014. Comments and related material must be received by the Coast Guard on or before November 6, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0780]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Christopher Norton, Coast Guard Marine Safety Unit Baton Rouge; telephone (225) 298–5400, email *Christopher.R.Norton@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

AHP Above Head of Passes
BNM Broadcast notice to mariners
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0780] in the ''SEARCH'' box and click ''SEARCH''. Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0780] in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

B. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and limited opportunity to comment in accordance with section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not completing the full notice of proposed rulemaking (NPRM) process with respect to this rule. The Coast Guard received information about this fireworks display on or about August 19, 2014. As scheduled, the display would take place before the full NPRM process could be completed. Because of the dangers presented by an aerial barge based fireworks display taking place on and over the waterway, it is in the public's interest to establish this safety zone to protect transiting vessels and mariners. This rule provides for a comment period and comments received will be reviewed to assist the Coast Guard in future rulemakings establishing similar safety zones. Still, completing the full NPRM process would be contrary to the public interest by delaying the safety measures necessary to protect life and property from the possible dangers and hazards associated with a nighttime barge based fireworks display on the waterway. This display has also been advertised to and planned on by the local community. Delaying this rule to complete the full NPRM process would also be impracticable as it would unnecessarily interfere with possible contractual obligations. While it is in the public's best interest to provide this safety measure, the impacts on navigation are expected to be minimal as the safety zone will only be in effect for a short duration. The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via broadcast notices to mariners (BNM).

For the same reasons, 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**. Providing a full 30 days notice is contrary to the public interest as it would delay the effectiveness of the safety zone until after the planned fireworks event. Immediate action is needed to protect vessels and mariners from the safety hazards associated with an aerial fireworks display over a waterway.

C. Basis and Purpose

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

J and M Displays, a company specializing in fireworks displays, informed the Coast Guard of a fireworks display sponsored by Houma's House Plantation and Garden and planned for November 15, 2014. The fireworks will be launched from a barge located at MM 171 on the Lower Mississippi River. This display will take place between 9:00 p.m. and 10:00 p.m. on November 15, 2014 in a high commercial traffic area. Therefore, the Coast Guard has determined that a safety zone is needed to ensure safe navigation for all those in the vicinity of the fireworks display. This safety zone is needed to protect the public, mariners, and vessels from the hazards associated with a barge based fireworks display on and over the waterway.

D. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River from 9:00 p.m. to 10:00 p.m. on November 15, 2014. The safety zone will include the entire width of the Lower Mississippi River in Darrow, LA from mile marker 170 to mile marker 172. Entry into this zone is prohibited unless permission has been granted by the COTP New Orleans, or a designated representative.

The COTP New Orleans will inform the public through BNMs of the enforcement period for the safety zone as well as any changes in the planned schedule. Mariners and other members of the public may also contact Coast Guard Sector New Orleans Command Center to inquire about the status of the safety zone, at (504) 365–2200.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This safety zone will restrict navigation on the Lower Mississippi River from MM 170 to MM 172, for approximately one hour on November 15, 2014. Due to the limited scope and short duration of the safety zone, the impacts on routine navigation are expected to be minimal.

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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Lower Mississippi River from MM 170 to MM 172 between 9:00 p.m. and 10:00 p.m. on November 15, 2014. The Coast Guard certifies under 5 U.S.C. 605(b) that this rile will not have a significant economic impact on a substantial number of small entities because it is limited in scope and enforcement is anticipated to take place for only one hour, from 9:00–10:00 p.m. on one day. Before enforcement, COTP New Orleans will issue maritime advisories widely available to waterway users and will make notifications to the public through marine band radio when the safety zone is being enforced. Additionally, deviation from this rule may be requested and will be considered on a case-by-case basis by COTP New Orleans or a COTP New Orleans designated representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have 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 a temporary safety zone for all waters of the Lower Mississippi River from MM 170 to MM 172. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191; 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. A new temporary § 165.T08–0780 is added to read as follows:

§ 165.T08–0780 Safety Zone, Lower Mississippi River, Mile 170 to Mile 172; Darrow, LA.

(a) *Location.* The following area is a safety zone: All waters of the Lower Mississippi River from mile marker 170 to mile marker 172, Darrow, LA.

(b) *Effective Date and Enforcement Period.* This rule is effective on November 15, 2014. The safety zone will be enforced from 9:00 p.m. until 10:00 p.m. on November 15, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) New Orleans or designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring deviation from this rule must request permission from the COTP New Orleans or a COTP New Orleans designated representative. They may be contacted on VHF–FM Channel 16 or 67, or through Coast Guard Sector New Orleans at 504–365–2200.

(3) Persons and vessels permitted to deviate from this safety zone regulation and enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP New Orleans or designated representative.

(d) *Information Broadcasts.* The COTP New Orleans or a COTP New Orleans designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: September 11, 2014.

P.C. Schifflin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2014–25502 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0929]

RIN 1625–AA00

Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 at specified times from October 8, 2014 to November 26, 2014. This action is necessary to protect the waterway, waterway users, and vessels from the hazards associated with the U.S. Army Corps of Engineers' installation of a new permanent fish barrier.

During the enforcement periods listed below, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port Lake Michigan, or his or her designated representative.

DATES: The regulations in 33 CFR 165.930 will be enforced intermittently from 7 a.m. until 4 p.m. on Monday through Friday, from October 8, 2014 through November 26, 2014.

This schedule supersedes the previously published schedule for enforcement of 33 CFR 165.930 due to the installation of a new permanent fish barrier (USCG 2011–0228, published in the **Federal Register** June 16, 2014 at 79 FR 34231). The Captain of the Port suspends this previously issued schedule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 John Ng, Waterways Department, Coast Guard Marine Safety Unit Chicago, telephone 630–986–2155, email address *john.h.ng@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone on all waters of the Chicago Sanitary and Ship Canal between Mile Marker 296.1 to Mile Marker 296.7. Enforcement will occur intermittently from 7 a.m. to 4 p.m. on Monday through Friday, from October 8, 2014 through November 26, 2014.

This enforcement action is necessary because the Captain of the Port Lake Michigan, has determined that the U.S. Army Corps of Engineers' installation of a new permanent fish barrier poses risks to life and property. Because of these risks, it is necessary to control vessel movement during the operations to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up, or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port Lake Michigan or his or her designated representative.

Vessels that wish to transit through the safety zone may request permission from the Captain of the Port Lake Michigan or a designated on scene representative. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. The Captain of the Port representative may be contacted via U.S. Coast Guard Sector Lake Michigan on VHF channel 16.

This document is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Captain of the Port Lake Michigan, will also provide notice through other means, which may include Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port Lake Michigan, may notify representatives from the maritime industry through telephonic and email notifications.

Dated: October 8, 2014.

K.M. Moser,

Commander, U.S. Coast Guard, Acting Captain of the Port, Lake Michigan.

[FR Doc. 2014–25501 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP15

Copayments for Medications in 2015

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its medical regulations concerning the copayment required for certain medications. But for this rulemaking, beginning on January 1, 2015, the copayment amount would increase based on a formula set forth in regulation. The maximum annual copayment amount payable by veterans would also increase. This rulemaking freezes copayments for 2015 at the current rate for veterans in priority categories 2 through 8, and thereafter resumes increasing copayments in accordance with the regulatory formula.

DATES: *Effective Date:* This rule is effective on October 27, 2014.

Comment date: Comments must be received on or before December 26, 2014.

ADDRESSES: Written comments may be submitted by email through *http://www.regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to ''RIN 2900–AP15—Copayments for Medications in 2015.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin Cunningham, Director, Business Policy, Chief Business Office, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 382–2508. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1722A(a), VA must require veterans to pay a $2 copayment for each 30-day supply of medication furnished on an outpatient basis for the treatment of a non-service-connected disability or condition unless a veteran has a service-connected disability rated 50 percent or more, is a former prisoner of war, or has an annual income at or below the maximum annual rate of VA pension that would be payable if the veteran were eligible for pension. Under 38 U.S.C. 1722A(b), VA ''may,'' by regulation, increase that copayment amount and establish a maximum annual copayment amount (a ''cap''). We have consistently interpreted section 1722A(b) to mean that VA has discretion to determine the appropriate copayment amount and annual cap amount for medication furnished on an outpatient basis for covered treatment, provided that any decision by VA to increase the copayment amount or annual cap amount is the subject of a rulemaking proceeding. We have implemented this statute in 38 CFR 17.110.

Under 38 CFR 17.110(b)(1), veterans are obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment). Under the current regulation, for the period from July 1, 2010, through December 31, 2014, the copayment amount for veterans in priority categories 2 through 6 of VA's health care system is $8. 38 CFR 17.110(b)(1)(i). For the period July 1, 2010, through December 31, 2014, the copayment amount for veterans in priority categories 7 and 8 is $9. 38 CFR 17.110(b)(1)(ii). Thereafter, the copayment amount for all affected veterans is to be established using a formula based on the prescription drug component of the Medical Consumer Price Index (CPI–P), set forth in 38 CFR 17.110(b)(1)(iii).

Current § 17.110(b)(2) also includes a ''cap'' on the total amount of copayments in a calendar year for a veteran enrolled in one of VA's health care enrollment system priority categories 2 through 6. Through December 31, 2014, the annual cap is set

at $960. Thereafter, the cap is to increase ''by $120 for each $1 increase in the copayment amount'' applicable to veterans enrolled in one of VA's health care enrollment system priority categories 2 through 6.

On December 30, 2013, we published an interim final rulemaking that ''froze'' copayments for veterans in priority categories 2 through 6 at $8 and for veterans in priority categories 7 and 8 at $9, through December 31, 2014. 78 FR 79317, Dec. 30, 2013. This interim final rule was made final on May 27, 2014. 79 FR 30043, May 27, 2014. In these rulemakings, we stated that this freeze was appropriate because, as justified in prior rulemakings, higher copayments reduced the utilization of VA pharmacy benefits. 78 FR 79315. We continue to believe this to be the case. The ability to ensure that medications are taken as prescribed is essential to effective health care management. VA can monitor whether its patients are refilling prescriptions at regular intervals while also checking for medications that may interact with each other when these prescriptions are filled by VA. When non-VA providers are also issuing prescriptions, there is a greater risk of adverse interactions and harm to the patient because it is more difficult for each provider to assess if the patient is taking any other medications.

Specifically, we are removing December 31, 2014, in each place it appears in paragraphs (b)(1)(i)–(iii) and (b)(2), and inserting December 31, 2015, to continue to keep copayment rates and caps at their current levels.

At the end of calendar year 2015, unless additional rulemaking is initiated, VA will once again utilize the CPI–P methodology in § 17.110(b)(1)(iii) to determine whether to increase copayments and calculate any mandated increase in the copayment amount for veterans in priority categories 2 through 8. At that time, CPI–P as of September 30, 2015, will be divided by the index as of September 30, 2001, which was 304.8. The ratio will then be multiplied by the original copayment amount of $7. The copayment amount of the new calendar year will be rounded down to the whole dollar amount. As mandated by current 17.110(b)(2), the annual cap will be calculated by increasing the cap by $120 for each $1 increase in the copayment amount. Any change in the copayment amount and cap, along with the associated calculations explaining the basis for the increase, will be published in a **Federal Register** notice. Thus, the intended effect of this rule is to temporarily prevent increases in copayment amounts and the copayment cap for veterans in priority categories 2 through 8, following which copayments and the copayment cap will increase as prescribed in current § 17.110(b).

Although we continue to believe that the CPI–P is one relevant indicator of the costs of prescriptions nationwide, and because VA has maintained copayment amounts at the same level since July 1, 2010, we are studying whether an alternative approach of determining pharmacy copayments would be appropriate. Until we are able to complete our study of whether the current methodology for establishing copayment amounts is appropriate for all veterans, consistent with our responsibility under 38 U.S.C. 1722A to require a copayment to control health care costs, we are extending the current copayment and cap amounts through 2015. Any change in the copayment amount and cap, along with the associated basis for the change, would be made through a final rule published in the **Federal Register**.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for advance notice and opportunity for public comment and good cause to publish this rule with an immediate effective date. As stated above, this rule freezes at current rates the prescription drug copayment that VA charges certain veterans. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date. Increasing the copayment amount on January 1, 2015, might cause a significant financial hardship for some veterans and may decrease patient adherence to medical plans and have other unpredictable negative health effects.

For the above reasons, the Secretary issues this rule as an interim final rule. VA will consider and address comments that are received within 60 days of the date this interim final rule is published in the **Federal Register**.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this interim final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This interim final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action 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 this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and has concluded that it is an economically significant rule under Executive Order 12866 because it is likely to result in a regulatory action that may have an annual effect on the economy of $100 million or more. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Congressional Review Act

This regulatory action may be considered a major rule under the Congressional Review Act, 5 U.S.C. 801–08, because it may result in an annual effect on the economy of $100 million or more. Although this regulatory action may constitute a major rule within the meaning of the Congressional Review Act, 5 U.S.C. 804(2), it is not subject to the 60-day delay in effective date applicable to major rules under 5 U.S.C. 801(a)(3) because the Secretary finds that good cause exists under 5 U.S.C. 808(2) to make this regulatory action effective on January 1, 2015, consistent with the reasons given for the publication of this interim final rule. Increasing the copayment amount on January 1, 2015, might cause a significant financial hardship for some veterans and may decrease patient adherence to medical plans and have other unpredictable negative health effects. Accordingly, the Secretary finds that additional advance notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest. In accordance with 5 U.S.C. 801(a)(1), VA will submit to the Comptroller General and to Congress a copy of this regulatory action and VA's Regulatory Impact Analysis (RIA).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This interim final rule will temporarily freeze the copayments that certain veterans are required to pay for prescription drugs furnished by VA. This rule directly affects individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on September 25, 2014, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: October 22, 2014.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

For the reasons set out in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501(a), and as noted in specific sections.

§ 17.110 [Amended]

■ 2. Amend § 17.110 as follows:

■ a. In paragraphs (b)(1)(i), (ii), and (iii), remove all references to ''December 31, 2014'' and adding in each place ''December 31, 2015''.

■ b. In paragraph (b)(2) remove all references to ''December 31, 2014'' and adding in each place ''December 31, 2015''.

[FR Doc. 2014–25454 Filed 10–24–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2014–0390; FRL–9914–56]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 52 chemical substances which were the subject of premanufacture notices (PMNs). Nine of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. This action requires persons who intend to manufacture (including import) or process any of these 52 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This rule is effective on December 26, 2014. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on November 10, 2014.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before November 26, 2014 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before November 26, 2014, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units

I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0390, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT:

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

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. General Information

A. Does this action apply to me?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. Background

A. What action is the Agency taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** of April 24, 1990 (55 FR 17376; FRL–3658–5). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same

SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA sections 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Significant New Use Determination

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

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

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

To determine what would constitute a significant new use for the 52 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 52 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

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

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

This rule includes 9 PMN substances (P–11–224, P–11–226, P–12–41, P–12–404, P–12–405, P–12–406, P–13–175, P–13–176, and P–13–239) that are subject to ''risk-based'' consent orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called ''TSCA section 5(e) SNURs'' on these PMN substances are promulgated pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The TSCA section 5(e) SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders.

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) consent order for the same chemical substance.

This rule also includes SNURs on 43 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, for a variety of reasons, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a ''significant new use.'' These so-called ''TSCA non-section 5(e) SNURs'' are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a ''significant new use'' in all TSCA non-section 5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified for the PMN substance.

PMN Number P–10–235

Chemical name: Pyridine, 4-decyl-.
CAS number: 1815–99–2.
Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a fragrance component. Based on test data on the PMN substance, as well as ecological structure-activity relationship (SAR) analysis of test data on analogous neutral organic compounds, EPA predicts chronic toxicity to aquatic organisms may occur at concentrations that exceed 1 part per billion (ppb) of the PMN substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN

substance to surface water exceed releases from the use described in the PMN. For the use described in the PMN, environmental releases did not exceed the concentration of concern for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as described in the PMN, or any use of the substance resulting in surface water concentrations exceeding 1 ppb from manufacturing or processing waste stream releases, may result in significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

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

CFR citation: 40 CFR 721.10766.

PMN Number P–11–224

Chemical name: Fluoroether (generic).

CAS number: Claimed confidential.

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

Basis for TSCA section 5(e) consent order: The PMN states that the PMN will be used as an electrolyte for electrical/electronic equipment. Based on test data on the PMN substance, EPA identified concerns for subchronic toxicity, systemic toxicity, reproductive effects; as well as toxicity to aquatic organisms at concentrations that exceed 9 ppb of the PMN substance in surface waters. The Order was issued under TSCA section 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II) based on a finding that the substance may present an unreasonable risk of injury to human health and the environment, the substance may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance. To protect against these risks, the consent order requires:

1. Submission of certain toxicity and fate testing prior to exceeding the confidential production volume limit specified in the consent order.

2. Manufacturing, processing, and use of the substance only as an electrolyte for electrical/electronic equipment as described in the consent order.

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

Recommended testing: EPA has determined that the test data from certain human health, environmental fate, and ecotoxicity testing identified in the consent order would help characterize possible effects of the substances and their degradation products. The company has agreed not to exceed the confidential production limit without performing a bacterial reverse mutation test (OPPTS Test Guideline 870.5100); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395); a UV/Visible absorption test (Organisation for Economic Co-Operation and Development (OECD) Test Guideline 101); and an atmospheric half-life test (as referenced in the Consent Order). EPA has also determined that the results of a reproduction/development toxicity test (OPPTS Test Guideline 870.3550); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and information to address cardiac sensitization (as described in the Consent Order) would help characterize the human health and ecotoxicity effects of the PMN substance. The consent order does not require submission of this pended testing detailed in the consent order at any specified time or production volume. However, the consent order's restrictions on manufacture, processing, distribution in commerce, use, and disposal of the PMNs will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10767.

PMN Number P–11–226

Chemical name: N-(2-hydroxyethyl) alkenamide (generic).

CAS number: Claimed confidential.

Effective date of TSCA section 5(e) consent order: February 27, 2014.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as a component of adhesives and cosmetics. Based on SAR analysis of test data on analogous acrylamides, EPA identified concerns for carcinogenicity, heritable mutagenicity, reproductive and developmental toxicity, and neurotoxicity from dermal and inhalation exposures. Consistent with the establishment of a Safe Drinking Water Act maximum contaminant level goal (MCLG) of zero for acrylamides, EPA identified concerns for nervous system and blood effects from general population drinking water exposures to the PMN substance. The consent order was issued under TSCA section 5(e)(1)(A)(i) and 5(e)(A)(ii)(I) based on a finding that the uncontrolled manufacture, processing, distribution in commerce, use, and disposal of the PMN substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Risk notification. If as a result of the test data required, the company becomes aware that the PMN substance may present a risk of injury to human health or the environment, the company must incorporate this new information, and any information on methods for protecting against such risk into a Material Safety Data Sheet (MSDS), within 90 days.

2. Use of personal protective equipment including gloves impervious to the substances, when there is a potential dermal exposure; and a National Institute of Occupational Safety and Health (NIOSH)-certified respirator with an assigned protection factor (APF) of at least 1,000 or compliance with a NCEL of 0.03 mg/m^3 as an 8-hour time-weighted average (when there is potential inhalation exposure), when there is potential inhalation exposure.

3. Establishment and use of a hazard communication program, including human health, environmental hazard precautionary statements on each label and the MSDS.

4. Submission of certain testing prior to exceeding the confidential production volume limits of the PMN substance specified in the consent order.

5. Disposal of all waste streams containing the PMN substance either by incineration (destruction and removal efficiency of 99.99%) or underground injection control (class 1 well, deep well injection for hazardous wastes)

6. No use of the substances resulting in releases to surface water.

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

Recommended testing: EPA has determined that the test data from certain human health, testing identified in the consent order would help characterize possible effects of the substance. The company has agreed not to exceed the first confidential production limit without performing a 90-day oral toxicity test (OPPTS Test Guideline 870.3100) in rodents, with a functional observational battery for neuropathology (OPPTS Test Guideline 870.6300); a rodent oral dominant lethal

assay (OPPTS Test Guideline 870.5450); and, depending on the results of the rodent oral dominant lethal assay, an oral rodent heritable translocation test (OPPTS Test Guideline 870.5460) may be required. The company has agreed not to exceed the second confidential production limit without performing a 2-year oral carcinogenicity test (OPPTS Test Guideline 870.4200) in rats and mice.

CFR citation: 40 CFR 721.10768.

PMN Number P–12–41

Chemical name: 1-Octadecanaminium, N,N-dimethyl-N-[3-(triethoxysilyl)propyl]-, chloride (1:1), reaction products with ethylene glycol.

CAS number: 1314035–96–5.

Effective date of TSCA section 5(e) consent order: March 3, 2014.

Basis for TSCA section 5(e) consent order: The PMN states that the uses of the PMN substance will be for waterproofing inorganic substrates, an asphalt binder modifier, and waterproofing of soil. The consent order was issued under TSCA section 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II) based on a finding that the substance may present an unreasonable risk of injury to human health; and the substance may be produced in substantial quantities and there may be significant (or substantial) human exposure to the substance. To protect against these risks, the consent order requires:

1. Risk notification. If as a result of the test data required, the company becomes aware that the PMN substance may present a risk of injury to human health or the environment, the company must incorporate this new information, and any information on methods for protecting against such risk into an MSDS, within 90 days.

2. No domestic manufacture of the PMN substance.

3. Import, processing and use of the PMN substance only for waterproofing inorganic substrates, an asphalt binder modifier, and waterproofing of soil.

4. Submission of certain human health testing prior to exceeding an aggregate production volume limit of 839,000 kilograms.

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

Recommended testing: EPA has determined that the results of certain toxicity testing would help characterize possible health effects of the PMN substance. The company has agreed not to exceed the 839,000 kilogram production limit without performing a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465). EPA has also determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); a fish acute toxicity mitigated by humic acid test (OPPTS Test Guideline 850.1085); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (Office of Chemical Safety and Pollution Prevention (OCSPP) Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. The consent order does not require submission of this aquatic toxicity testing at any specified time or production volume. However, the consent order's restrictions on manufacture, processing, distribution in commerce, use, and disposal of the PMN will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10769.

PMN Numbers P–12–404, P–12–405, P–12–406

Chemical names: Fluoroalkyl sulfonamide derivatives (generic).

CAS numbers: Claimed confidential.

Effective date of TSCA section 5(e) consent order: March 14, 2014.

Basis for TSCA section 5(e) consent order: The PMNs state that the generic (non-confidential) use of the substances are as a chemical intermediate (P–12–404) and a surfactant (P–12–405 and P–12–406). Based on test data submitted on P–12–405, P–12–406, and closely analogous perfluorinated substances, as well as test data on analogous perfluorobutane sulfonate (PFBS), EPA identified concerns for liver, blood, kidney, developmental, and systemic toxicity. The consent order was issued under TSCA section 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II) based on a finding that these substances may present an unreasonable risk of injury to human health and the environment; and these substances may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substances and their potential degradation products. To protect against these risks, the consent order requires:

1. Risk notification. If as a result of the test data required, the company becomes aware that the PMN substances may present a risk of injury to human health or the environment, the company must incorporate this new information, and any information on methods for protecting against such risk into an MSDS, within 90 days.

2. Use of personal protective equipment including impervious gloves (when there is potential dermal exposure) for PMNs P–12–404 and P–12–406.

3. Use of personal protective equipment including impervious gloves (when there is potential for dermal exposures), and either a NIOSH-certified respirator with an APF of at least 10 or compliance with a NCEL of 0.7 mg/m^3 as an 8-hour time-weighted average (when there is potential inhalation exposure) for the PMN substance P–12–405.

4. Establishment and use of a hazard communication program.

5. Submission of certain environmental fate and human health testing prior to exceeding the confidential production volume limits of the aggregate amount of the PMN substances, P–12–405 and P–12–406, specified in the consent order.

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

Recommended testing: EPA has determined that the results of certain environmental fate and toxicity testing would help characterize the possible effects of the PMN substances. The company has agreed not to exceed the first confidential production limit without performing a semi-continuous activated sludge (SCAS) test (OPPTS Test Guideline 835.5045) modified, on PMN substance P–12–406. The PMN submitter has also agreed not to exceed the second confidential production limit without performing a metabolism and pharmacokinetics test (OPPTS Test Guideline 870.7485) and a combined repeated dose toxicity test (OPPTS Test Guideline 870.3650) on the predominant degradation product identified in the SCAS test. EPA has also determined that the results of a combined chronic toxicity/carcinogenicity test (OPPTS Test Guideline 870.4300) on PFBS would help characterize the human health and environmental effects of the PMN substances. The consent order does not require submission of this test on PFBS at any specified time or production volume. However, the consent order's restrictions on manufacture, processing, distribution in commerce, use, and disposal of the PMN substances will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10770.

PMN Numbers P–13–175 and P–13–176

Chemical names: (P–13–175) Hexane, 1,6-diisocyanato-, homopolymer,

.alpha.-[1-[[[3-[[3-(dimethylamino) propyl]amino]propyl]amino]carbonyl]-1,2,2,2-tetrafluoroethyl]-.omega.-(1,1,2,2,3,3,3-heptafluoropropoxy) poly[oxy[trifluoro(trifluoromethyl)-1,2-ethanediyl]]-blocked; and (P–13–176) Fluorinated oxirane polymer (generic).

CAS numbers: (P–13–175) 1279108–20–1; and (P–13–176) Claimed confidential.

Effective date of TSCA section 5(e) consent order: December 13, 2013.

Basis for TSCA section 5(e) consent order: The PMNs state that the substances will be used as a coating additive in paper and paperboard to impart grease, alcohol, and solvent resistance (P–13–175) and an intermediate for use in the manufacture of a polymer (P–13–176). For the PMN substance P–13–176, where the average number molecular width <1,000 daltons is less than 0.5%, ecotoxicity concerns were low based on ecological SAR analysis of test data on analogous esters. However, based on potential concerns for perfluoro ethers, and the uncertainties regarding toxicity of the lower molecular weight portions, EPA predicts toxicity to aquatic organisms for P–13–176 if the average number molecular weight of <1,000 daltons is greater than 0.5%. The consent order was issued under TSCA section 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) based on a finding that the substances may present an unreasonable risk of injury to the environment. To protect against these risks, the consent order requires:

1. Manufacture the PMN substance P–13–175 using the PMN substance P–13–176 as the starting raw material.

2. Manufacture the PMN substance P–13–176: (a) Where the average number molecular weight less than 1,000 Daltons is less than or equal to 0.5% and (b) for use as a chemical intermediate to manufacture PMN substance P–13–175.

Recommended testing: EPA has determined that the results of either a zahn-wellens/EMPA test (OPPTS Test Guideline 835.3200) or a SCAS test (OPPTS Test Guideline 835.3210) modified; and a sediment-water lumbriculus toxicity test (OECD Test Guideline 225) using spiked sediment, on P–13–176, would help characterize the effects of the PMN substances. The consent order does not require submission of the testing at any specified time or production volume. However, the consent order's restrictions on manufacture, processing, distribution in commerce, use, and disposal of the PMNs will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10771 (P–13–175) and 40 CFR 721.10772 (P–13–176).

PMN Number P–13–223

Chemical name: Methylene bisacetophenone derivative (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a photoinitiator for coatings and inks. Based on test data on the PMN substance, EPA identified concerns for reproductive and developmental effects from dermal and inhalation exposures. In addition, based on test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters. As described in the PMN, significant occupational dermal and inhalation exposures are not expected due to the use of impervious gloves and a NIOSH-certified respirator with an APF of at least 10. Further, releases to water are not expected to result in surface water concentrations that exceed 5 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use will present an unreasonable risk. However, EPA has determined that any use of the substance without impervious gloves, where there is a potential for dermal exposures; any use of the substance without a NIOSH-certified respirator with an APF of at least 10, where there is a potential for inhalation exposures; or any use of the substance resulting in surface water concentrations exceeding 5 ppb may result in serious health effects and significant adverse environmental effects. Based on this information, the PMN meets the concern criteria at § 721.170 (b)(3)(i) and (b)(4)(i).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the human health and environmental effects of the PMN substance. EPA also recommends that the guidance document on aquatic toxicity testing of difficult substances and mixtures (OECD Test Guideline 23) be followed to facilitate solubility of the PMN substance in the test media.

CFR citation: 40 CFR 721.10773.

PMN Number P–13–239

Chemical name: Amine adduct (generic).

CAS number: Claimed confidential.

Effective date of TSCA section 5(e) consent order: January 15, 2014.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the PMN substance will be as a membrane hardener. Based on test data on the PMN substance, as well as ecological SAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters and general population exposures from incineration and landfill releases. The consent order was issued under TSCA section 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A) (ii)(II) based on a finding that the substance may present an unreasonable risk of injury to human health and the environment, may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance. To protect against these risks, the consent order requires:

1. No domestic manufacture of the PMN substance.

2. Import, processing and use of the PMN substance only as described in the consent order.

3. Submission of certain toxicity and fate testing prior to exceeding the confidential production volume limit specified in the consent order.

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

Recommended testing: EPA has determined that the results of certain toxicity testing would help characterize possible health effects of the PMN substance. The company has agreed not to exceed the confidential production limit specified in the consent order without performing an in vitro mammalian chromosome aberration test (OECD Test Guideline 473); an in vitro mammalian cell gene mutation test (OECD Test Guideline 476) by the hypoxanthine-guanine phosphoribosyl transferase (HPRT) path; and a combined repeated dose toxicity study with reproduction/developmental toxicity screening (OPPTS Test Guideline 870.3670 or OECD Test Guideline 422). EPA has also determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400);

and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance. The consent order does not require submission of this testing at any specified time or production volume. However, the consent order's restrictions on manufacture, processing, distribution in commerce, use, and disposal of the PMN will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10774.

PMN Number P–13–495

Chemical name: Metal hydroxide, treated with alkenyl alkoxy silane (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the use of the substance will be as a filler in fire resistant silicone rubber blends. Based on SAR analysis of test data on analogous respirable poorly soluble particulates, EPA identified human health concerns for lung toxicity and oncogenicity from exposure to the PMN substance via inhalation. As described in the PMN, occupational inhalation exposures are not expected as the substance is not handled in the form of a powder. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance in the form of a powder may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) with a 60-day holding period would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10775.

PMN Number P–13–793

Chemical name: Functionalized carbon nanotubes (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the substance will be used as a thin film for electronic device applications. Based on SAR analysis of test data on analogous carbon nanotubes and other respirable poorly soluble particulates, EPA identified potential lung effects, developmental toxicity, and dermal toxicity from exposure to the PMN substance via inhalation, dermal, and oral routes. Further, EPA predicts toxicity to aquatic organisms via releases of the PMN substance to surface water. As described in the PMN, EPA does not expect significant occupational exposures due to the use of impervious gloves, where there is potential for dermal exposure, and because the PMN is used in liquid form and is not spray applied. Further, EPA does not expect environmental releases during the use identified in the PMN submission. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk human health or the environment. EPA has determined, however, that any use of the substance without the use of impervious gloves, where there is a potential for dermal exposure; manufacturing the PMN substance for use other than as a thin film for electronic device applications; manufacturing, processing, or using the PMN substance in a form other than a liquid; use of the PMN substance involving an application method that generates a mist, vapor, or aerosol; or any release of the PMN substance into surface waters may cause serious health effects or significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria in § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of an oral and inhalation pharmacokinetic test (OPPTS Test Guideline 870.7485); a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); an algal toxicity test (OCSPP Test Guideline 850.4500); and a surface charge by electrophoresis by either the (ASTM Test Guideline E2865–12) or measuring the zeta potential of nanoparticles (Nanotechnology Characterization Library (NCL) Method PCC–2) (located in the Docket under Docket ID number EPA–HQ–OPPT–2014–0390); would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10776.

PMN Numbers P–13–945 and P–13–946

Chemical names: (P–13–945) 2,4-Hexadienoic acid, 3-(trimethoxysilyl)propyl ester; and (P–13–946) 2,4,Hexadienoic acid, 3-(trimethoxysilyl)propyl ester (2E,4E)-.

CAS numbers: (P–13–945) 3090–13–9 and (P–13–946) 163802–53–7.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be as industrial thermoplastic additives. Based on test data on the PMN substances, as well as SAR analysis of test data on analogous alkoxysilanes, EPA identified concerns for respiratory irritation and chronic lung toxicity from inhalation exposures. Further, based on test data on the PMN substances, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 58 ppb of the substances in surface waters. As described in the PMNs, inhalation exposures are not expected, and releases to surface waters are not expected to result in surface water concentrations that exceed 58 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. However, EPA has determined that any use of the substances involving an application method that generates a vapor, mist, or aerosol; or any use of the substances resulting in surface water concentrations exceeding 58 ppb may result in serious health effects and significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(3)(i), (b)(3)(ii), and (b)(4)(i).

Recommended testing: EPA has determined that the results of a 90-day toxicity test in rodents (OPPTS Test Guideline 870.3100) via the inhalation route; a hydrolysis test (OPPTS Test Guideline 835.2120); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) on PMN substance P–13–946 would help characterize the human health and environmental effects of the PMN substances.

CFR citation: 40 CFR 721.10777 (P–13–945) and 40 CFR 721.10778 (P–13–946).

PMN Number P–14–28

Chemical name: Substituted alkene, reaction products with isophoronediamine (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the use of the substance will be as a site-limited intermediate for coating resin manufacture. Based on SAR analysis of test data on analogous organonitriles and cyanides, EPA identified human health concerns for acute oral toxicity and developmental toxicity from exposure to the PMN substance via inhalation. Further, based on ecological SAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 49 ppb of the PMN substance in surface waters. As described in the PMN, occupational

exposures are expected to be minimal as the substance is used as a site-limited intermediate by an application method that does not generate a dust, mist, vapor, or aerosol. In addition, releases of the substance are not expected to result in surface water concentrations that exceed 49 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as a site-limited intermediate; any use of the substance involving an application method that generates a dust, vapor, mist, or aerosol; or any use of the substance resulting in surface water concentrations exceeding 49 ppb may result in serious human health or significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of prenatal developmental toxicity test (OPPTS Test Guideline 870.3700) in rats; a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); a fish acute toxicity mitigated by humic acid (OPPTS Test Guideline 850.1085); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10779.

PMN Number P–14–72

Chemical name: Propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester.

CAS number: 22288–41–1.

Basis for action: The PMN states that the use of the substance will be as a polymerization initiator for the production of polyvinyl chloride (PVC) and polyethylene resin. Based on test data on the PMN substance, as well as ecological SAR analysis of test data on analogous peroxy esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 3 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 3 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface waters concentrations exceeding 3 ppb may result in significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OECD Test Guideline 301C) with product-specific chemical analytics to validate the degradation products (including intermediate products) and the rates of degradation (including intermediate degradation rates); and a hydrolysis as a function of pH and temperature test (OPPTS Test Guideline 835.2130) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10780.

PMN Numbers P–14–89, P–14–90, P–14–91, and P–14–92

Chemical names: Fatty acid amide hydrochlorides (generic).

CAS numbers: Claimed confidential.

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

PMN No.	Concentration of concern (ppb)
P–14–89, P–14–92	110
P–14–90	240
P–14–91	53

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

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances. EPA also recommends that the guidance document on aquatic toxicity testing of difficult substances and mixtures (OECD Test Guideline 23) be followed.

CFR citation: 40 CFR 721.10781.

PMN Numbers P–14–158, P–14–159, P–14–161, P–14–162, and P–14–163

Chemical names: Fatty acid amides (generic).

CAS numbers: Claimed confidential.

Basis for action: The consolidated PMN states that the substances will be used as chemical intermediates and additives for flotation products. Based on ecological SAR analysis of test data on analogous amides and aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed the following values of the PMN substances in surface waters:

PMN No.	Concentration of concern (ppb)
P–14–158, P–14–159, P–14–161, P–14–163	1
P–14–162	140

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

Recommended testing: EPA has determined that the results of (1) a water solubility: Column elution method; shake flask method test (OPPTS Test Guideline 830.7840) or a water solubility generator column method test (OPPTS Test Guideline 830.7860); and (2) a determination of the partition coefficient (n-octanol/water) by shake flask method (OPPTS Test Guideline 830.7550), or generator column method (OPPTS Test Guideline 830.7560), or estimation by liquid chromatography (OPPTS Test Guideline 830.7570) would help characterize the physical/chemical properties of the PMN substances. Depending upon the results of these data, the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test

Guideline 850.4500) may be recommended to help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.10782.

PMN Numbers P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192 and P–14–193

Chemical names: Fatty acid amide acetates (generic).

CAS numbers: Claimed confidential.

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

PMN No.	Concentration of concern (ppb)
P–14–173, P–14–175, P–14–178, P–14–179, P–14–181, P–14–183, P–14–184, P–14–192, P–14–193	1
P–14–176, P–14–180, P–14–185, P–14–186, P–14–187, P–14–190	2
P–14–177, P–14–188	3
P–14–191	4
P–14–182	140

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

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) on P–14–184, and any one of the remaining PMN substances, would help characterize the environmental effects of the PMN substances. Further, EPA determined that the results of a fish acute toxicity mitigated by humic acid test (OPPTS Test Guideline 850.1085) on PMN P–14–184 would help characterize the environmental effects of the PMN substance. EPA also recommends that the guidance document on aquatic toxicity testing of difficult substances and mixtures (OECD Test Guideline 23) be followed.

CFR citation: 40 CFR 721.10783.

PMN Numbers P–14–216, P–14–217, P–14–218, and P–14–231

Chemical names: (P–14–216, P–14–217, and P–14–218) Mixed butyltin mercaptoester sulfides (generic) and (P–14–231) Mixed methyltin mercaptoester sulfides (generic).

CAS numbers: Claimed confidential.

Basis for action: The PMNs state that the substances will be used as stabilizers in polyvinyl chloride. Based on the physical-chemical properties of the PMN substances and their anticipated degradation products, as well as SAR analysis of test data on analogous organotin compounds, EPA identified concerns for immunotoxicity, neurotoxicity, developmental and reproductive toxicity, asthma and skin sensitization from dermal and inhalation exposures to the PMN substances, and toxicity to aquatic organisms at concentrations that exceed 0.5 ppb of the PMN substances in surface waters. For the use described in the PMNs (including waste handling and hazard communication), EPA does not expect significant occupational or general population exposures, nor significant releases to the aquatic environment due to

1. Use of impervious gloves, where there is a potential for dermal exposures.

2. Maintaining workplace airborne concentrations of the PMN substances not to exceed the OSHA PEL for organotins of 0.1 micrograms/m^3 by percent tin (% Sn).

3. Labeling transport containers and providing hazard communication.

4. Use of the substance only as described in the PMN. and

5. Releases of any waste stream into the waters of the United States not to exceed 0.5 ppb.

Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without dermal protection, where there is a potential for dermal exposures; any use of the PMN substances without maintaining workplace airborne concentrations exceeding the OSHA PEL of 0.1 micrograms/m^3 by percent tin; use of the substance without container labeling and appropriate hazard communication; or any use of the substances other than as stabilizers in polyvinyl chloride at concentrations not to exceed 2%, or any use of the substance resulting in releases to surface waters exceeding concentrations of 0.5 ppb of the PMN substances may result in serious health effects and significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(3)(ii), (b)(3)(iii), (b)(4)(ii), and (b)(4)(iv).

Recommended testing: EPA has determined that the results of the following testing on either P–14–216, P–14–217, or P–14–218; and P–14–231 would help characterize the human health and environmental effects of the PMN substances: A 90-day toxicity test (OPPTS Test Guideline 870.3100) in rats, by the oral route, with special attention to lymphoid organs (thymus, spleen, peripheral lymph nodes) and bone marrow; a neurotoxicity test (OPPTS Test Guideline 870.6200) to include motor activity, functional observational battery, and neuropathology with special attention to lesions in the hippocampus; a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an acute invertebrate toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); an algal toxicity test (OCSPP Test Guideline 850.4500); an aerobic ready biodegradability test (OECD Test Guideline 301); a fish early life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300). In addition, Further, EPA had determined that a leaching from PVC pipe study on PMN substances P–14–216, P–14–217, or P–14–218 (or model dibutyltin mercaptoester sulfide); and a leaching from PVC pipe study on PMN substance P–14–231 (or model dimethyltin mercaptoester sulfide) would be helpful in characterizing the PMN substances.

CFR citation: 40 CFR 721.10784 (P–14–216, P–14–217, and P–14–218) and 40 CFR 721.10785 (P–14–231).

PMN Number P–14–234

Chemical name: Trisubsituted ethoxylated carbomonocycle (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the generic (non-confidential) use of the substance is as a dispersant. Based on test data on the PMN substance, as well as ecological SAR analysis of test data on analogous nonionic surfactants, EPA predicts toxicity to aquatic organisms

may occur at concentrations that exceed 24 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 24 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 24 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

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

CFR citation: 40 CFR 721.10786.

PMN Number P–14–270

Chemical name: Multi-functional novolac type epoxy resin (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the substance will be used as a monomer for polyamides and as an ingredient to produce metamethylene 1,5 diisocyanate. Based on ecological SAR analysis of test data on analogous polyepoxides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10787.

PMN Number P–14–357

Chemical name: Alkanedioic acids, polymer with substituted propanediol, alkanediols, polyethylene glycol and MDI (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the use of the substance will be with lamination of plastic sheets and textiles. Based on SAR analysis of test data on analogous diisocyanates, EPA identified concerns for irritation to the eye, skin, and mucous membranes; and dermal and respiratory sensitization. As described in the PMN, EPA does not expect significant occupational exposures due to the use of a NIOSH-certified respirator with an APF of at least 10, where there is a potential for inhalation exposures; and the substance is applied by a method that does not generate a vapor, mist, or aerosol. Further, consumer inhalation exposures are not expected as the PMN is not being used in consumer products. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without a NIOSH-certified organic vapor respirator with an APF of at least 10, where there is a potential for inhalation exposure; any use in consumer products; or any use of the substance involving an application method that generates a vapor, mist, or aerosol may cause serious health effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(3)(ii).

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

CFR citation: 40 CFR 721.10788.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for 9 of the 52 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders. These SNURs are promulgated pursuant to § 721.160 (see Unit VI.).

In the other 43 cases, where the uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

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

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.
- EPA will ensure that all manufacturers and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

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

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3) and § 721.170(d)(4). In accordance with § 721.160(c)(3)(ii) and § 721.170(d)(4)(i)(B), the effective date of this rule is December 26, 2014 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before November 26, 2014.

If EPA receives written adverse or critical comments, or notice of intent to

submit adverse or critical comments, on one or more of these SNURs before November 26, 2014, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

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

VII. Applicability of the Significant New Use Designation

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

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) consent orders have been issued for 9 of the 52 chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) consent orders from undertaking activities which would be designated as significant new uses. The identities of 46 of the 52 chemical substances subject to this rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11). Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates October 27, 2014 as the cutoff date for determining whether the new use is ongoing. Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires. If such a person met the conditions of advance compliance under § 721.45(h), the person would be considered exempt from the requirements of the SNUR. Consult the **Federal Register** document of April 24, 1990 for a more detailed discussion of the cutoff date for ongoing uses.

VIII. Test Data and Other Information

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

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

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

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

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

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

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

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

IX. Procedural Determinations

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

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use

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

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

X. SNUN Submissions

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

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2014–0390.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

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

B. Paperwork Reduction Act (PRA)

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

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

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

C. Regulatory Flexibility Act (RFA)

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

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

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

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

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

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

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

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

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

G. Executive Order 13045

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

H. Executive Order 13211

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

I. National Technology Transfer and Advancement Act (NTTAA)

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

J. Executive Order 12898

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

XIV. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: October 9, 2014.

Maria J. Doa,

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

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

PART 9—[AMENDED]

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

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

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

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Significant New Uses of Chemical Substances	
* * * * *	
721.10766	2070–0012
721.10767	2070–0012
721.10768	2070–0012
721.10769	2070–0012
721.10770	2070–0012
721.10771	2070–0012
721.10772	2070–0012
721.10773	2070–0012
721.10774	2070–0012
721.10775	2070–0012
721.10776	2070–0012
721.10777	2070–0012
721.10778	2070–0012
721.10779	2070–0012
721.10780	2070–0012
721.10781	2070–0012
721.10782	2070–0012
721.10783	2070–0012
721.10784	2070–0012
721.10785	2070–0012
721.10786	2070–0012
721.10787	2070–0012
721.10788	2070–0012
* * * * *	

* * * * *

PART 721—[AMENDED]

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

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

■ 4. Add § 721.10766 to subpart E to read as follows:

§ 721.10766 Pyridine, 4-decyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as pyridine, 4-decyl- (PMN P–10–235; CAS No. 1815–99–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

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

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

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

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

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

■ 5. Add § 721.10767 to subpart E to read as follows:

§ 721.10767 Fluoroether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified

generically as fluoroether (PMN P–11–224) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (a significant new use is any manufacturing, processing, or use other than as an electrolyte for electrical/electronic equipment) and (q).

(ii) [Reserved]

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

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

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

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

■ 6. Add § 721.10768 to subpart E to read as follows:

§ 721.10768 N-(2-hydroxyethyl) alkenamide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as N-(2-hydroxyethyl) alkenamide (PMN P–11–226) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(6)(ii), (a)(6)(vi), (b), and (c). 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 exposure, where feasible.

(A) The following gloves have been demonstrated to meet the requirements of § 721.63(a)(3): North Silver Shield Gloves, Ansell Barrier Gloves, North Butyl Gloves, Ansell Chemi Pro Gloves, Ansell Neoprene Gloves, Ansell So-Vex, and Ansell Canners.

(B) The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an Assigned Protection Factor (APF) of at least 1,000 meet the requirements of § 721.63(a)(4):

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

(*2*) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting face piece, hood, or helmet.

(*3*) NIOSH-certified negative pressure (demand) supplied-air respirator with a full face piece.

(C) As an alternative to the respiratory requirements listed here, a manufacturer or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the section TSCA 5(e) consent order for this substance. The NCEL is 0.03 mg/m^3 as an 8-hour time weighted average verified by actual monitoring data.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e), (f), (g)(1)(i), (g)(1)(iii), (g)(1)(iv), (g)(1)(vi), (g)(1)(vii), (g)(1)(viii), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), and (g)(2)(iv) (use respiratory protection, or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.03 mg/m^3), (g)(2)(v), (g)(3), and (g)(4). A significant new use of this substance is any manner or method of manufacture or processing associated with any use of this substance without providing risk notification as follows under § 721.72(c):

(A) If as a result of the test data required under the TSCA section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to a MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1) (destruction and removal efficiency of 99.99%), (a)(3) (underground injection control (class 1 well, deep well injection hazardous waste)), (b)(1) (destruction and removal efficiency of 99.99%), (b)(3) (underground injection control (class 1 well, deep well injection hazardous waste)), (c)(1) (destruction and removal efficiency of 99.99%), (c)(3) (underground injection control (class 1 well, deep well injection hazardous waste)).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers and processors of these substances.

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

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

■ 7. Add § 721.10769 to subpart E to read as follows:

§ 721.10769 1-Octadecanaminium, N,N-dimethyl-N-[3-(triethoxysilyl)propyl]-, chloride (1:1), reaction products with ethylene glycol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-octadecanaminium, N,N-dimethyl-N-[3-(triethoxysilyl)propyl]-, chloride (1:1), reaction products with ethylene glycol (PMN P–12–41; CAS No. 1314035–96–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k) (a significant new use is import, processing and use of the PMN substance other than for waterproofing inorganic substrates, an asphalt binder modifier, and waterproofing of soil), and (q) (839,000 kilograms).

(ii) [Reserved]

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

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

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

■ 8. Add § 721.10770 to subpart E to read as follows:

§ 721.10770 Fluoroalkyl sulfonamide derivatives (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as fluoroalkyl sulfonamide derivatives (PMN P–12–404, P–12–405, and P–12–406) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses for P–12–404 and P–12–406 are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (e), (f), (g)(1) (The PMN substances may: Cause serious eye damage; and suspected of damaging fertility or the unborn child), and (g)(2) (When using these substances: Wear eye/face protection; avoid breathing dust/fume/gas/mist/vapors/spray; and wear protective gloves). A significant new use of these substances is any manner or method of manufacture or processing associated with any use of these substances without providing risk notification as follows under § 721.72(c):

(A) If as a result of the test data required under the TSCA section 5(e) consent order for these substances, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If these substances are not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to a MSDS before the substances are reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substances from the employer, or who have received the PMN substances from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

(3) The significant new uses for P–12–405 are:

(i) *Protection in the workplace.* (A) Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(6)(v), (a)(6)(vi), (b), and (c). 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 exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an Assigned Protection Factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

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

(*2*) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting face piece, hood, or helmet.

(*3*) NIOSH-certified negative pressure (demand) supplied-air respirator with a full face piece.

(B) As an alternative to the respiratory requirements listed here, a manufacturer or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the section TSCA 5(e) consent order for these substances. The NCEL is 0.7 mg/m^3 as an 8-hour time weighted average verified by actual monitoring data.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (e), (f), (g)(1) (The PMN substance may: Cause serious eye damage; and suspected of damaging fertility or the unborn child), and (g)(2) (When using this substance: Wear eye/face protection; avoid breathing dust/fume/gas/mist/vapors/spray; use respiratory protection, or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.70 mg/m^3; and wear protective gloves). A significant new use of this substance is any manner or method of manufacture or processing associated with any use of this substance without providing risk notification as follows under § 721.72(c):

(A) If as a result of the test data required under the TSCA section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to a MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (i) are applicable to

manufacturers and processors of these substances.

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

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

■ 9. Add § 721.10771 to subpart E to read as follows:

§ 721.10771 Hexane, 1,6-diisocyanato-, homopolymer, .alpha.-[1-[[[3-[[3-(dimethylamino)propyl]amino]propyl]amino]carbonyl]-1,2,2,2-tetrafluoroethyl]-.omega.-(1,1,2,2,3,3,3-heptafluoropropoxy)poly[oxy[trifluoro(trifluoromethyl)-1,2-ethanediyl]]-blocked.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as hexane, 1,6-diisocyanato-, homopolymer, .alpha.-[1-[[[3-[[3-(dimethylamino)propyl]amino]propyl]amino]carbonyl]-1,2,2,2-tetrafluoroethyl]-.omega.-(1,1,2,2,3,3,3-heptafluoropropoxy)poly[oxy[trifluoro(trifluoromethyl)-1,2-ethanediyl]]-blocked (PMN P–13–175; CAS No. 1279108–20–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the TSCA section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to a MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

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

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

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

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

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

■ 10. Add § 721.10772 to subpart E to read as follows:

§ 721.10772 Fluorinated oxirane polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fluorinated oxirane polymer (PMN P–13–176) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the TSCA section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, processed, or used in the employer's workplace, the employer must add the new information to a MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive the PMN substance from the employer, or who have received the PMN substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

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

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

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

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

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

■ 11. Add § 721.10773 to subpart E to read as follows:

§ 721.10773 Methylene bisacetophenone derivative (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as methylene bisacetophenone derivative (PMN P–13–223) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), and (a)(4). 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 exposure, where feasible.

(A) The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an Assigned Protection Factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(*1*) NIOSH-certified power air-purifying respirator with a hood or helmet and with appropriate gas/vapor (acid gas, organic vapor, or substance

specific) cartridges in combination with HEPA filters.

(*2*) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting face piece, hood, or helmet.

(*3*) NIOSH-certified negative pressure (demand) supplied-air respirator with a full face piece.

(B) [Reserved]

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=5).

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

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

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

■ 12. Add § 721.10774 to subpart E to read as follows:

§ 721.10774 Amine adduct (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as amine adduct (PMN P–13–239) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (q).

(ii) [Reserved]

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

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

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

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

■ 13. Add § 721.10775 to subpart E to read as follows:

§ 721.10775 Metal hydroxide, treated with alkenyl alkoxy silane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as metal hydroxide, treated with alkenyl alkoxy silane (PMN P–13–495) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

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

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

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

■ 14. Add § 721.10776 to subpart E to read as follows:

§ 721.10776 Functionalized carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as functionalized carbon nanotubes (PMN P–13–793) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), and (a)(3). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (a significant new use is use other than as a thin film for electronic device applications), (v)(1), (v)(2), (w)(1), (w)(2), (x)(1), (x)(2), and (y)(1).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

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

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

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

■ 15. Add § 721.10777 to subpart E to read as follows:

§ 721.10777 2,4-Hexadienoic acid, 3-(trimethoxysilyl)propyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2,4-hexadienoic acid, 3-(trimethoxysilyl)propyl ester (PMN P–13–945; CAS No. 3090–13–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N = 58).

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

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

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

■ 16. Add § 721.10778 to subpart E to read as follows:

§ 721.10778 2,4,Hexadienoic acid, 3-(trimethoxysilyl)propyl ester (2E,4E)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2,4,hexadienoic acid, 3-(trimethoxysilyl)propyl ester (2E,4E)-(PMN P–13–946; CAS No. 163802–53–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=58).

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

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

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

■ 17. Add § 721.10779 to subpart E to read as follows:

§ 721.10779 Substituted alkene, reaction products with isophoronediamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted alkene, reaction products with isophoronediamine (PMN P–14–28) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h), (y)(1), and (y)(2).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=49).

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

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

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

■ 18. Add § 721.10780 to subpart E to read as follows:

§ 721.10780 Propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester (PMN P–14–72; CAS No. 22288–41–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 19. Add § 721.10781 to subpart E to read as follows:

§ 721.10781 Fatty acid amide hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as fatty acid amide hydrochlorides (PMNs P–14–89, P–14–90, P–14–91 and P–14–92) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N=110 for PMNs P–14–89 and P–14–92; N=240 for PMN P–14–90; N=53 for PMN P–14–91).

(ii) [Reserved]

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

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

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

■ 20. Add § 721.10782 to subpart E to read as follows:

§ 721.10782 Fatty acid amides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as fatty acid amides (PMN P–14–158, P–14–159, P–14–161, P–14–162, and P–14–163) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (where N=1 for PMNs P–14–158, P–14–159, P–14–161, and P–14–163; N=140 for PMN P–14–162).

(ii) [Reserved]

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

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

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

■ 21. Add § 721.10783 to subpart E to read as follows:

§ 721.10783 Fatty acid amide acetates (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as fatty acid amide acetates (PMNs P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192 and P–14–193) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721. 90 (a)(4), (b)(4), and (c)(4) (where N = concentration of concern as follows):

PMN No.	Concentration of concern (ppb)
P–14–173, P–14–175, P–14–178, P–14–179, P–14–181, P–14–183, P–14–184, P–14–192, P–14–193	1
P–14–176, P–14–180, P–14–185, P–14–186, P–14–187, P–14–190	2
P–14–177, P–14–188	3
P–14–191	4
P–14–182	140

(ii) [Reserved]

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

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

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

■ 22. Add § 721.10784 to subpart E to read as follows:

§ 721.10784 Mixed butyltin mercaptoester sulfides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as mixed butyltin mercaptoester sulfides (PMNs P–14–216, P–14–217, and P–14–218) are subject to reporting under this section for the significant new uses described in

paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substances after they have been completely reacted (cured) or permanently entrained into a solid polyvinyl chloride matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) through (iv), (a)(3), (b)(concentration set at 1.0 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(iii), (g)(1)(iv), (g)(1)(v), (g)(1)(viii), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use other than as a stabilizer in polyvinyl chloride (PVC) at a concentration of no greater than 2 percent.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=0.5).

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

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

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

■ 23. Add § 721.10785 to subpart E to read as follows:

§ 721.10785 Mixed methyltin mercaptoester sulfides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as mixed methyltin mercaptoester sulfides (PMN P–14–231) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after it has been completely reacted (cured) or permanently entrained into a solid polyvinyl chloride matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) through (iv), (a)(3), (b)(concentration set at 1.0 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63 (a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(iii), (g)(1)(iv), (g)(1)(v), (g)(1)(viii), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use other than as a stabilizer in polyvinyl chloride at a concentration of no greater than 2 percent.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=0.5).

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

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

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

■ 24. Add § 721.10786 to subpart E to read as follows:

§ 721.10786 Trisubsituted ethoxylated carbomonocycle (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as trisubsituted ethoxylated carbomonocycle (PMN P–14–234) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=24).

(ii) [Reserved]

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

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

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

■ 25. Add § 721.10787 to subpart E to read as follows:

§ 721.10787 Multi-functional novolac type epoxy resin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as multi-functional novolac type epoxy resin (PMN P–14–270) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 26. Add § 721.10788 to subpart E to read as follows:

§ 721.10788 Alkanedioic acids, polymer with substituted propanediol, alkanediols, and polyethylene glycol and MDI (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanedioic acids, polymer with substituted propanediol, alkanediols, and polyethylene glycol and MDI (PMN P–14–357) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(6)(ii), (a)(6)(v), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational

Safety and Health (NIOSH)-certified respirators with an Assigned Protection Factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

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

(B) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting face piece, hood, or helmet.

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

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1).

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

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

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

[FR Doc. 2014–24916 Filed 10–24–14; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 79, No. 207
Monday, October 27, 2014

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

DEPARTMENT OF AGRICULTURE

7 CFR Part 3201

RIN 0599–AA23

Guidelines for Designating Biobased Products for Federal Procurement

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is proposing to amend its regulations concerning guidelines for designating biobased products for Federal procurement, to incorporate statutory changes to section 9002 of the Farm Security and Rural Investment Act (the 2002 Farm Bill) that went into effect when the Agricultural Act of 2014 (the 2014 Farm Bill) was signed into law on February 7, 2014.

DATES: USDA will accept public comments on these proposed rule amendments until December 26, 2014.

ADDRESSES: You may submit comments by any of the following methods. All submissions received must include the agency name and Regulatory Information Number (RIN). The RIN for this rulemaking is 0599–AA23. Also, please identify submittals as pertaining to the ''Proposed Amendments to BioPreferred Program Guidelines.''

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Email: *biopreferred@usda.gov.* Include RIN number 0599–AA23 and ''Proposed Amendments to BioPreferred Program Guidelines'' on the subject line. Please include your name and address in your message.
- Mail/commercial/hand delivery: Mail or deliver your comments to: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024.
- Persons with disabilities who require alternative means for communication for regulatory information (Braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720–2600 (voice) and (202) 690–0942 (TTY).

FOR FURTHER INFORMATION CONTACT: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024; email: *biopreferred@usda.gov;* phone (202) 205–4008. Information regarding the Federal biobased preferred procurement program (one part of the BioPreferred Program) is available on the Internet at *http://www.biopreferred.gov.*

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Authority
II. Background
III. Executive Summary
IV. Discussion of This Proposed Rule
V. Request for Comment
VI. Regulatory Information
A. Executive Orders 12866 and 13563: Regulatory Planning and Review
B. Regulatory Flexibility Act (RFA)
C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights
D. Executive Order 12988: Civil Justice Reform
E. Executive Order 13132: Federalism
F. Unfunded Mandates Reform Act of 1995
G. Executive Order 12372: Intergovernmental Review of Federal Programs
H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
I. Paperwork Reduction Act
J. E-Government Act Compliance

I. Authority

The Guidelines for Designating Biobased Products for Federal Procurement (the Guidelines) are established under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (the 2002 Farm Bill), as amended by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), and further amended by the Agricultural Act of 2014 (the 2014 Farm Bill), 7 U.S.C. 8102. (Section 9002 of the 2002 Farm Bill, as amended by the 2008 and the 2014 Farm Bills, is referred to in this document as ''section 9002'').

II. Background

As originally enacted, section 9002 provides for the preferred procurement of biobased products by Federal agencies. USDA proposed the Guidelines for implementing this preferred procurement program on December 19, 2003 (68 FR 70730–70746). The Guidelines were promulgated on January 11, 2005 (70 FR 1792), and are contained in 7 CFR part 3201, ''Guidelines for Designating Biobased Products for Federal Procurement.''

The Guidelines identify various procedures Federal agencies are required to follow in implementing the requirements of section 9002. They were modeled in part on the ''Comprehensive Procurement Guidelines for Products Containing Recovered Materials'' (40 CFR part 247), which the Environmental Protection Agency (EPA) issued pursuant to the Resource Conservation Recovery Act (''RCRA''), 40 U.S.C. 6962.

On June 18, 2008, the 2008 Farm Bill was signed into law. Section 9001 of the 2008 Farm Bill included several provisions that amended the provisions of section 9002. USDA subsequently amended the Guidelines to incorporate those provisions of the 2008 Farm Bill (79 FR 44641).

The purpose of these proposed rule amendments is to further revise the Guidelines to incorporate additional changes to section 9002 that were included in the 2014 Farm Bill. These proposed guidelines will not affect products that have already been designated for Federal procurement preference. Any changes necessary to the existing designation status of products will be established by future rule-makings.

III. Executive Summary

USDA is proposing to amend 7 CFR part 3201 to incorporate statutory changes to section 9002 of the Farm Security and Rural Investment Act made by enactment of the Agricultural Act of 2014 on February 7, 2014. The remainder of this section presents a brief summary of the proposed amendments to the existing Guidelines and Section IV of this preamble presents more detailed discussions.

A. Purpose of the Regulatory Action

1. Need for the Regulatory Action

The 2014 Farm Bill contains legislative requirements related to the Biobased Markets Program that cannot be implemented without the establishment of further guidance. For

example, the proposed amendments provide the framework for implementing the requirement that USDA promote biobased products regardless of the date of entry into the marketplace, thus overriding previous regulatory provisions excluding ''mature market'' [a] products. The proposed action also responds to Congressional direction that USDA promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace. This proposed regulatory action revises the definition of ''biobased product'' to state that the term includes forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. This proposed rule establishes procedures to carry out this and other provisions of the Agricultural Act of 2014.

2. Legal Authority for the Regulatory Action

Enactment of the Agricultural Act of 2014 (Pub. L. 113–79) on February 7, 2014 provides the legal authority for the proposed rule.

B. Summary of Major Provisions of the Proposed Rule

1. Revisions to the BioPreferred Program Definitions

USDA is proposing to amend 7 CFR 3201.2 by revising one definition and adding two new definitions for terms that are used in the Guidelines as a result of revisions to section 9002 made by the 2014 Farm Bill. USDA is proposing to revise the definition of ''biobased product'' to state that the term includes forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging.

USDA is adding definitions for the terms ''forest product'' and ''renewable chemical.'' These terms were defined in the text of the 2014 Farm Bill and USDA is proposing to add them verbatim to the BioPreferred Program Guidelines.

USDA is also proposing to delete the current definition of ''forestry materials'' from section 3201.2. USDA is proposing to delete the existing definition of the term ''forestry materials'' because the newly defined term ''forest product'' is more appropriate and, thus, will generally replace the existing term.

2. Addition of Reporting Requirements

USDA is also proposing to add a new paragraph (b)(1)(iv) to section 3201.4 to require Federal agencies to report the quantities and types of biobased products purchased. This proposed new paragraph responds to specific language included in the 2014 Farm Bill and is intended to provide a means by which the effectiveness of the BioPreferred program can be measured.

3. Addition of Targeted, Biobased-Only Purchasing Requirement

USDA is also proposing to add a new paragraph (b)(4) to section 3201.4 ''Procurement programs.'' This new paragraph would add the 2014 Farm Bill requirement that Federal procuring agencies establish a targeted biobased-only procurement requirement under which the procuring agency must issue a certain number of biobased-only contracts when the agency is purchasing products, or purchasing services that include the use of products, that are included in a biobased product category designated by the Secretary.

4. Addition of Criteria for Evaluating ''Innovative Approaches''

USDA is also proposing to add paragraphs to section 3201.5 ''Category designation'' to expand the description of the procedures and considerations for designating product categories, including those product categories that were excluded from the BioPreferred program under the previous mature market products exclusion. The Conference Report on the 2014 Farm Bill states: ''It is the Managers' intention that all products in the program use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product.'' USDA is, therefore, proposing criteria to be used when evaluating whether biobased products meet the requirement to use ''innovative approaches.''

C. Costs, Benefits, and Transfers

Type	Costs	Benefits	Transfers
Quantitative	Unable to quantify at this time; USDA seeks comments that would help to inform a quantitative estimate of impacts.	Unable to quantify at this time; USDA seeks comments that would help to inform a quantitative estimate of impacts.	Unable to quantify at this time; USDA seeks comments that would help to inform a quantitative estimate of impacts.
Qualitative	1. Costs of developing biobased alternative products; 2. Costs to gather and submit biobased product information for BioPreferred Web site;	Advances the objectives of the BioPreferred program, as envisioned by Congress in developing the 2002, 2008, and 2014 Farm Bills.	1. Opens new (Federal) market for biobased products that USDA newly designates. 2. Opportunity for newly developed biobased products to be publicized via BioPreferred Web site. 3. Loss of market share by manufacturers who choose not to offer biobased versions of products.

IV. Discussion of This Proposed Rule

USDA is proposing to amend four sections of 7 CFR part 3201, as described below.

A. 7 CFR 3201.2—Definitions

USDA is proposing to amend 7 CFR 3201.2 by revising one existing definition and adding two new definitions for terms that are used in the Guidelines as a result of revisions to section 9002 made by the 2014 Farm Bill.

USDA is proposing to revise the existing definition of the term ''biobased product'' to include a statement that the term includes forest products that meet biobased content requirements,

[a] Mature market products previously were defined as those that had a significant market share prior to 1972. USDA developed this exclusion based on the legislative history of the 2002 Farm Bill.

notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. The addition of this statement to the definition of ''biobased product'' is taken directly from the language in the 2014 Farm Bill and emphasizes Congress' intention that the mature market exclusion be removed and that most forest products be accepted into the BioPreferred program.

USDA is adding definitions for the terms ''forest product'' and ''renewable chemicals.'' These terms were defined in the text of the 2014 Farm Bill and USDA is proposing to add them verbatim to the BioPreferred Program Guidelines. The term ''forest product'' is used in language clarifying Congress' intent that these products, regardless of the market share the product holds, the age of the product, or whether the product's market is new or emerging, are eligible for the procurement and labeling program as long as the product meets biobased content requirements and use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product.

The term ''renewable chemical'' is also defined in the 2014 Farm Bill and USDA is proposing to add this definition to the BioPreferred Program Guidelines. Both the 2008 and 2014 Farm Bills emphasize Congress' intent that USDA include intermediate ingredients and feedstock materials in the BioPreferred program and renewable chemicals make up a significant portion of these biobased materials. USDA believes that having a clear definition of the term ''renewable chemicals'' will be useful as intermediate ingredients and feedstock materials are incorporated into the BioPreferred program.

USDA is proposing to delete the existing definition of the term ''forestry materials'' because it is no longer needed. The term ''forest product'' is more appropriate and, thus, will essentially replace the existing term.

B. 7 CFR 3201.4—Procurement Programs

USDA is proposing to add a new paragraph (b)(1)(iv) to section 3201.4 to address the language in the 2014 Farm Bill that requires Federal agencies to report the quantities and types of biobased products purchased. This proposed reporting requirement is intended to provide a means by which the effectiveness of the BioPreferred program can be measured.

USDA is also proposing to add a new paragraph (b)(4) that specifies that Federal procuring agencies must establish a targeted biobased-only procurement requirement under which the procuring agency shall issue a certain number of biobased-only contracts when the procuring agency is purchasing products, or purchasing services that include the use of products, that are included in a biobased product category designated by the Secretary. This requirement is specified in the text of the 2014 Farm Bill and USDA is proposing to incorporate it into the Guidelines using the language as it appears there. The targeted biobased-only procurement requirement will result in increased opportunities for biobased product manufacturers to market their products.

C. 7 CFR 3201.5—Category Designation

The text of the 2014 Farm Bill includes a statement that the Guidelines for the BioPreferred program shall ''promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace.'' Product categories that were previously considered to be mature market products and, thus, ineligible for the BioPreferred program will now be included in the program if manufacturers demonstrate that they apply an ''innovative approach'' in the life cycle of their product. Working in conjunction with the USDA Forest Products Laboratory, as required by the 2014 Farm Bill (Section 9002(h)), USDA has developed proposed criteria that would be used in evaluating whether the ''innovative approach'' requirement has been met for a product category under consideration for designation. USDA is proposing that reserved paragraph (b)(2) of section 3201.5 now be used to present the criteria for evaluating products that were excluded under the mature markets exclusion.

USDA is proposing that any one or more of four possible criteria must be met to demonstrate that a biobased product uses ''innovative approaches.'' The first possible criterion would require that the product or material is either used or applied in applications that differ from historical applications or that the product or material is grown, harvested, manufactured, processed, sourced, or applied in other innovative ways. There is an unknown, ever changing, and potentially very large number of innovative approaches that may be used in the manufacturing and/or application of biobased products. Therefore, USDA will review information supporting claims of meeting criterion number one and will approve the claims on a case-by-case basis.

The second possible criterion would require that the product or material is manufactured or processed using renewable, biomass energy or using technology that is demonstrated to increase energy efficiency or reduce reliance on fossil fuel based energy sources or that the product or material is manufactured or processed with technologies that ensure high feedstock material recovery and use.

The third possible criterion would require that the product or material has a current Environmental Product Declaration as defined by International Standard ISO 14025, Environmental Labels and Declarations—Type III Environmental Declarations—Principles and Procedures.

The fourth possible criterion would require that the product or material is either:

1. Sourced from a Legal Source (see Note below), a Responsible Source, or a Certified Source as designated by ASTM D7612–10, Standard Practice for Categorizing Wood and Wood-Based Products According to Their Fiber Sources, or

2. 100% resourced or recycled (such as material obtained from building deconstruction), or

3. from an urban environment and is acquired as a result of activities related to a natural disaster, land clearing, right-of-way maintenance, tree health improvement, or public safety.

Note: In item 1 above, the term ''legal source'' (also referred to as a ''non-controversial source'') means that the wood fibers are from jurisdictions with a low risk of illegal activity or from controlled wood standards, stair-step standards, legality assessments, or other proprietary standards. Products from non-controversial sources are traceable to the applicable jurisdiction, or chain of custody.

''Responsible source'' means that the wood fibers are acquired from a legal source utilizing independently certified procurement standards or are from a proprietary forestry standard or from jurisdictions with regulatory or quasi-regulatory programs to implement best management practices.

''Certified sources'' means wood fiber acquired in accordance with, and independently certified to, an internationally recognized voluntary forest certification standard or equivalent.

USDA believes that meeting any one or more of these four criteria would be an acceptable demonstration that a biobased product uses innovative approaches in either the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the product.

D. 7 CFR 3201.6—Providing Product Information to Federal Agencies

USDA is proposing to revise paragraph (a)(1) to read ''The Web site will, as determined to be necessary by the Secretary based on the availability of data, provide information as to the availability, price, biobased content, performance and environmental and public health benefits of the designated product categories and designated intermediate ingredient or feedstock categories. The 2014 Farm Bill added the phrase ''as determined to be necessary by the Secretary based on the availability of data'' to the description of the types of data to be provided by USDA.

V. Request for Comment

USDA is requesting comment on all aspects of these proposed amendments to the Guidelines. In particular, USDA requests that stakeholders provide comment on the following topics:

1. Whether the proposed definitions are clear, complete, and appropriate.

2. Whether the criteria that are being proposed for use in determining if biobased products meet the requirement to apply an ''innovative approach'' are appropriate and, if not, specific recommendations on alternative criteria. USDA is particularly interested in expanding the criteria to apply to products made from traditional materials such as cotton, wool, leather, or other biobased materials.

3. Whether the requirement that Federal procuring agencies establish a targeted biobased-only procurement requirement under which the procuring agency must issue a certain number of biobased-only contracts when the agency is purchasing products, or purchasing services that include the use of products should be more specific (i.e., establish a minimum percentage to define the ''certain number of biobased-only contracts'').

VI. Regulatory Information

A. Executive Orders 12866 and 13563: Regulatory Planning and Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

1. Need for the Rule

This proposed rule would amend the BioPreferred Program Guidelines to establish the regulatory framework for the designation of product categories that were previously excluded from the Federal procurement preference because they were mature market products. The designation of such products is specifically required under the Agricultural Act of 2014, which states that the Guidelines shall: ''(vi) promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace.''

2. Transfers

This rule advances the objectives of the BioPreferred program, as envisioned by Congress in the 2002, 2008 and 2014 Farm Bills, by expanding the scope of products that may be considered for Federal procurement preference. The entry into the BioPreferred program of biobased products that were previously considered to be mature market products will open a new Federal market for biobased products that are designated by USDA and also provides newly developed biobased products to be publicized via the BioPreferred Web site. Thus, the rule is expected to increase demand for these products once designated, which, in turn, is expected to increase demand for those agricultural products that can serve as ingredients and feedstocks. This Federal procurement preference will thus yield private benefits for businesses producing these ingredients and feedstocks.

Simultaneously, this action would reduce demand for products that do not receive Federal Procurement Preference designation. Producers of biobased products, including intermediate ingredients and feedstocks, that are not so designated or producers of non-biobased products could face a loss of market share within Federal procurement. We request information that would help us quantify the shift in product sales resulting from this action.

3. Costs

Manufacturers of biobased products will incur the actual costs of developing the biobased products as well as the costs to gather and submit the biobased product information for the BioPreferred Web site. The costs of developing and marketing new products is, in this case, a voluntary expense if manufacturers choose to pursue a share of the biobased product market.

Although this proposed rule would amend or establish procedures for designating qualifying biobased product categories, no product categories are proposed to be designated today. The actual designation of biobased product categories under this program will be accomplished through future rulemaking actions and the effect of those rulemakings on the economy will be addressed at that time.

B. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601–602, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act 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.

Although the BioPreferred program ultimately may have a direct impact on a substantial number of small entities, USDA has determined that this proposed rule itself will not have a direct significant economic impact on a substantial number of small entities. This rule will directly affect Federal agencies, which will be required to consider designated products for purchase. In addition, private sector manufacturers and vendors of biobased products voluntarily may provide information to USDA through the means set forth in this rule. However, the rule imposes no requirement on manufacturers and vendors to do so, and does not differentiate between manufacturers and vendors based on size. USDA does not know how many small manufacturers and vendors may opt to participate at this stage of the program.

As explained above, when USDA issues a proposed rulemaking to designate product categories for preferred procurement under this program, USDA will assess the anticipated impact of such designations, including the impact on small entities. USDA anticipates that this program will positively impact small entities that manufacture or sell biobased products. For example, once product categories are designated, this program will provide additional opportunities for small businesses to manufacture and

sell biobased products to Federal agencies. This program also will impact indirectly small entities that supply biobased materials to manufacturers. Additionally, this program may decrease opportunities for small businesses that manufacture or sell non-biobased products or provide components for the manufacturing of such products. It is difficult for USDA to definitively assess these anticipated impacts on small entities until USDA proposes product categories for designation. This rule does not designate any product categories.

C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This proposed rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

D. Executive Order 12988: Civil Justice Reform

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would not preempt State or local laws, is not intended to have retroactive effect, and would not involve administrative appeals.

E. Executive Order 13132: Federalism

This proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

F. Unfunded Mandates Reform Act of 1995

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for State, local, and tribal governments, or the private sector. Therefore, a statement under section 202 of UMRA is not required.

G. Executive Order 12372: Intergovernmental Review of Federal Programs

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372, which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

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

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

I. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection under the Guidelines is currently approved under OMB control number 0503–0011.

J. E-Government Act Compliance

USDA is committed to compliance with the E-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. USDA is implementing an electronic information system for posting information voluntarily submitted by manufacturers or vendors on the products they intend to offer for Federal preferred procurement under each designated item. For information pertinent to E-Government Act compliance related to this rule, please contact Ron Buckhalt at (202) 205–4008.

List of Subjects in 7 CFR Part 3201

Biobased products, Procurement.

For the reasons stated in the preamble, the Department of Agriculture is proposing to amend 7 CFR part 3201 as follows:

PART 3201—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT

■ 1. The authority citation for part 3201 continues to read as follows:

Authority: 7 U.S.C. 8102.

■ 2. Section 3201.2 is amended by:

■ a. Revising the definition of ''Biobased product'';

■ b. Removing the definition of ''Forestry materials''; and

■ c. Adding, in alphabetical order, definitions for ''Forest product'' and ''Renewable chemical''.

The revision and additions read as follows:

§ 3201.2 Definitions.

* * * * *

Biobased product. (1) A product determined by USDA to be a commercial or industrial product (other than food or feed) that is:

(i) Composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

(ii) An intermediate ingredient or feedstock.

(2) The term ''biobased product'' includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging.

* * * * *

Forest product. A product made from materials derived from the practice of forestry or the management of growing timber. The term ''forest product'' includes:

(1) Pulp, paper, paperboard, pellets, lumber, and other wood products; and

(2) Any recycled products derived from forest materials.

* * * * *

Renewable chemical. A monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

* * * * *

■ 3. Section 3201.4 is amended by revising paragraphs (b)(1)(i) through (iii) and adding paragraphs (b)(1)(iv) and (b)(4) to read as follows:

§ 3201.4 Procurement programs.

* * * * *

(b) * * *

(1) * * *

(i) A preference program for purchasing qualified biobased products;

(ii) A promotion program to promote the preference program;

(iii) Provisions for the annual review and monitoring of the effectiveness of the procurement program; and

(iv) Provisions for reporting quantities and types of biobased products purchased by the Federal agency.

* * * * *

(4) No later than [insert date 1 year after publication of final rule in the **Federal Register**], each Federal agency shall establish a targeted biobased-only procurement requirement under which the procuring agency shall issue a certain number of biobased-only contracts when the procuring agency is purchasing products, or purchasing services that include the use of products, that are included in a

biobased product category designated by the Secretary.

* * * * *

■ 4. Section 3201.5 is amended by adding paragraph (b)(2) to read as follows:

§ 3201.5 Category designation.

(b) * * *

(2) In designating product categories and intermediate ingredient or feedstock categories for the BioPreferred program, USDA will consider as eligible only those products that use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product. USDA will consider products that meet one or more of the criteria in paragraphs (b)(2)(i) through (iv) of this section to be eligible for the BioPreferred program. USDA may exclude from the BioPreferred program any products whose manufacturers are unable to provide USDA with the documentation necessary to verify claims that innovative approaches are used in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of their biobased products.

(i) *Product applications.* (A) The product or material is used or applied in applications that differ from historical applications; or

(B) The product or material is grown, harvested, manufactured, processed, sourced, or applied in other innovative ways.

(ii) *Manufacturing and processing.* (A) The product or material is manufactured or processed using renewable, biomass energy or using technology that is demonstrated to increase energy efficiency or reduce reliance on fossil-fuel based energy sources; or

(B) The product or material is manufactured or processed with technologies that ensure high feedstock material recovery and use.

(iii) *Environmental Product Declaration.* The product has a current Environmental Product Declaration as defined by International Standard ISO 14025, Environmental Labels and Declarations—Type III Environmental Declarations—Principles and Procedures.

(iv) *Raw material sourcing.* (A) The raw material used in the product is sourced from a Legal Source, a Responsible Source, or a Certified Source as designated by ASTM D7612–10, Standard Practice for Categorizing Wood and Wood-Based Products According to Their Fiber Sources, or:

(B) The raw material used in the product is 100% resourced or recycled (such as material obtained from building deconstruction), or

(C) The raw material used in the product is from an urban environment and is acquired as a result of activities related to a natural disaster, land clearing, right-of-way maintenance, tree health improvement, or public safety.

* * * * *

■ 5. Section 3201.6 is amended by revising the first sentence of paragraph (a)(1) to read as follows:

§ 3201.6 Providing product information to Federal agencies.

(a)

(1) * * * The Web site will, as determined to be necessary by the Secretary based on the availability of data, provide information as to the availability, price, biobased content, performance and environmental and public health benefits of the designated product categories and designated intermediate ingredient or feedstock categories. * * *

* * * * *

Dated: October 15, 2014.

Gregory L. Parham,

Assistant Secretary For Administration, U.S. Department of Agriculture.

[FR Doc. 2014–25418 Filed 10–24–14; 8:45 am]

BILLING CODE 3410–93–P

DEPARTMENT OF AGRICULTURE

7 CFR Part 3202

RIN 0599–AA22

Voluntary Labeling Program for Biobased Products

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is proposing to amend its regulations concerning the Voluntary Labeling Program for Biobased Products, to incorporate statutory changes to section 9002 of the Farm Security and Rural Investment Act (the 2002 Farm Bill) that went into effect when the Agricultural Act of 2014 (the 2014 Farm Bill) was signed into law on February 7, 2014.

DATES: USDA will accept public comments on these proposed rule amendments until December 26, 2014.

ADDRESSES: You may submit comments by any of the following methods. All submissions received must include the agency name and Regulatory Information Number (RIN). The RIN for this rulemaking is 0599–AA22. Also, please identify submittals as pertaining to the ''Proposed Amendments to Voluntary Labeling Program for Biobased Products.''

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: biopreferred@usda.gov.* Include RIN number 0599–AA22 and ''Proposed Amendments to the Voluntary Labeling Program for Biobased Products'' on the subject line. Please include your name and address in your message.
- *Mail/commercial/hand delivery:* Mail or deliver your comments to: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024.
- Persons with disabilities who require alternative means for communication for regulatory information (Braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720–2600 (voice) and (202) 690–0942 (TTY).

FOR FURTHER INFORMATION CONTACT: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024; email: *biopreferred@usda.gov;* phone (202) 205–4008. Information regarding the Voluntary Labeling Program for Biobased Products (one part of the BioPreferred® program) is available on the Internet at *http://www.biopreferred.gov.*

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Authority
II. Background
III. Executive Summary
IV. Discussion of This Proposed Rule
V. Request for Comment
VI. Regulatory Information
A. Executive Orders 12866 and 13563: Regulatory Planning and Review
B. Regulatory Flexibility Act (RFA)
C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights
D. Executive Order 12988: Civil Justice Reform
E. Executive Order 13132: Federalism
F. Unfunded Mandates Reform Act of 1995
G. Executive Order 12372: Intergovernmental Review of Federal Programs
H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
I. Paperwork Reduction Act
J. E-Government Act Compliance

I. Authority

The Voluntary Labeling Program for Biobased Products was established

under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (the 2002 Farm Bill), as amended by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), and further amended by the Agricultural Act of 2014 (the 2014 Farm Bill), 7 U.S.C. 8102. (Section 9002 of the 2002 Farm Bill, as amended by the 2008 and the 2014 Farm Bills, is referred to in this document as ''section 9002''.)

II. Background

Section 9002 establishes a program for preferred procurement of biobased products by Federal agencies and a voluntary program for the labeling of biobased products. These two programs are referred to collectively by USDA as the BioPreferred® program.

Under the preferred procurement program, Federal agencies and their contractors are required to purchase biobased products, as defined in regulations implementing the statute, that are within designated product categories when the cumulative purchase price of the products to be procured is more than $10,000 or when the quantities of functionally equivalent items purchased over the preceding fiscal year equaled $10,000 or more. The final rules under which the preferred procurement program operates are found at 7 CFR part 3201, ''Guidelines for Designating Biobased Products for Federal Procurement.'' In a separate rulemaking, the provisions of the Guidelines are being amended to reflect the provisions of the 2014 Farm Bill.

The final rules for the voluntary labeling program, under which USDA authorizes manufacturers and vendors of biobased products to use a ''USDA Certified Biobased Product'' label (hereafter referred to in this preamble as ''the certification mark''), are found at 7 CFR part 3202. The voluntary labeling program is intended to encourage the purchase and use of biobased products by reaching beyond the Federal purchasing community and promoting the purchase of biobased products by commercial entities and the general public. In establishing this program, USDA identified the criteria to determine those products on which the certification mark may be used and developed specific requirements for how the mark can be used. It is USDA's intent that the presence of the certification mark on a product will mean that the labeled product is one for which credible factual information is available as to the biobased content, consistently measured across labeled products by use of the American Society of Testing and Materials (ASTM) radioisotope test D6866.

On July 31, 2009, USDA published a proposed rule for the voluntary labeling program under the authority of section 9002 (74 CFR 38295). The voluntary labeling program final rule was promulgated on January 20, 2011 (76 FR 3790).

On February 7, 2014, the 2014 Farm Bill was signed into law and included several provisions that amended the provisions of section 9002. The primary purpose of this proposed rule amendments is to revise the voluntary labeling program final rule to incorporate changes to section 9002 that were included in the 2014 Farm Bill. USDA is also proposing certain clarifying amendments to the program rules based on several years of operating experience. These proposed amendments will not affect the status of products that have already been certified by USDA to display the certification mark. However, when Stage 3 of the auditing program (7 CFR part 3202, section 3202.10) is conducted in 2016, manufacturers whose product certification is at least 5 years old will incur additional costs of about $400 per certified product for biobased content re-testing.

III. Executive Summary

USDA is proposing to amend 7 CFR part 3202 to incorporate the statutory changes to section 9002 of the Farm Security and Rural Investment Act made by enactment of the Agricultural Act of 2014 on February 7, 2014. USDA is also proposing amendments that clarify the rules under which the voluntary labeling program operates. The remainder of this section presents a brief summary of the proposed amendments to the existing voluntary labeling program rules and Section IV of this preamble presents more detailed discussions.

A. Purpose of the Regulatory Action

1. Need for the Regulatory Action

The 2014 Farm Bill contains legislative requirements related to the Biobased Markets Program that cannot be implemented without further guidance. For example, the proposed amendments provide the framework for implementing the requirement that USDA promote biobased products regardless of the date of entry into the marketplace, thus overriding previous regulatory provisions excluding mature market products.[a] The proposed action also responds to Congressional direction that USDA promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace. This proposed regulatory action revises the definition of ''biobased product'' to state that the term includes forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. This proposed rule establishes procedures to carry out this and other provisions of the 2014 Farm Bill.

2. Legal Authority for the Regulatory Action

Enactment of the Agricultural Act of 2014 (Pub. L. 113–79) on February 7, 2014 provides the legal authority for the proposed rule amendments.

B. Summary of Major Provisions of the Proposed Rule

The following paragraphs present a brief summary of the changes being proposed to the voluntary labeling program rules by this action. More detailed discussions of the proposed changes are presented in Section IV of this preamble.

1. Revisions to Section 3202.2 ''Definitions''

USDA is proposing to amend 7 CFR 3202.2 by deleting the definitions of ''BioPreferred Product,'' ''Designated item,'' and ''Mature market products.'' USDA is also proposing to revise the definitions of ''Biobased product,'' ''Certification mark artwork,'' and ''Intermediate ingredient or feedstock'' and to add new definitions for ''Designated product category,'' ''Forest product,'' ''Qualified biobased product,'' and ''Renewable chemical.'' These changes are proposed to bring the voluntary labeling rule up to date with the BioPreferred program Guidelines and the 2014 Farm Bill.

2. Revisions to Section 3202.4 ''Criteria for Product Eligibility To Use the Certification Mark''

USDA is proposing to add a paragraph and subparagraphs to section 3202.4 that describe the biobased content criteria for complex assemblies. Procedures for designating complex assemblies for the Federal preferred procurement initiative have been added to the BioPreferred program Guidelines and this proposed action would update

[a] Mature market products previously were defined as those that had a significant market share prior to 1972. USDA developed this exclusion based on the legislative history of the 2002 Farm Bill.

the voluntary labeling program rules to include these products.

USDA is also proposing to add paragraphs to section 3202.4 to present the criteria for evaluating whether products use ''innovative approaches.'' The Conference Report on the 2014 Farm Bill states that ''It is the Managers' intention that all products in the program use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product.'' USDA is, therefore, proposing criteria to be used when evaluating whether biobased products meet the requirement to use ''innovative approaches.''

3. Revisions to Section 3202.5 ''Initial Approval Process''

USDA is proposing to amend paragraph (a)(1) to specifically address situations where a manufacturer seeks certification for a new product that is composed of the same biobased ingredients and has the same biobased content as a previously certified product. In these cases, where a new product for which certification is sought is composed of the same biobased ingredients and has the same biobased content as a product that has already been certified, the manufacturer may, in lieu of having the new product tested, self-declare the biobased content of the new product by referencing the tested biobased content of the certified product. Certification of the original product must have been obtained by either the manufacturer of the new product or by the supplier of the biobased ingredients used in the new product. This proposed provision would result in reduced biobased content testing, and thus a cost savings, for manufacturers who use the same biobased ingredients to formulate products that differ in size or shape or that are marketed for different applications.

USDA is also proposing to amend paragraph (c)(5) to state that manufacturers wishing to change the name of their company or the name of a certified product must notify USDA in writing within 30 days of making such changes.

USDA is also proposing to amend paragraph (d)(2) to clarify that, although certifications do not have a predetermined expiration date, they are subject to mandatory periodic auditing activities and to suspension or revocation if biobased content violations are identified. USDA is also amending this paragraph to allow for the revocation of a certification if it is discovered that certification was issued as a result of error(s) on the part of USDA during the approval process.

4. Revisions to Section 3202.8 ''Violations''

USDA is proposing to amend paragraph 3202.8(c)(3) to correct an error in a reference cited in the paragraph. The reference to 7 CFR part 3017 is incorrect. The appropriate references are 2 CFR part 417 and 48 CFR subpart 9.4.

5. Revisions to Section 3202.10 ''Oversight and Monitoring''

USDA is proposing to add a new section 3202.10(d) that identifies three auditing efforts that will be ongoing for the voluntary labeling program. The 2014 Farm Bill contained specific language authorizing USDA to perform auditing and compliance activities necessary to ensure that the label is used only on products that meet the established eligibility criteria.

USDA expects to conduct audits of the voluntary labeling program on an ongoing basis with audit activities conducted every other calendar year (bi-annually). Audit activities will include three stages and will be conducted in sequential order. Stage 1 was conducted in 2012, Stage 2 will be conducted in 2014, and Stage 3 will be conducted in 2016. In 2018, the sequence will start over with Stage 1.

Stage 1 auditing includes contacting all participants via email and requesting that they complete a ''Declaration of Conformance Form.'' Program participants are asked to confirm that they still manufacture the product and that the formulation and manufacturing processes remain the same.

Stage 2 auditing consists of a random sampling of certified products to confirm the accuracy of biobased content percentages claimed. The participants whose products are selected will be required to submit product samples to be tested by independent testing labs at USDA expense.

Stage 3 auditing requires manufacturers of products that have been certified for 5 years or more to have their products re-tested at their expense to confirm that the biobased content remains at or above the level at which the product was originally certified.

USDA believes that the audit program outlined above will be a valuable tool in ensuring the integrity of the program and compliance with the voluntary labeling program rules.

C. Costs, Benefits, and Transfers

Type	Costs	Benefits	Transfers
Quantitative	Unable to quantify at this time; USDA seeks comments that would help to inform a quantitative estimate of impacts.	Unable to quantify at this time; USDA seeks comments that would help to inform a quantitative estimate of impacts.	Unable to quantify at this time; USDA seeks comments that would help to inform a quantitative estimate of impacts.
Qualitative	1. Costs of developing biobased alternative products; 2. Costs to gather and submit biobased product information for BioPreferred Web site;	Advances the objectives of the BioPreferred program, as envisioned by Congress in developing the 2002, 2008, and 2014 Farm Bills.	1. Opens new (Federal) market for biobased products that USDA newly designates. 2. Opportunity for newly developed biobased products to be publicized via BioPreferred Web site. 3. Loss of market share by manufacturers who choose not to offer biobased versions of products.

IV. Discussion of This Proposed Rule

USDA is proposing to amend five sections of 7 CFR part 3202, as described below.

A. 7 CFR 3202.2—Definitions

USDA is proposing to amend 7 CFR 3202.2 by revising three existing definitions and adding four new definitions for terms that are used in the voluntary labeling program rules as a result of revisions to section 9002 made by the 2014 Farm Bill. USDA is also proposing to delete three definitions that are no longer applicable. The proposed changes to section 3202.2 are

discussed in more detail in the following paragraphs.

USDA is proposing to revise the existing definition of the term ''biobased product'' to add a statement that the term includes forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. The addition of this statement to the definition of ''biobased product'' is taken directly from the language in the 2014 Farm Bill and emphasizes Congress' intention that the mature market exclusion be removed and that forest products be accepted into the BioPreferred program.

USDA is proposing to revise the definition of the term ''certification mark artwork'' by replacing the graphic images of the three variations of the certification mark with slightly updated images. In the updated images, the ''FP'' letters indicating that the product is eligible for Federal preferred procurement have been moved so that they show up better and a solid line has been added between the text ''USDA Certified Biobased Product'' and the text that presents the product's biobased content. These changes in the certification mark graphics were made by the BioPreferred program after the current rule was finalized but before the voluntary labeling program began certifying products to display the mark. Therefore, this proposed update will merely bring the graphics presented in the rule in line with the graphics currently being issued and will not require any participants to revise their label graphics.

USDA is proposing to revise the definition of the term ''intermediate ingredient or feedstock'' to align the definition with the one presented in subpart A of 7 CFR 3201 (the BioPreferred program Guidelines). The definition presented in the Guidelines was revised in response to the language in the 2008 Farm Bill (79 FR 44641; August 1, 2014).

USDA is proposing to add a new definition for the term ''designated product category.'' This term has been adopted in the Guidelines as a replacement for the term ''designated item'' because of confusion caused by the inconsistent use of the word ''item.'' This proposal would bring the terminology used in the voluntary labeling rules in line with the existing Guidelines.

USDA is proposing to add a new definition for the term ''qualified biobased product'' to indicate a biobased product that is eligible for Federal preferred procurement. This term is used in the Guidelines and adding it to the voluntary labeling rule would help in understanding the difference between a ''qualified biobased product'' and a ''certified biobased product'' (one that has been certified to display the certification mark).

USDA is also proposing to add definitions for the terms ''forest product'' and ''renewable chemicals.'' These terms were defined in the text of the 2014 Farm Bill and USDA is proposing to add them verbatim to the voluntary labeling rule. The term ''forest product'' is used in language clarifying Congress' intent that these products, regardless of the market share the product holds, the age of the product, or whether the product's market is new or emerging, are eligible for Federal preferred procurement and for the voluntary labeling program as long as the product meets biobased content requirements and use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product.

The term ''renewable chemical'' is also defined in the 2014 Farm Bill and USDA is proposing to add this definition to the voluntary labeling program rules. Both the 2008 and 2014 Farm Bills emphasize Congress' intent that USDA include intermediate ingredients and feedstock materials in the BioPreferred program and renewable chemicals make up a significant portion of these biobased materials. USDA believes that having a clear definition of the term ''renewable chemicals'' will be useful as intermediate ingredients and feedstock materials are incorporated into the BioPreferred program.

USDA is proposing to delete the terms ''BioPreferred product'' and ''Designated item'' because the use of the terms has led to confusion and the terms have been replaced with other, more accurate terms. The term ''BioPreferred product'' is being replaced with the terms ''certified biobased product'' and ''qualified biobased product'' because these terms account for the fact that the BioPreferred program has two initiatives, the voluntary labeling program and the Federal preferred procurement program, and products may be eligible for either initiative.

USDA is proposing to delete the term ''Designated item'' and replace it with the term ''Designated product category,'' as discussed above. This change has already been made in the Guidelines and is being proposed to make the voluntary labeling rule consistent.

USDA is proposing to delete the definition of the term ''Mature market products.'' The 2014 Farm Bill clearly stated Congress' intent that the BioPreferred program should ''promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace.'' Product categories that were previously considered to be mature market products and, thus, ineligible for the BioPreferred program will now be included in the program if manufacturers demonstrate that they apply an ''innovative approach'' in the life cycle of their product. Therefore, the use of the term ''mature market products'' is no longer applicable for the BioPreferred program and the definition of the term is not needed.

B. 7 CFR 3202.4—Criteria for Product Eligibility To Use the Certification Mark

Two significant changes to this section are being proposed in this action. The first proposed change is to add a paragraph (b)(4) that presents the minimum biobased content requirement for a product that would be considered a ''complex assembly'' (a multi-component assembled product with one or more component(s) being made with biobased material). A key feature of complex assemblies is that their biobased content cannot be determined using ASTM D6866 because of their size and/or shape. USDA has incorporated into the BioPreferred program Guidelines a procedure for determining the biobased content of a complex assembly using an equation that yields the ratio of the mass of biobased carbon in the assembly to the mass of total organic carbon in the assembly. USDA has also added procedures to the Guidelines for incorporating complex assemblies into the Federal preferred procurement initiative of the BioPreferred program. This proposal incorporating a minimum biobased content requirement into the voluntary labeling rule is consistent with the Guidelines and language in the 2014 Farm Bill that directs USDA to ''begin issuing criteria for determining which assembled and finished products may qualify to receive the label'' within one year of enactment of the Farm Bill.

The text of the 2014 Farm Bill includes a statement that the BioPreferred program shall ''promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date

of entry into the marketplace.'' Product categories that were previously considered to be mature market products and, thus, ineligible for the BioPreferred program will now be included in the program if manufacturers demonstrate that they apply an ''innovative approach'' in the life cycle of their product. Working in conjunction with the USDA Forest Products Laboratory, as required by the 2014 Farm Bill (Section 9002(h)), USDA has developed proposed criteria that would be used in evaluating whether a biobased product is eligible for the voluntary labeling program because it uses ''innovative approaches.'' USDA is proposing that any one or more of four possible criteria must be met to demonstrate that a biobased product uses ''innovative approaches.'' This proposal to incorporate criteria for determining ''innovative approaches'' is consistent with the 2014 Farm Bill language and, in a separate rulemaking, USDA is also proposing to add the criteria to the BioPreferred program Guidelines.

The first possible criterion would require that the product or material is either used or applied in applications that differ from historical applications or that the product or material is grown, harvested, manufactured, processed, sourced, or applied in other innovative ways. There is an unknown, ever changing, and potentially very large number of innovative approaches that may be used in the manufacturing and/or application of biobased products. Therefore, USDA will review information supporting claims of meeting criterion number one and will approve the claims on a case-by-case basis.

The second possible criterion would require that the product or material is manufactured or processed using renewable, biomass energy or using technology that is demonstrated to increase energy efficiency or reduce reliance on fossil-fuel based energy sources or that the product or material is manufactured or processed with technologies that ensure high feedstock material recovery and use.

The third possible criterion would require that the product or material has a current Environmental Product Declaration as defined by International Standard ISO 14025, Environmental Labels and Declarations—Type III Environmental Declarations—Principles and Procedures.

The fourth possible criterion would require that the product or material is either:

1. sourced from a Legal Source (see Note below), a Responsible Source, or a Certified Source as designated by ASTM D7612–10, Standard Practice for Categorizing Wood and Wood-Based Products According to Their Fiber Sources, or

2. 100% resourced or recycled (such as material obtained from building deconstruction), or

3. from an urban environment and is acquired as a result of activities related to a natural disaster, land clearing, right-of-way maintenance, tree health improvement, or public safety.

Note: In item 1 above, the term ''legal source'' (also referred to as a ''non-controversial source'') means that the wood fibers are from jurisdictions with a low risk of illegal activity or from controlled wood standards, stair-step standards, legality assessments, or other proprietary standards. Products from non-controversial sources are traceable to the applicable jurisdiction, or chain of custody.

''Responsible source'' means that the wood fibers are acquired from a legal source utilizing independently certified procurement standards or are from a proprietary forestry standard or from jurisdictions with regulatory or quasi-regulatory programs to implement best management practices.

''Certified sources'' means wood fiber acquired in accordance with, and independently certified to, an internationally recognized voluntary forest certification standard or equivalent.

USDA believes that meeting any one or more of these four criteria would be an acceptable demonstration that a biobased product uses innovative approaches in either the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the product.

C. 7 CFR 3202.5—Initial Approval Process

USDA is proposing to amend paragraph (a)(1) to specifically address situations where a manufacturer seeks certification for a new product that is composed of the same biobased ingredients and has the same biobased content as a previously certified product. In these cases, where a new product for which certification is sought is composed of the same biobased raw materials and has the same biobased content as a product that has already been certified, the manufacturer may, in lieu of having the new product tested, self-declare the biobased content of the new product by referencing the tested biobased content of the certified product. This proposed provision would result in reduced biobased content testing, and thus a cost savings, for manufacturers who use the same biobased raw materials to formulate different products.

USDA is proposing to amend paragraph (c)(5) to state that manufacturers wishing to change the name of their company or the name of a certified product must notify USDA in writing within 30 days of making such changes.

USDA is also proposing to amend paragraph (d)(2) to clarify that, although certifications do not have a predetermined expiration date, they are subject to mandatory periodic auditing activities and to suspension or revocation if biobased content violations are identified. USDA is also amending this paragraph to allow for the revocation of a certification if it is discovered that certification was issued as a result of error(s) on the part of USDA during the approval process.

D. 7 CFR 3202.8—Violations

USDA is proposing to correct a reference in paragraph (c)(3). The original reference to 7 CFR part 3017 is incorrect and should refer instead to 2 CFR part 417 and 48 CFR subpart 9.4.

E. 7 CFR 3202.10—Oversight and Monitoring

USDA is proposing to add a new section 3202.10(d) that identifies three auditing efforts that will be ongoing for the voluntary labeling program. The 2014 Farm Bill contained specific language authorizing USDA to perform auditing and compliance activities necessary to ensure that the label is used only on products that meet the established eligibility criteria.

USDA expects to conduct audits of the voluntary labeling program on an ongoing basis with audit activities conducted every other calendar year (bi-annually). Audit activities will include three stages and will be conducted in sequential order. Stage 1 was conducted in 2012, Stage 2 will be conducted in 2014, and Stage 3 will be conducted in 2016. In 2018, the sequence will start over with Stage 1.

Stage 1 auditing includes contacting all participants via email and requesting that they complete a ''Declaration of Conformance Form.'' Program participants are asked to confirm that they still manufacture the product and that the formulation and manufacturing processes remain the same. Participants are also asked to list all active products and advise the USDA of any complaints regarding the claim of the biobased content. The first Stage 1 auditing activity was completed in 2012 and the second Stage 1 audit will be conducted in 2018.

Stage 2 auditing consists of a random sampling of certified products to confirm the accuracy of biobased

content percentages claimed. The participants whose products are selected will be required to submit product samples to be tested by independent testing labs at USDA expense. The first Stage 2 auditing activity is scheduled to be completed during 2014 and includes the re-testing of 50 randomly selected products. The second Stage 2 audit will be conducted in 2020.

USDA chose to re-test 50 products during the initial Stage 2 audit because that number was believed to be sufficient to meet the objective of preserving the integrity of the labeling program. In addition, ASTM Standard E2234 Standard Practice for Sampling a Stream of Product by Attributes Indexed by AQL (acceptance quality limit) calls for 50 samples when the total lot size is between 1,201 and 3,200 and following general inspection level 1. At the time the audit Stage 2 plans were developed there were slightly less than 1,500 certified products.

Stage 3 auditing requires manufacturers of products that have been certified for 5 years or more to have their products re-tested at their expense to confirm that the biobased content remains at or above the level at which the product was originally certified. The first Stage 3 auditing activity is scheduled to be completed during 2016 and the second Stage 3 audit will be conducted in 2022. The voluntary labeling program was initiated in 2011 and, at the time of the first Stage 3 audit, only those products certified during the first year of the program will require re-testing.

USDA believes that the audit program outlined above will be a valuable tool in ensuring the integrity of the program and compliance with the voluntary labeling program rules.

V. Request for Comment

USDA is requesting comment on all aspects of these proposed amendments to the voluntary labeling program rules. In particular, USDA requests that stakeholders provide comment on the following topics:

1. Whether the proposed definitions are clear, complete, and appropriate.

2. Whether the criteria that are being proposed for use in determining if biobased products meet the requirement to apply an ''innovative approach'' are appropriate and, if not, specific recommendations on alternative criteria. USDA is particularly interested in expanding the criteria to apply to products made from traditional materials such as cotton, wool, leather, or other biobased materials.

VI. Regulatory Information

A. Executive Orders 12866 and 13563: Regulatory Planning and Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

1. Need for the Rule

This proposed rule would amend the voluntary labeling program rules to establish the regulatory framework for the labeling of products that were previously excluded from the program because they were mature market products. The designation of such products is specifically required under the Agricultural Act of 2014, which states that the Guidelines shall: ''(vi) promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace.''

2. Costs, Benefits and Transfers

This rule advances the objectives of the BioPreferred program, as envisioned by Congress in the 2002, 2008 and 2014 Farm Bills, by expanding the scope of products that may be certified to display the USDA Certified Biobased Product certification mark. The entry into the voluntary labeling program of biobased products that were previously considered to be mature market products provides newly developed biobased products the opportunity to be publicized via the BioPreferred Web site. Thus, the rule is expected to increase demand for these products, which, in turn, is expected to increase demand for those agricultural products that can serve as ingredients and feedstocks. This expansion of the voluntary labeling program will, thus, yield private benefits for businesses producing these ingredients and feedstocks.

Simultaneously, this action would reduce demand for competing products that are not eligible for the voluntary labeling program. Producers of biobased products, including intermediate ingredients and feedstocks, that are not certified for labeling or producers of non-biobased products could face a loss of market share within both the public and Federal agencies. USDA does not have sufficient information on the expected extent of this potential loss of market share to assign a dollar value to this impact.

As part of the proposed Stage 3 auditing process to be conducted during calendar year 2016, manufacturers of biobased products that have been certified for five or more years will be required to have their products biobased content re-tested. We estimate that the cost for product re-testing is about $300 to $400 per product. The labeling program was implemented in 2011 and only those products that were certified during 2011 will incur the re-testing cost of the Stage 3 audit to be conducted during 2016. There were 1,338 applications for certification received during 2011 and USDA estimates that 1,000 of the products represented by those applications continue to display the label under the original certification. Thus, the total estimated cost of the auditing effort to all manufacturers would be, at most, $400,000 (1,000 products × $400 per test) during 2016. Considering that this total cost would be spread over several hundred manufacturers making these products and that no additional re-testing costs are expected until the year 2022, USDA believes that the cost to any one manufacturer is reasonable.

We request information that would help us quantify the shift in product sales potentially resulting from this action.

B. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601–602, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act 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.

Although the voluntary labeling program ultimately may have a direct impact on a substantial number of small entities, USDA has determined that this proposed rule itself will not have a direct significant economic impact on a substantial number of small entities. Private sector manufacturers and

vendors of biobased products voluntarily may provide information to USDA through the means set forth in this rule. However, the rule imposes no requirement on manufacturers and vendors to do so, and does not differentiate between manufacturers and vendors based on size. USDA does not know how many small manufacturers and vendors may opt to participate in the voluntary labeling program. USDA anticipates that this program will positively impact small entities which manufacture or sell biobased products by allowing them to display the certification mark and to list their products in the BioPreferred program Web site catalog. However, this program may decrease opportunities for small businesses that manufacture or sell non-biobased products or provide components for the manufacturing of such products. It is, however, not possible for USDA to definitively assess these anticipated impacts on small entities.

C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This proposed rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

D. Executive Order 12988: Civil Justice Reform

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would not preempt State or local laws, is not intended to have retroactive effect, and would not involve administrative appeals.

E. Executive Order 13132: Federalism

This proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

F. Unfunded Mandates Reform Act of 1995

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for State, local, and tribal governments, or the private sector. Therefore, a statement under section 202 of UMRA is not required.

G. Executive Order 12372: Intergovernmental Review of Federal Programs

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372, which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

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

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

I. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection under the voluntary labeling program is currently approved under OMB control number 0503–0020.

J. E-Government Act Compliance

USDA is committed to compliance with the E-Government Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. USDA is implementing an electronic information system for posting information voluntarily submitted by manufacturers or vendors on the products for which they intend to seek certification to display the label or which they intend to offer for Federal preferred procurement under each designated item. For information pertinent to E-Government Act compliance related to this rule, please contact Ron Buckhalt at (202) 205–4008.

List of Subjects in 7 CFR Part 3201

Labeling, Procurement, USDA Certified Biobased Product.

For the reasons stated in the preamble, the Department of Agriculture is proposing to amend 7 CFR part 3202 as follows:

PART 3202—VOLUNTARY LABELING PROGRAM FOR BIOBASED PRODUCTS

■ 1. The authority citation for part 3202 continues to read as follows:

Authority: 7 U.S.C. 8102.

■ 2. Section 3202.2 is amended by:

■ a. Removing the definitions of ''BioPreferred Product,'' ''Designated item,'' and ''Mature market products''; and

■ b. Revising the definitions of ''Biobased product,'' ''Certification mark artwork,'' ''Intermediate ingredient or feedstock''; and

■ c. Adding, in alphabetical order, definitions for ''Designated product category,'' ''Forest product,'' ''Qualified biobased product,'' and ''Renewable chemical.''

The revisions and additions read as follows:

§ 3202.2 Definitions.

* * * * *

Biobased product. A product determined by USDA to be a commercial or industrial product (other than food or feed) that is:

(1) Composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

(2) An intermediate ingredient or feedstock.

The term ''biobased product'' includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging.

* * * * *

Certification mark artwork. The distinctive image, as shown in Figures 1–3, that identifies products as USDA Certified.

BILLING CODE 3410–93–P

Figure 1. USDA Certified Biobased Product Certification Mark
(Note: actual size will vary depending on application)

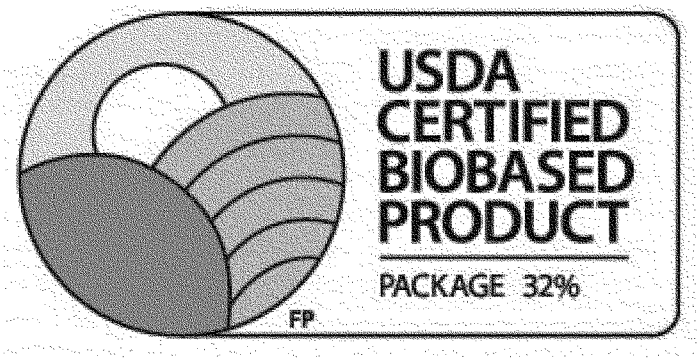


Figure 2. USDA Certified Biobased Product: Package Certification Mark
(Note: actual size will vary depending on application)

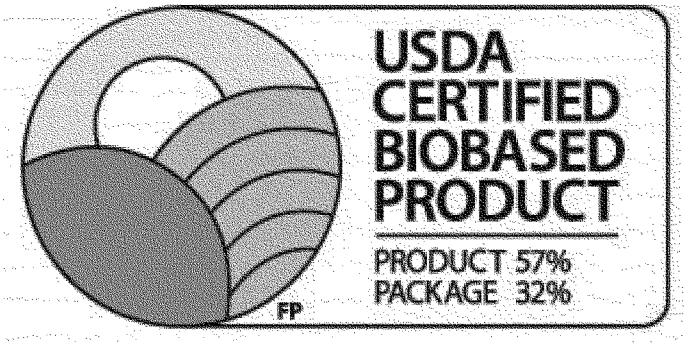


Figure 3. USDA Certified Biobased Product & Package Certification Mark
(Note: actual size will vary depending on application)

BILLING CODE 3410–93–C

* * * * *

Designated product category. A generic grouping of biobased products, including those final products made from designated intermediate ingredients or feedstocks, or complex assemblies identified in subpart B of 7 CFR part 3201, that is eligible for the procurement preference established under section 9002 of FSRIA.

* * * * *

Forest product. A product made from materials derived from the practice of forestry or the management of growing timber. The term ''forest product'' includes:

(1) Pulp, paper, paperboard, pellets, lumber, and other wood products; and

(2) Any recycled products derived from forest materials.

* * * * *

Intermediate ingredient or feedstock. A material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials that have undergone value added processing (including thermal, chemical, biological, or a significant amount of mechanical processing), excluding harvesting operations, offered for sale by a manufacturer or vendor and that is subsequently used to make a more complex compound or product.

* * * * *

Qualified biobased product. A product that is eligible for Federal preferred procurement because it meets the definition and minimum biobased content criteria for one or more designated product categories, or one or more designated intermediate ingredient or feedstock categories, as specified in subpart B of 7 CFR part 3201.

* * * * *

Renewable chemical. A monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

* * * * *

■ 3. Section 3202.4 is amended by revising the introductory text and the headings for paragraphs (b)(1) and (2) and adding paragraphs (b)(4) and (c) to read as follows:

§ 3202.4 Criteria for product eligibility to use the certification mark.

A product must meet each of the criteria specified in paragraphs (a) through (c) of this section in order to be eligible to receive biobased product certification.

* * * * *

(b) * * *

(1) *Qualified Biobased Products.*

* * *

(2) *Finished biobased products that are not Qualified Biobased Products.*

* * *

* * * * *

(4) *Finished products that are complex assemblies.*

(i) If the product is a complex assembly, as defined in subpart A of 7 CFR part 3201, that is not eligible for Federal preferred procurement at the time the application for certification is submitted, the applicable minimum biobased content is 25 percent. The biobased content shall be determined using the procedures specified in § 3201.7(c)(3) of this chapter. Manufacturers, vendors, groups of manufacturers and/or vendors, and trade associations may propose an alternative applicable minimum biobased content for the product by developing, in consultation with USDA, and conducting an analysis to support the proposed alternative applicable minimum biobased content. If approved by USDA, the proposed alternative applicable minimum biobased content would become the applicable minimum biobased content for the complex assembly to be labeled.

(ii) If a product certified under paragraph (b)(4)(i) of this section is within a category that USDA subsequently designates for Federal preferred procurement, the applicable minimum biobased content shall become, as of the effective date of the final designation rule, the minimum biobased content specified for the item as found in subpart B of 7 CFR part 3201.

(c) *Innovative approach.* In determining eligibility for certification under the BioPreferred program, USDA will consider as eligible only those products that use innovative approaches in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of the biobased product. USDA will consider products that meet one or more of the criteria in paragraphs (c)(1) through (4) of this section to be eligible for certification. USDA may deny certification for any products whose manufacturers are unable to provide USDA with the documentation necessary to verify claims that innovative approaches are used in the growing, harvesting, sourcing, procuring, processing, manufacturing, or application of their biobased products.

(1) *Product applications.* (i) The product or material is used or applied in applications that differ from historical applications; or

(ii) The product or material is grown, harvested, manufactured, processed, sourced, or applied in other innovative ways.

(2) *Manufacturing and processing.* (i) The product or material is manufactured or processed using renewable, biomass energy or using technology that is demonstrated to increase energy efficiency or reduce reliance on fossil-fuel based energy sources; or

(ii) The product or material is manufactured or processed with technologies that ensure high feedstock material recovery and use.

(3) *Environmental Product Declaration.* The product has a current Environmental Product Declaration as defined by International Standard ISO 14025, Environmental Labels and Declarations—Type III Environmental Declarations—Principles and Procedures.

(4) *Raw material sourcing.* (i) The raw material used in the product is sourced from a Legal Source, a Responsible Source, or a Certified Source as designated by ASTM D7612–10, Standard Practice for Categorizing Wood and Wood-Based Products According to Their Fiber Sources, or:

(ii) The raw material used in the product is 100% resourced or recycled (such as material obtained from building deconstruction), or

(iii) The raw material used in the product is from an urban environment and is acquired as a result of activities related to a natural disaster, land clearing, right-of-way maintenance, tree health improvement, or public safety.

■ 4. Section 3202.5 is amended by:

■ a. Revising paragraph (a)(1);

■ b. Adding a sentence to the end paragraph (c) introductory text;

■ c. Adding paragraph (c)(5);

■ d. Revising paragraph (d)(1); and

■ e. Adding paragraphs (d)(2)(iv) and (v).

The revisions and additions read as follows:

§ 3202.5 Initial approval process.

(a) * * *

(1) *General content.* The applicant must provide contact information and product information including all brand names or other identifying information, intended uses of the product, information to document that one or more of the innovative approach criteria specified in section 3202.4(c) has been met, and, if applicable, the corresponding product category classification for Federal preferred procurement. The applicant must also provide a sample of the product to be analyzed by a third-party, ISO 9001 conformant, testing entity for

determination of the biobased content. In situations where a new product for which certification is sought is composed of the same biobased ingredients and has the same biobased content as a product that has already been certified, the manufacturer may, in lieu of having the new product tested, self-declare the biobased content of the new product by referencing the tested biobased content of the original certified product. Certification of the original product must have been obtained by either the manufacturer of the new product or by the supplier of the biobased ingredients used in the new product.

(c) * * * Paragraph (c)(5) of this section presents the procedures for revising the information provided under paragraphs (c)(1) through (4) of this section after a notice of certification has been issued.

* * * * *

(5) If at any time, during the application process or after a product has been certified, any of the information specified in paragraphs (c)(1) through (4) of this section changes, the applicant must notify USDA of the change within 30 days. Such notification must be provided in writing to USDA.

(d) * * *

(1) The effective date of certification is the date on which the applicant receives a notice of certification from USDA. Except as specified in paragraphs (d)(2)(i) through (d)(2)(v) of this section, certifications will remain in effect as long as the product is manufactured and marketed in accordance with the approved application and the requirements of this subpart.

(2) * * *

(iv) All certifications are subject to USDA periodic auditing activities, as described in § 3202.10(d). If a manufacturer or vendor of a certified biobased product fails to participate in such audit activities or if such audit activities reveal biobased content violations, as specified in § 3202.8(b)(1), the certification will be subject to suspension and revocation according to the procedures specified in § 3202.8(c).

(v) If USDA discovers that a certification has been issued for an ineligible biobased product as a result of errors on the part of USDA during the approval process, USDA will notify the product's manufacturer or vendor in writing that the certification is revoked effective 30 days from the date of the notice.

■ 5. Section 3202.8 is amended by revising paragraph (c)(3) to read as follows:

§ 3202.8 Violations.

* * * * *

(c) * * *

(3) *Other remedies.* In addition to the suspension or revocation of the certification to use the label, depending on the nature of the violation, USDA may pursue suspension or debarment of the entities involved in accordance with 2 CFR part 417 and 48 CFR subpart 9.4. USDA further reserves the right to pursue any other remedies available by law, including any civil or criminal remedies, against any entity that violates the provisions of this part.

■ 6. Section 3202.10 is amended by adding paragraph (d) to read as follows:

§ 3202.10 Oversight and monitoring.

* * * * *

(d) *Audits.* USDA expects to conduct audits of the voluntary labeling program on an ongoing basis with audit activities conducted every other calendar year (bi-annually). Audit activities will include three stages and will be conducted in sequential order as follows:

(1) Stage 1 auditing includes contacting all participants via email and requesting that they complete a ''Declaration of Conformance Form.'' Program participants are asked to confirm that they still manufacture the product and that the formulation and manufacturing processes remain the same. Participants are also asked to list all active products and advise the USDA of any complaints regarding the claim of the biobased content. The first Stage 1 auditing activity was completed in 2012 and the second Stage 1 audit will be conducted in 2018.

(2) Stage 2 auditing consists of a random sampling of certified products to confirm the accuracy of biobased content percentages claimed. The participants whose products are selected will be required to submit product samples to be tested by independent testing labs at USDA expense. The first Stage 2 auditing activity is scheduled to be completed during 2014 and the second Stage 2 audit will be conducted in 2020.

(3) Stage 3 auditing requires manufacturers of products that have been certified for 5 years or more to have their products re-tested at their expense to confirm that the biobased content remains at or above the level at which the product was originally certified. The first Stage 3 auditing activity is scheduled to be completed during 2016 and the second Stage 3 audit will be conducted in 2022.

Dated: October 15, 2014.

Gregory L. Parham,

Assistant Secretary For Administration, U.S. Department of Agriculture.

[FR Doc. 2014–25427 Filed 10–24–14; 8:45 am]

BILLING CODE 3410–93–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1088; Directorate Identifier 2008–SW–76–AD]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise airworthiness directive (AD) 2014–12–11 for Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters. AD 2014–12–11 currently requires revising the Rotorcraft Flight Manual (RFM) to include the appropriate operating limitations for performing Class D external load-combination operations. As published, AD 2014–12–11 references an incorrect date for Revision No. 12 of Sikorsky RFM SA S92A–RFM–003, Part 1. This proposed AD would correct the error while retaining the requirements of AD 2014–12–11. These proposed actions are intended to require appropriate operating limitations to allow operators to perform Class D external load-combination operations, including human external cargo, in this model helicopter that now meets the Category A performance standard.

DATES: We must receive comments on this proposed AD by November 12, 2014.

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

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

Examining the AD Docket

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

For service information identified in this proposed AD, contact 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 service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: John Coffey, Flight Test Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7173; email: *john.coffey@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

AD 2014–12–11, amendment 39–17872 (79 FR 45085, August 4, 2014), applies to Sikorsky Model S–92A helicopters and requires revising the RFM to include the appropriate operating limitations for performing Class D external load-combination operations. When AD 2014–12–11 was published, an incorrect reference to the date of the RFM revision appeared in the text of the rule.

Specifically, the AD included the following under paragraph (f), Credit for Actions Previously Completed: ''Incorporation of the changes contained in Sikorsky RFM SA S92A–RFM–003, Part 1, Revision No. 12, approved March 21, 2005, before the effective date of this AD is considered acceptable for compliance with the corresponding actions specified in paragraph (e) of this AD.'' As published, the reference to March 21, 2005, is incorrect. The correct approval date for Revision 12 is December 9, 2010.

The FAA has determined that it is appropriate to revise AD 2014–12–11 to correct the RFM approval date. This revision would clarify any confusion regarding which RFM revision is acceptable to obtain credit for previous actions.

No other part of the preamble or regulatory information has been changed. The final rule would be reprinted in its entirety for the convenience of affected operators.

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. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–12–11, Amendment 39–17872 (79 FR 45085, August 4, 2014), and by adding the following new AD:

Sikorsky Aircraft Corporation: Docket No. FAA–2009–1088; Directorate Identifier 2008–SW–76–AD.

(a) Applicability

This AD applies to Sikorsky Aircraft Corporation Model S–92A helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an inaccurate Rotorcraft Flight Manual (RFM) provision, which was approved without appropriate limitations for this model helicopter for carrying Class D external rotorcraft-load combinations, including Human External Cargo (HEC), when this model helicopter was not certificated to Category A one-engine inoperative (OEI) performance standards, including fly away

capabilities after an engine failure, which is required for carrying HEC.

(c) Affected ADs

This AD revises AD 2014–12–11, Amendment 39–17872 (79 FR 45085, August 4, 2014).

(d) Comments Due Date

We must receive comments by November 12, 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

Within 90 days, revise the Operating Limitations section of Sikorsky Rotorcraft Flight Manual (RFM) SA S92A–RFM–003, Part 1, Section I, by inserting a copy of this AD into the RFM or by making pen and ink changes, as follows:

(1) In the ''Types of Operation'' section, beneath Hoist, add the following: ''The hoist equipment certification installation approval does not constitute approval to conduct hoist operations. Operational approval for hoist operations must be granted by the Federal Aviation Administration. No cabin seats may be installed in front of station 317 when conducting Human External Cargo hoist operations, which requires Category A performance capabilities.''

(2) In the ''Flight Limits'' section, add the following: '' ''HOIST'' When conducting Human External Cargo operations, which require category 'A' performance capabilities, the minimum hover height is 20 feet AGL and the maximum hover height is 80 feet AGL. ''HOIST'' The collective axis must remain uncoupled when conducting Human External Cargo, which requires category 'A' performance capabilities, for the period of time that the person is off the ground or water and not in the aircraft. This can be accomplished by either uncoupling the collective axis or by the pilot depressing the collective trim switch during the pertinent portion of the maneuver.''

(3) In the ''Weight Limits'' section:

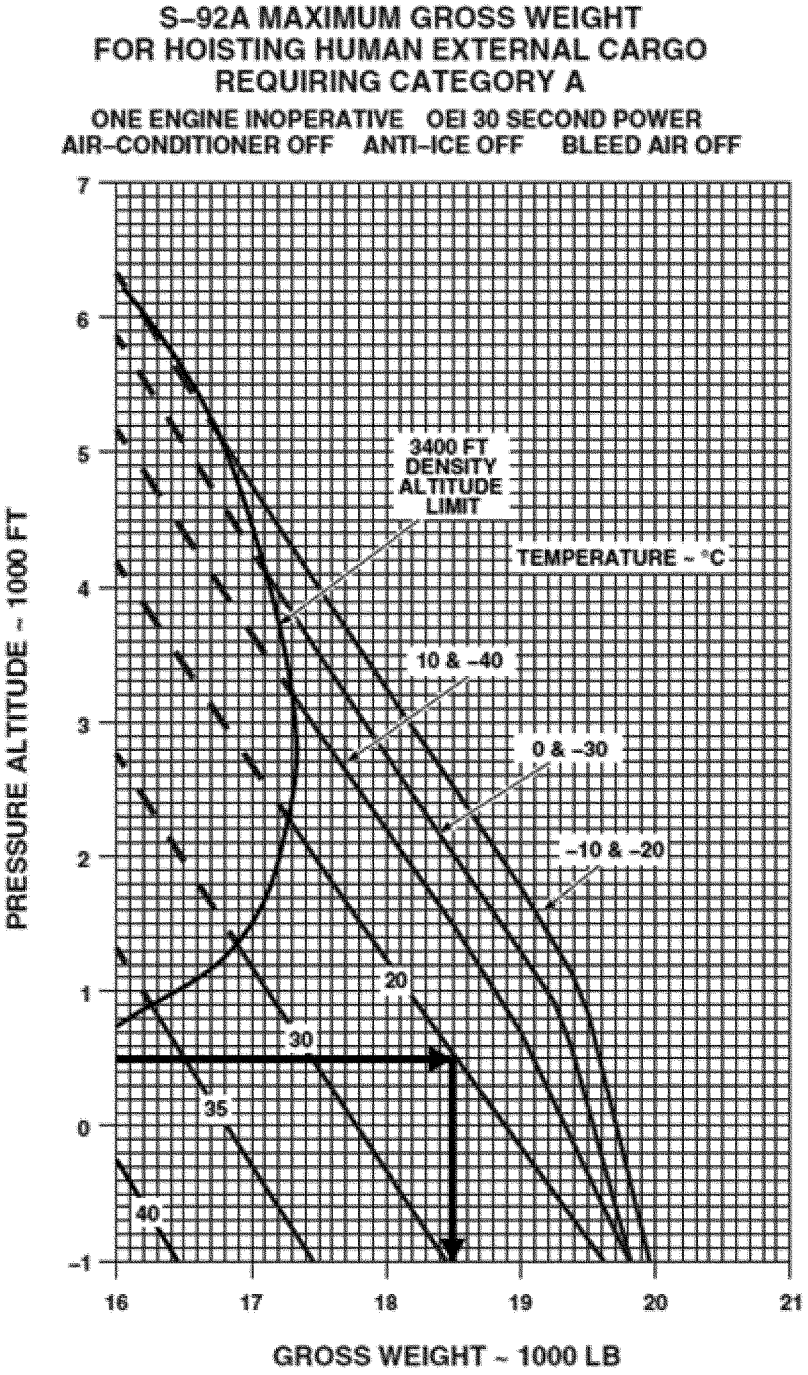
(i) Remove the following: ''NOTE: The 150 pound hoist decrement does not preclude Cat A operations at a gross weight of 26,500 pounds with a hoist installed. If conditions permit, the pilot may go to the right of the 26,500 line on Figure 1–2 to determine a maximum gross weight up to 26,650 and then subtract 150 pounds.''

(ii) Add the following: ''NOTE: If conditions permit, the pilot may go to the right of the 26,500 pound line on Figure 1–2 to determine the maximum gross weight and then subtract a 150 pound hoist decrement. The maximum gross weight for category 'A' operations cannot exceed 26,500 pounds (12,020 kilograms).''

(iii) Add the following and insert Figure 1 to Paragraph (f)(3)(iii) of this AD: '' ''HOIST'' Maximum gross weight for Human External Cargo, which requires category 'A' performance capabilities, is limited to the gross weight determined in accordance with the following Figure 1 to Paragraph (f)(3)(iii) of this AD for your altitude and temperature with the air-conditioner, anti-ice, and bleed air turned off.''

Note 1 to paragraph (f)(3)(iii) of this AD: Figure 1 to Paragraph (f)(3)(iii) of this AD becomes Figure 1–2A when inserted in the ''Weight Limits'' section of your RFM.

BILLING CODE 4910–13–P



NOTE 1: THIS CHART DEPICTS THE GROSS WEIGHT, PRESSURE ALTITUDE, TEMPERATURE COMBINATION WHERE OEI HOGE CAPABILITY EXISTS USING 30 SECOND OEI POWER WITH A 60 SHP MARGIN.

NOTE 2: 15 FT OF GROUND CLEARANCE IS ASSURED IN THE EVENT OF AN ENGINE FAILURE AT 20 TO 80 FT AGL.

Figure 1-2A – Maximum Gross Weight for HEC Requiring Cat 'A'

Figure 1 to Paragraph (f)(3)(iii)

(g) Credit for Actions Previously Completed

Incorporation of the changes contained in Sikorsky RFM SA S92A–RFM–003, Part 1, Revision No. 12, approved December 9, 2010, before the effective date of this AD is considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: John Coffey, Flight Test Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7173; email: *john.coffey@faa.gov.*

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

(i) Additional Information

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 *http://www.sikorsky.com.* You may review a copy of this information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 2510 Flight Compartment Equipment.

Issued in Fort Worth, Texas, on October 3, 2014.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–25402 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 615

RIN 1205–AB62

Federal-State Unemployment Compensation Program; Implementing the Total Unemployment Rate as an Extended Benefits Indicator and Amending for Technical Corrections; Notice of Proposed Rulemaking

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Employment and Training Administration (ETA) of the U.S. Department of Labor (Department) issues this notice of proposed rulemaking (NPRM) to implement statutory amendments to the Extended Benefits (EB) program, which pays extra weeks of unemployment compensation during periods of high unemployment in a State. Specifically, this NPRM proposes a methodology for computing the Total Unemployment Rate (TUR) indicator which is an optional indicator used to measure unemployment in a state. We also propose amendments to make technical corrections to the current regulations and to correct minor mistakes.

DATES: To be ensured consideration, comments must be submitted in writing on or before December 26, 2014.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB62, by only one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:*

Submit comments to Adele Gagliardi, Administrator, Office of Policy Development and Research (OPDR), U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N–5641, Washington, DC 20210. Because of security-related concerns, there may be a significant delay in the receipt of submissions by United States Mail. You must take this into consideration when preparing to meet the deadline for submitting comments. The Department will post all comments received on *http://www.regulations.gov* without making any changes to the comments or redacting any information, including any personal information provided. The *http://www.regulations.gov* Web site is the Federal e-rulemaking portal and all comments posted there are available and accessible to the public. The Department recommends that commenters not include personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses that they do not want made public in their comments as such submitted information will be available to the public via the *http://www.regulations.gov* Web site. Comments submitted through *http://www.regulations.gov* will not include the email address of the commenter unless the commenter chooses to include that information as part of his or her comment. It is the responsibility of the commenter to safeguard personal information.

Instructions: All submissions received must include the agency name and the RIN for this rulemaking: RIN 1205–AB62. Please submit your comments by only one method.

Docket: All comments will be available for public inspection and copying during normal business hours by contacting OPDR at (202) 693–3700. You may also contact OPDR at the address listed above. As noted above, the Department also will post all comments it receives on *http://www.regulations.gov.* Copies of the proposed rule are available in alternative formats of large print and electronic file on computer disk, which may be obtained at the above-stated address. The proposed rule is available on the Internet at the Web address *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Adele Gagliardi, Administrator, OPDR, Employment and Training Administration, (202) 693–3700 (this is not a toll-free number) or 1–877–889–5627 (TTY). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Preamble to this proposed rule is organized as follows:

I. Background—provides a brief description of the development of the proposed rule.

II. Section-by-Section Review of the Proposed Rule—summarizes and discusses proposed changes to the Federal-State Unemployment Compensation Program.

III. Administrative Information—sets forth the applicable regulatory requirements.

I. Background

EB is payable in a State only during an EB period of unusually high unemployment in the State. Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), Public Law 91–373, provides methods for determining whether a State's current unemployment situation qualifies as an EB period. EB periods are determined by ''on'' and ''off'' indicators (commonly referred to as triggers) in the State. Section 203(d), EUCA, provides for an ''on'' indicator based on the insured unemployment rate (IUR). The IUR is computed weekly by the States using administrative data on State unemployment compensation claims filed and the total population of employed individuals covered by unemployment insurance. States trigger ''on'' EB if the IUR trigger value for the

most recent 13-week period equals or exceeds 5 percent and equals or exceeds 120 percent of the average of such trigger values for the corresponding 13-week period ending in each of the preceding two calendar years. The calculation of the relationship between the current rate and prior two years' rates is commonly referred to as the ''look-back.''

The Unemployment Compensation Amendments of 1992, Public Law 102–318, added Section 203(f), EUCA, to provide for an optional alternative indicator that States may use to trigger ''on'' EB based on the TUR. That indicator requires that, for the most recent three months for which data for all States is published, the average TUR in the State (seasonally adjusted) for the most recent three-month period equals or exceeds 6.5 percent and the average TUR in the State (seasonally adjusted) equals or exceeds 110 percent of the average TUR for either or both of the corresponding three-month periods in the two preceding calendar years (look-back). The 1992 amendments also provided for a calculation of a ''high unemployment period'' when the TUR in a State equals or exceeds 8 percent and meets the 110 percent look-back described above, permitting the payment of additional weeks of EB. Section 203(f)(3), EUCA, provides that ''determinations of the rate of total unemployment in any State for any period . . . shall be made by the Secretary.'' An EB period ends when the state no longer meets any of the ''on'' triggers provided for in State law.

Regulations at 20 CFR 615 implement the provisions of EUCA relating to the IUR indicators, including how they will be computed. The regulation, at 20 CFR 615.12, explains the IUR triggers and how the rates are computed. The regulation does not address the TUR indicator although the Department issued UIPLs No. 45–92 and No. 16–11, respectively, addressing the TUR indicator and its computation. To conform our regulations to current practice, the Department is issuing this proposed rule to describe how the TUR indicators are computed for purposes of determining whether a State meets the 110 percent look-back requirements.

In the absence of explicit guidance and regulation, the Department previously adapted a portion of the existing guidance for the IUR look-back as a basis for calculating the TUR look-back. Specifically, in computing the look-back percentage for the TUR trigger the procedure for determining the number of significant digits from the resulting fraction followed 20 CFR 615.12(c)(3).

The TUR indicator uses total unemployment rates determined by the Bureau of Labor Statistics (BLS). These rates are measured using sampled data and therefore are imprecise due to sampling error. TUR measured by BLS can be lower or higher than the true levels of unemployment and there is no systematic tendency in estimation. In order to ensure to the extent possible that the TUR indicator is measured with total unemployment rates that reflect the true levels of unemployment that can be often higher than the rates measured by BLS, the Department has determined that an appropriate methodology for computing the look-back on the TUR indicator is to switch from truncation to rounding to the nearest hundredth, or second decimal place. Additionally, rounding, rather than truncating, is consistent with BLS practices in treating the TUR data. UIPL No. 16–11, dated May 20, 2011, informed the SWAs that the full effect of this new rounding procedure was implemented retroactive to April 16, 2011.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Section 502, permitted States to amend State law in order to make determinations of whether there is an ''on'' or ''off'' indicator by comparing current unemployment rates to the unemployment rates for the corresponding period in the three preceding years. Authority to use this three-year look-back applies only for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2013.

General

Section 3304(a)(11) of the Federal Unemployment Tax Act (26 U.S.C. 3301 *et seq.*) (FUTA) requires, as a condition of employers in States receiving credits against the Federal unemployment tax, that the States' unemployment compensation laws provide for the payment of extended unemployment compensation during periods of high unemployment to eligible individuals. EUCA established the EB Program by which, if certain conditions are met in a State under its law, extended unemployment compensation is provided to workers in the State who have exhausted their regular compensation during a period of high unemployment referred to as an EB period. EUCA provides methods for determining whether an EB period exists in the State. These methods are referred to as ''on'' or ''off'' indicators.

There were two ''on'' and ''off'' indicators in existence before the enactment of the UC Amendments. These indicators were based on the IUR. The IUR indicator's trigger value is, under section 203(e) of EUCA, the ratio of the average number of unemployment claims filed in a State during the most recent 13 weeks to the average monthly number of employed individuals covered by UC in that State during the first four of the last six completed calendar quarters. The first indicator has two conditions which must be met and is required to be in State law. Under section 203(d) of EUCA, the EB Program is activated if a State's IUR trigger value (first condition) is at least 5 percent (referred to as the regular IUR trigger threshold with ''look-back''), and is at least 120 percent of the average of the trigger values in the prior two years for the corresponding 13-week calendar periods (second condition). The second condition—that the most recent 13-week period must be at least 120 percent of the average of the corresponding periods in the last two years—is commonly referred to as the ''look-back'' provision. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the look-back. The look-back provision supports activation of a State's EB Program only when the current unemployment rate is both high and increasing, which indicates that the State's labor market is worsening and additional compensation is warranted. Under the second indicator, which is an option for a State, section 203(d) of EUCA provides the EB Program may be triggered ''on'' with an IUR trigger value of at least 6 percent regardless of its relation to the IUR trigger values in the preceding two years. The 6 percent value is referred to as the regular IUR trigger threshold without look-back.

Alternative Indicator

The UC Amendments amended the EUCA to permit States to adopt an alternative indicator based on the TUR to trigger ''on'' and ''off'' the EB Program. Specifically, paragraph (f) of section 203 of EUCA provides for a TUR indicator comprised of a Trigger Value and look-back provision. The Trigger Value for this indicator is the three-month average of seasonally adjusted TURs for the most recent three months for which data for all States is published. The regular TUR trigger threshold is 6.5 percent. The look-back provision requires that the Trigger Value equals or exceeds 110 percent of the TUR Trigger Values for either or both of the corresponding three-month periods

in the two preceding calendar years (the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the look-back). The TUR Trigger Value is determined by the Department based on data from BLS.

As with the IUR indicator, the look-back provision ensures that the State's TUR Trigger Value is both high and increasing, indicating that the State's labor market is worsening and additional compensation is warranted. A State will trigger ''off'' its EB Program when either the TUR Trigger Value falls below 6.5 percent, or the requirements pertaining to the look-back provision are not satisfied.

Regardless of whether a State's EB Program is triggered ''on'' based on the IUR or TUR indicators, sections 203(d)(2) and 203(f)(1)(B) of EUCA provide that the EB period is triggered ''off' when the conditions supporting the activation of the EB Program are no longer satisfied. Additionally, when the program triggers ''on'' or ''off'' EB payments, it must remain in the new status (''on'' or ''off'' EB payments) for a minimum of 13 weeks regardless of changes in future trigger values.

The Department implemented EUCA's provisions on the IUR indicator at 20 CFR part 615, published in 53 FR 27928, Jul. 25, 1988. The Department implemented the alternative TUR indicator provided by the UC Amendments through guidance on August 31, 1993 (UIPL No. 45–92). The Department now proposes to place the TUR indicator into regulations.

Payments of Additional Weeks of Extended Benefits

The UC Amendments provided that States electing to use the new TUR indicator must also provide for the payment of additional weeks of EB during a ''high unemployment period'' that occurs during an EB period. These additional weeks of EB are available if State law provides for the use of the alternative TUR indicator.

Consistent with EUCA § 203(b)(1), no EB period or high unemployment period may begin in any State by reason of a State ''on'' indicator before the 13-week minimum status period expires after the ending of a prior EB period with respect to such State. Conversely, no EB period or high unemployment period may end in any State by reason of a State ''off'' indicator before the 13-week minimum status period expires after the beginning of an EB period with respect to such State.

EUCA originally provided for the establishment of an EB account, and the amount in the account is the least of one of three amounts which is payable for regular extended compensation. The UC amendments added a new paragraph to section 202(b) of EUCA that increases the amount in these accounts during a high unemployment period. The amount payable in a high unemployment period is equal to whichever of the following is the least and is referred to as ''high unemployment extended compensation'':

—80 percent (as opposed to 50 percent in a ''normal'' EB period) of the total amount of regular UC (including dependent's allowances) payable to the individual during the benefit year;

—20 (as opposed to 13) times the individual's weekly benefit amount; or

—46 (as opposed to 39) times the individual's weekly benefit amount, reduced by the regular UC paid (or deemed paid) during the benefit year.

The term ''high unemployment period'' is defined in Section 202(b)(3)(B), EUCA, as any period during which an EB Program would be in effect if the TUR indicator equaled or exceeded 8 percent and the TUR indicator equals or exceeds 110 percent of the TUR indicators for either or both the corresponding three-month periods in the two previous calendar years.

Whether a high unemployment period exists in a State for a particular week is determined in accordance with provisions of State law implementing sections 202(b)(3) and 203(f) of EUCA and the seasonally-adjusted TUR indicator determined by BLS. When this determination is made, the State follows the requirements of sections 203(a) and (b) of EUCA for determining the first and last week for which high unemployment EB is payable. Specifically, a high unemployment EB period begins on the first day of the third calendar week after the TUR indicator requirements are satisfied, and ends on the last day of the third week after the first week for which the TUR indicator requirements are not met. However, as stated above, no EB period or high unemployment period may begin in any State by reason of a State ''on'' indicator before the 13-week minimum status period expires after the ending of a prior EB period with respect to such State.

Alternative Indicator Rounding Methodology

Before April 16, 2011, in absence of explicit statutory guidance and regulation, the Department adapted a portion of the requirement (in 20 CFR 615.12) for calculating the look-back percentage for the IUR indicator as a basis for determining the significant number of digits from the look-back percentage for the TUR indicator. Specifically, the quotient is computed to two decimal places and multiplied by 100 with all numbers to the right of the decimal point being dropped (known as ''truncation''). The result is expressed as a percentage.

The UC Amendments provide for a State to trigger ''on'' EB using the TURs determined by BLS. As discussed above, because the TUR indicator uses unemployment rates determined by BLS using sampled data, the rates are imprecise due to sampling error. Total unemployment rates measured by the BLS can be lower or higher than the true levels of unemployment and there is no systematic tendency in estimation. In order to ensure to the extent possible that the TUR indicator is measured with total unemployment rates that reflect the true levels of unemployment that can be often higher than the rates measured by the BLS, the Department has determined that an appropriate methodology for computing the look-back on the TUR indicator is to switch from truncation to rounding to the nearest hundredth. In contrast, the IUR indicator values are computed from administrative data and thus represent the full universe. Because of these differences in the calculation of the insured and total unemployment rates, on May 20, 2011 the Department announced, in UIPL No. 16–11, that an appropriate methodology for computing the look-back percentage for the TUR indicator is to switch from truncation at the second decimal place to rounding to the second decimal place.

UIPL No. 16–11 informed States of the new rounding methodology the Department now employs when computing the current trigger rate as a percent of the comparable trigger rates in prior years for the TUR indicator. Since TURs have been rounded, an expression of a ratio of two TURs must also be rounded.

On a monthly basis, the three-month average of the seasonally adjusted TUR is divided by the same measure for the corresponding three months in each of the applicable two prior years (the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the look-back). The resulting decimal fraction is then rounded to the hundredths place (the second digit to

the right of the decimal place). The resulting number is multiplied by 100, reported as an integer, and compared to the statutory threshold to determine if the State triggers ''on'' EB. UIPL No. 16–11 informed the SWAs that the full effect of this new rounding procedure was implemented retroactive to April 16, 2011.

II. Section-by-Section Review of the Proposed Rule

We propose to update 20 CFR part 615 so that it includes the TUR indicator. In addition, in updating Part 615 to incorporate the TUR indicator, we propose to incorporate the rounding method adopted for the look-back. We also propose technical amendments to this part to update its provisions since the last regulatory revision and to correct minor errors in the text of the rule.

First, we propose replacing all uses of the term ''the Act'' with ''EUCA'' to mean the Federal-State Extended Unemployment Compensation Act of 1970. Additionally, we propose to replace all instances of the term ''Extended Benefits'' with ''extended unemployment compensation'' to mean the funds actually paid out to UI recipients and to avoid confusion.

We propose to amend § 615.1 (Purpose) by clarifying that FUTA, 26 U.S.C. 3304(a)(11), requires, as a condition of tax offset, that States' unemployment compensation laws provide for the payment of extended unemployment compensation during periods of high unemployment to eligible individuals. We also propose to revise § 615.1 by deleting the reference to Extended Benefits and the Extended Benefit program at the end of the section to avoid confusion with the proposed definition of Extended Benefits in § 615.2 (Definitions).

We propose to amend 615.2 (Definitions) by adding several new definitions for clarity and to implement parts of EUCA in the regulation. Furthermore, while ''EUCA'' is a new definition, it merely replaces ''Act'' as a defined term. The new definitions we propose to add to § 615.2 follow.

Extended benefit period means the weeks during which extended compensation is payable in a State in accordance with § 615.11 (Extended Benefit Period or High Unemployment Period).

Extended Benefits Program, or *EB Program,* means the entire program under which monetary payments are made to workers who have exhausted their regular compensation including during a high unemployment period. In contrast, ''extended compensation'' refers narrowly to the actual monetary payment made to individuals eligible for benefits under the EB Program. Under the EB Program, an individual may be eligible to receive payments under distinct statutory entitlements, which the statute refers to as ''plans,'' ''programs,'' or ''criteria,'' that comprise the EB Program. For example, the regular EB Program can provide for compensation up to 50 percent of the benefit amount claimants were eligible for in the regular UI program. For States in a high unemployment period, the EB Program can provide for compensation up to 80 percent of the benefit amount claimants were eligible for in the regular compensation.

Extended compensation account is the account established for each individual claimant for the payment of regular extended compensation or high extended compensation.

Extended unemployment compensation means the funds actually paid out to UI recipients. To avoid confusion, we propose to replace all instances of the term ''Extended Benefits'' with ''extended unemployment compensation.''

High unemployment extended compensation means the benefits payable to an otherwise eligible individual for weeks of unemployment which begin in a high unemployment period, under those provisions of a State law which satisfy the requirements of EUCA and this part with respect to the payment of extended unemployment compensation, and, when so payable, includes compensation payable under 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Regular extended compensation (as defined in this section), together with high unemployment extended compensation, comprise Extended compensation.

High unemployment period (HUP) means a period where the Department determines that the Trigger Value in a State, which has enacted the alternative TUR trigger in law, for the most recent three months for which data for all States is published, equals or exceeds 8 percent, and such Trigger Value equals or exceeds 110 percent of such Trigger Values for either or both of the corresponding three-month periods ending in the two preceding calendar years (the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the look-back). If a State triggers ''on'' to a HUP, it must remain ''on'' for at least 13 weeks; if it triggers ''off'' a HUP, it must remain in a mandatory ''off'' period for at least 13 weeks.

Insured Unemployment Rate (IUR) means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in a State for weeks of unemployment in the most recent thirteen-consecutive-week period as determined by the State on the basis of State reports to the Secretary, by the average monthly employment covered under State law for the first four of the most recent six completed calendar quarters before the end of such 13-consecutive-week period.

Regular extended compensation means the benefits payable to an otherwise eligible individual for weeks of unemployment which begin in an EB Period, under those provisions of a State law which satisfy the requirements of EUCA for the payment of extended unemployment compensation, and, when so payable, includes compensation payable under 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Regular extended compensation, together with high unemployment extended compensation, comprises the monetary benefits payable under the Extended Benefits program.

Regular EB period means a period during which a state is triggered ''on'' the EB Program because either the mandatory or optional IUR indicator satisfies the criteria to be ''on'' and the state is not in a 13-week mandatory ''off'' period; or the state is triggered ''on'' the EB Program because the TUR indicator's Trigger Value is both at least 6.5 percent, and at least 110 percent of the Trigger Value for the comparable three months in either of the prior two years.

Total Unemployment Rate means the number of unemployed individuals in a State (seasonally adjusted) divided by the civilian labor force (seasonally adjusted) in the State for the same period. The calculation uses BLS data.

Trigger Value or *average rate of total unemployment* means the ratio computed by adding three consecutive months of the level of seasonally adjusted unemployment in a State for the numerator and adding for the same consecutive three months the level of the seasonally adjusted civilian labor force in the State for the denominator. This ratio is an optional indicator used for triggering States ''on'' and ''off'' the EB Program and is added in § 615.12(e)(2)–(e)(3)).

In addition to these proposed new definitions, we propose to revise the existing definitions (with citations to

current regulations included), primarily for consistency:

• 615.2(a)—We propose to revise the definition of Act by replacing it with EUCA. EUCA means the Federal-State Extended Unemployment Compensation Act of 1970, Public Law 91–373, 84 Stat. 708 (codified in 26 U.S.C. 3304, note), as amended. We propose to replace all instances of the term ''the Act'' with ''EUCA.''

• 615.2(c)(2)—We propose to revise the definition of ''Applicable benefit year'' to incorporate the concept that an individual's EB claims may expire in either a regular EB period or a high unemployment period;

• 615.2(j)(2)—We propose to revise the definition of ''Department'' to update the Secretary's Orders which delegate authority under EUCA from the Secretary of Labor to the Assistant Secretary for Employment and Training. Specifically, we propose to insert Secretary's Order No. 6–2010 (75 FR 66268) and delete Secretary's Order No. 4–75 (40 FR 18515) and Secretary's Order No. 14–75 in the definition because Secretary's Order No. 6–2010 is the most up-to-date order delegating authority to the Assistant Secretary for Employment and Training under EUCA.

• 615.2(g)—We propose to revise the definition of ''extended compensation'' to mean the funds payable to an individual for weeks of unemployment which begin in an extended benefit period or high unemployment period, under those provisions of a State law which satisfy the requirements of EUCA, and, when so payable, includes compensation payable under 5 U.S.C. chapter 85 (unemployment compensation for former Federal employees and ex-servicememebers), but does not include regular compensation or additional compensation. Throughout the current 20 CFR 615, the term ''extended benefits ''refers to both the program as a whole, and the benefits payable to claimants. The new terminology clarifies that for the purposes of this regulation, Extended Benefits refers to the whole program while extended compensation refers to benefits payable to claimants.

• 615.2(h)—We propose to revise the definition of ''Eligibility Period'' to include references to a high unemployment period, in addition to the existing references to an EB period which we propose amending to ''regular EB period.''

• 615.2(i)—We propose to revise paragraph (1) of the definition of ''Sharable Compensation'' by replacing the phrase ''extended benefits'' with ''extended compensation'' to be consistent with proposed amendments made throughout the regulation text, and to clarify that this refers to the availability of up to 50 percent of the compensation available to the claimant in the regular program. In paragraph (1)(ii) of this definition, we propose replacing the phrase ''extended benefits'' with ''regular extended compensation'' to be consistent. We propose to add a new paragraph (2) to this definition that defines how the entitlement for an individual claimant is computed in the EB Program when the State has enacted the optional TUR indicator and the State is in a high unemployment period. Because of this proposed paragraph addition, we further propose to renumber what were paragraphs (2) and (3) of section 615.2(i) as paragraphs (3) and (4).

• 615.2(m)—We propose to revise the definition of ''Week'' by replacing the word ''benefits'' with the term ''compensation.'' Further, we propose to add the phrase ''calendar week'' to clarify that the time period used to compute trigger values may differ from a week as defined in State law for program implementation purposes.

• 615.2(o)—Current § 615.2(o) defines a variety of terms used in operation of the EB Program. Section 615.2(o) makes a reference to section 202(a)(3) of EUCA. However, within the definitions in paragraphs (o)(1) through (o)(8), there are more specific citations to EUCA that render the general citation to 202(a)(3) in the header unnecessary. Therefore, we propose to remove the citation to section 202(a)(3) of EUCA in § 615.2(o) for clarity. In the definition for the ''Provisions of the applicable State law'' in § 615.2(o)(7), we propose to replace the citation to Trade Act section 236(e) with section 236(d). Section 236(e) discusses ''suitable employment.'' Since the reference is to training in paragraph (o)(7), we propose to cite 236(d) which discusses training under the Trade Act. Similarly, in paragraph (o)(8)(v) of § 615.2, which describes the requirements and conditions under which a claimant is entitled to extended compensation, we propose to replace the citation to Trade Act ''section 236(e)'' with ''section 236(d).'' Section 236(e) of the Trade Act refers to a definition of ''suitable work.'' Section 236(d) refers to an adversely affected worker not being determined to be ineligible or disqualified because of training or other reasons. The change in section reference from section 236(e) to 236(d) is made because section 236(d) is the proper reference as discussed above to the Trade Act in this paragraph.

Furthermore, the proposed rule amends the existing definitions by removing the separate paragraph designations and re-ordering the definitions in alphabetical order for clarity. This proposed change makes any future amendments to the definitions easier to implement by removing concerns of paragraph citation changes.

We propose to revise § 615.7 (Extended Benefits; maximum amount) to include a reference to a high unemployment period to incorporate a term necessitated by the addition of the TUR indicator, in addition to the existing reference to an EB period. In § 615.7(b), we propose to create a new paragraph (b)(3) to describe the method for computing the total monetary entitlement for claimants during a high unemployment period. Also, in paragraph (b)(2), we include a note providing how a State must re-compute the monetary eligibility of claimants at the conclusion of a high unemployment period if the State returns to a regular EB payable period. Also, we propose to replace all instances of the word ''totalling'' with ''totaling,'' to correct a minor spelling error including instances in paragraphs (f)(1) and (g)(2).

In § 615.8(e)(5)(iii), we propose to move the phrase ''without regard to any exemption'' from the middle of the sentence to the end, and also add the phrase ''elsewhere in those laws'' after it. This change would enhance clarity.

In § 615.8(f)(2)(i), we propose to remove the reference to the acronym ''SUB'' as it refers to ''supplemental unemployment benefits'' as defined in the Internal Revenue Code. The Internal Revenue Code definition has changed the wording of ''supplemental unemployment benefits'' to ''supplemental unemployment compensation benefits'' (as defined in section 501(c)(17)(D)) of the Internal Revenue Code of 1986). Therefore, the acronym SUB is no longer correct. In paragraph (f)(2)(iii), we propose to add to the paragraph the phrase ''or any applicable State or local minimum wage'' after ''the Fair Labor Standards Act of 1938'' and before ''without regard to any exemption elsewhere in those laws.'' We propose this change to clarify that State minimum wage laws apply instead of Federal minimum wage laws in this instance.

We propose to revise paragraphs 615.8(h)(3)and (h)(4) to to add requirements that States must, respectively, inform claimants that they are required to apply for and accept suitable work, and inform claimants when they are disqualified for failing to apply for, to accept, or to actively seek work. This amendment would call attention to State responsibility to help ensure claimants understand their

responsibility to seek and accept suitable employment.

We propose to revise § 615.11 (Extended Benefit Periods) to include a reference to a high unemployment period (HUP), in addition to the existing reference to an EB period. We further propose to add, for clarity, that a payable period may not begin before the date of the most recent data released for the purposes of triggering States ''on'' and ''off.'' In addition, we propose to add, for clarity, two new paragraphs (e) and (f), to provide explicit guidance on which trigger values, the TUR indicator and the IUR indicator, will determine the status of the EB Program when States are concluding mandatory ''on'' and ''off'' periods. This is necessary because of differences in timing of the release of the different trigger values as there may be instances when one is ''on'' and the other is ''off'' and this can be confusing.

Specifically, proposed paragraph (e) provides details on determining when a State may continue an extended benefit period beyond the 13-week mandatory ''on'' period. Proposed paragraph (e)(1) explains that if the IUR indicator triggers ''off'' by the end of the 13-week mandatory status period, but the TUR indicator triggers on by the 11th week of the 13-week period, then the extended benefit period continues. Proposed paragraph (e)(2) explains a similar scenario but, instead, the TUR indicator triggers ''off'' by the end of the 13-week mandatory status period and the IUR indicator triggers ''on'' by the 11th week of the 13-week period, allowing the extended benefit period to continue.

Proposed paragraph (f) explains that a State will remain in a mandatory 13-week ''off'' period if the IUR indicator triggers ''off'' by the 11th week of the 13-week period and the TUR indicator triggers ''off'' for at least 3 weeks before the last week of the mandatory 13-week ''off'' period.

Section 615.11(b), (c), and (d) would be amended to clarify that if a state enters a changed EB Program status, it remains in that changed status for at least 13 weeks even though an indicator may show the state satisfies the requirements for the status to be changed. The amendments also would provide guidance on what is the status of the EB Program in a state when different indicators reflect different EB Program status.

Section 615.12 (Determination of ''on'' and ''off'' indicators) describes the criteria for determining when States will begin and end payable periods in the EB Program, and the revisions to this section reflect the Department's primary purpose in the NPRM, as noted above, to incorporate the TUR indicator and the methodology used for rounding in the look-back calculation. Accordingly, the proposed revisions largely function to update the regulations so that they accurately reflect the amendments to EUCA that were enacted in 1992 in the UC Amendments.

We propose to replace the phrase ''standard State indicators'' with ''required State indicators'' in the title of paragraph 615.12(a) and the text of paragraph 615.12(a)(3) to more clearly reflect their mandatory nature, and to differentiate them from the optional indicators. The remaining triggers will continue to be described as optional triggers, with no change from the existing language.

We propose to amend section 615.12(a)(1) to clarify that revisions to BLS TUR data after the initial release will not change EB Program status once it has been determined using the initially released TUR data.

We propose to add paragraph 615.12(d)(3) to establish in these regulations a requirement that a state adopting an optional indicator may not enter into an ''on'' period before the later of the date of adoption of the indicator or its effective date. Further, an adopted optional indicator remains effective until the effective date cited in state law of repeal of the optional trigger. The current regulations do not prohibit implementation of an optional indicator on a date in the past, and this change does so. The IUR, defined at 20 CFR 615.12, is a weekly measure, so there is no ambiguity about which IUR measure should be used for each week's trigger value determinations. However, the monthly publication of TUR indicators means that it is not always clear which monthly rate should be used at the conclusion of a mandatory ''on'' or ''off'' period when monthly releases of the TUR Trigger Values during the mandatory period show a change in status. The proposed amended language in § 615.12 clarifies which monthly TUR Trigger Value is to be used.

TUR indicators are estimated and published monthly. The trigger notice published by the Department for any given week will show the most recent TUR indicator for each State. For consistency with paragraphs (a) and (b) of 20 CFR 615.12, the TUR indicator impacts the beginning and ending of EB periods in the third week following the release of a new TUR Trigger Value, i.e., an ''on'' period begins at the beginning of the third week following the TUR Trigger Value release if it equals or exceeds the TUR trigger threshold and satisfies the look-back condition, and an ''off'' period ends at the end of the third week if either Trigger Value falls below the TUR trigger threshold or the look-back condition is not met. If the State is in a 13-week mandatory ''on'' or ''off'' period, that status continues until the conclusion of the mandatory period.

We propose to move paragraph 615.12(e) and designate it as paragraph 615.12(f) because the required notices in the re-designated paragraph 615.12(f) will apply to a new paragraph (e) that we propose to add and which is addressed below. Also, we propose to change instances of the word ''Department'' to the word ''Secretary'' for clarity and to be consistent with the title of the re-designated paragraph (f), which is ''Notice to Secretary.''

We propose to add paragraph 615.12(e) to implement section 203(f) of EUCA, which establishes the TUR indicator. Proposed paragraph 615.12(e)(1) describes the 6.5 percent TUR threshold and how it is used to determine a State's EB Program status. Proposed paragraph 615.12(e)(2) describes the 8.0 percent TUR threshold and how it is used to determine whether a State is in a high unemployment period, as defined in § 615.2 (Definitions), that can lead to the payment of high unemployment extended compensation.

Paragraph (e)(2)(ii) of § 615.12 sets forth the method for computing the look-back percentage for the TUR indicator (as explained in the ''Background'') most recently conveyed in guidance to the States in UIPL No. 16–11. As discussed above, when the TUR indicator option was added to EUCA, and later adopted by a number of States, the regulations were not revised to include explicit instructions for the computation of the TUR indicator or its look-back component. Section 203(e)(3) of EUCA, added by the UC Amendments, set the threshold rates (6.5 percent and 8 percent) and the look-back percentage (110 percent) necessary for a State to become eligible to pay benefits under this program. It did not specify whether the quotient computed for the look-back percentage should be rounded, or instead truncated, to two decimal places before multiplying by 100 to obtain the look-back percentage.

For the reasons discussed in the Background section above, we propose to use rounding to two decimal places before multiplying by 100 in calculating the TUR.

Finally, we propose to update nomenclature to help clarify the differences that can exist between the indicators and the benefit periods. If a State, under its State law, meets either

of two criteria under the IUR indicator or the criterion using the 6.5 percent TUR Trigger Value, it will begin a ''regular EB period,'' and provide benefits referred to as ''regular extended compensation.'' Similarly, if a State, under its State law, meets the criterion using the 8.0 percent TUR Trigger Value, it will begin a ''high unemployment period,'' and provide ''high unemployment extended compensation'' as described above.

Section 615.13 (Announcement of the beginning and ending of Extended Benefit Periods) provides for public notice of the start and end of payable periods in the EB Program. We propose to include a reference to a high unemployment period, in the title and individual sections, in addition to the existing reference to an EB period which would change to ''EB payable period.''

We propose to amend paragraph (a)(1) by adding that we will publish in a **Federal Register** notice any change in a State's ''on'' or ''off'' status for the EB Program as determined by the TUR indicator. This is consistent with the current practice of publishing EB Program status changes determined by the IUR indicator.

The proposed amendments to paragraph (b) require the States to notify the public through their local media, a procedure that is better suited given States' knowledge of their jurisdictions. In paragraph (b), we propose to split the single existing requirement for public notification into three paragraphs. Proposed paragraph (b)(1) requires notification from States that trigger ''on'' or ''off'' via the IUR indicator. Proposed paragraph (b)(2) requires notification from States that trigger ''on'' or ''off'' via the TUR indicator. Proposed paragraph (b)(3) takes the existing requirements for public notification and applies them regardless of the indicator that caused the State to trigger ''on'' or ''off.'' The requirements of new paragraph (b) would ensure that all requirements for public notification will be met regardless of how the State begins or ends a payable period in the EB Program.

In § 615.14 (Payments to States), we propose to include a reference to a high unemployment period, in addition to amending the existing reference to ''EB period'' to ''extended benefit period.'' In addition, references to ''Extended Benefits'' would be changed to ''extended compensation'' in order to eliminate inconsistencies and to clarify meaning. In paragraph (b), we reduce the burden on the reader by providing the specific sections of 20 CFR part 615 with which States must comply in order to receive the Federal share of compensation provided, rather than cite the pertinent sections of EUCA. This amendment eliminates the need for the reader to consult a separate document to determine the requirements a State must enforce in order to receive payment for the Federal share of compensation paid.

In § 615.15 (Records and reports), we propose to revise paragraphs (a) and (b) for clarity by deleting unnecessary language regarding the Secretary's authority to request EB Program reports and to appoint audit officials for those reports. Furthermore, we propose to delete paragraphs (c) and (d) which were not required by EUCA, but by 42 U.S.C. 503(a)(6). The reporting instructions for the proper and timely submission of data are provided in ET Handbook No. 401, which governs UC required reporting. The ET Handbook is a more effective way to communicate reporting requirements because codifying the reporting requirements in paragraphs (c) and (d) of the regulation prevents the Department from adapting reporting instructions to changing conditions or needs. Furthermore, paragraph (d) existed during the implementation phase of the IUR indicator to ensure that States were consistent and comparable in their methods. With 30 years of experience, as well as numerous data validation and data quality programs in effect, it is unnecessary to compel State administrators to provide this information. Current reporting guidelines contained in UIPLs are clear enough that States continue to have clear standards about which claims are used for constructing totals used to compute trigger values, thus permitting the deletion of this paragraph.

Request for Comments

The Department looks forward to receiving comments on the proposed changes discussed in the NPRM.

III. Administrative Information

Executive Orders 12866 and 13563

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

Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more or adversely and materially affects a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities (also referred to as ''economically significant''); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. Regarding item (4), any novel legal or policy issues raised by this rule do not arise from legal mandates, Presidential priorities, or the principles set forth in E.O. 12866.

For a ''significant regulatory action,'' E.O. 12866 asks agencies to describe the need for the regulatory action and explain how the regulatory action will meet that need, as well as assess the costs and benefits of the regulation.[1] In the Unemployment Compensation Amendments of 1992 (UC Amendments), Congress adopted an optional indicator for the existing EB Program that is based on both the level of the TUR Trigger Value and the percentage the Trigger Value is of Trigger Values in comparable periods in each of the prior years (referred to as the look-back).[2] Although the TUR indicator was implemented in the early 1990s, there was never any regulation put in place defining its computation and its application. We now propose to establish regulations for the TUR indicator which would interpret the law related to the TUR indicator and clarify the computation of its look-back provision. As discussed in more detail in the Background section above, we propose to use rounding to calculate the TUR because it is consistent with the BLS's calculation of unemployment rates. Based on the economic impact analysis that follows, the Department believes this is not an economically significant regulatory action.

EUCA, as amended by the UC Amendments, requires two conditions be met for a TUR-based ''on'' indicator

[1] Executive Order No. 12866, § 6(a)(3)(B).

[2] Unemployment Compensation Amendments of 1992, Public Law 102–318 (1992). This law added Section 203(f) to EUCA to provide for an optional alternative indicator that States may use to trigger ''on'' or ''off'' EB based on the total unemployment rate. EUCA originally provided for an ''on'' indicator based only on the IUR. EUCA, § 203(d)–(e).

to occur in a State: (1) For the most recent three months for which data for all States is published, the three-month average seasonally-adjusted TUR in the State equals or exceeds 6.5 percent, and (2) that the Trigger Value equals or exceeds 110 percent of the Trigger Values for either or both of the corresponding three-month periods in the two preceding calendar years (look-back). (The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the look-back.) The UC Amendments also provide for a ''high unemployment period'' when the TUR Trigger Value in a State equals or exceeds 8 percent and meets the 110 percent look-back described above, permitting the payment of additional weeks of compensation.[3] States that want to use the optional TUR indicator must have authority under State law which may require States to enact legislation that implements the Federal requirements. An EB period ends when the State no longer meets any of the ''on'' requirements provided for in State law.

Under the original methodology by which the Department determined the look-back criterion for the optional TUR indicator, the indicator's Trigger Value was divided by the indicator's Trigger Value for the comparable period in the preceding year and second preceding year. Digits beyond the hundredths place (the second digit to the right of the decimal place) in the resultant decimal fractions were truncated and the results multiplied by 100 to determine the percent the current indicator Trigger Value was of the indicator Trigger Value in the comparable periods in the prior years. If the result was greater than or equal to 110 for one of the fractions, the look-back criterion was met. This approach paralleled the method used for the IUR look-back computation established in regulations at 20 CFR 615.12(c)(3); however, neither the law nor regulations specify the method for computing the TUR indicator look-back.[4]

We propose to change the method for computing the TUR look-back by rounding to the hundredths place, rather than truncating. The TUR indicator uses total unemployment rates determined by BLS. These rates are measured using sampled data and therefore are imprecise due to sampling error. TUR measured by BLS can be lower or higher than the true level of unemployment and there is no systematic tendency in estimation. In order to ensure to the extent possible that the TUR indicator is measured with total unemployment rates that reflect the true levels of unemployment that can be often higher than the rates measured by BLS, the Department has determined that an appropriate methodology for computing the look-back on the TUR indicator is to switch from truncation to rounding to the nearest hundredth, or second decimal place. In contrast, IUR indicators are computed from administrative data and thus represent the full universe. Because of these differences in the computation of the insured and total unemployment rates, the Department has determined that an appropriate methodology for computing the look-back for the TUR indicator is to switch from truncation at the second decimal place, to rounding to the second decimal place. Rounding, rather than truncating, is consistent with BLS practices for TUR data. UIPL No. 16–11, dated May 20, 2011, informed the SWAs that the full effect of this new rounding procedure was implemented retroactive to April 16, 2011.

Proposed Rounding Change in the TUR Look-Back Computation

Original Method:

$$\frac{\text{Three Mo.SATUR}}{\text{Three Mo. SATUR (-1)}} = \text{(ratio truncated at second decimal place) * 100}$$

Proposed Method:

$$\frac{\text{Three Mo.SATUR}}{\text{Three Mo. SATUR (-1)}} = \text{(ratio rounded at second decimal place) * 100}$$

Where:

Three Mo. SATUR = three-month average seasonally-adjusted total unemployment rate.

Three Mo. SATUR (−1) = three-month average seasonally-adjusted total unemployment rate for the corresponding period in the prior year period.

Potential Impacts

Changing the look-back computational method will have a marginal economic impact because of the new rounding method and no increased operational burden because it would result in no change in claimant behavior or in procedure from the existing process.[5] The TUR indicator and new rounding method are currently implemented for the States to use; however, because we propose to implement in regulations the TUR indicator as well as the new rounding

[3] EUCA, § 202(b)(3)(B). Meeting the 6.5 percent TUR indicator permits eligible claimants to receive up to an additional 50 percent of their regular entitlement during an EB period. Meeting the 8.0 percent indicator permits eligible claimant to receive up to a total of 80 percent of their regular entitlement during a high EB period.

[4] EUCA provides that ''determinations of the rate of total unemployment in any State for any period . . . shall be made by the Secretary.'' EUCA, § 203(f)(3).

[5] The process of look-back calculation is done in the Division of Fiscal and Actuarial Services, Employment and Training Administration of the U.S. Department of Labor, using data from the Bureau of Labor Statistics which calculates the trigger values. The operational procedure will remain exactly the same as done previously by State and Federal staff.

method for the TUR look-back, we offer estimates of both impacts.

The UI program is a transfer payment program. For the purposes of a cost-benefit analysis under E.O.s 13563 and 12866, transfer payments are not considered a cost. Therefore, the analysis will be on the possible redistribution of wealth that may take place, as opposed to any impact on aggregate social welfare.[6] In this case, the redistribution is primarily one that takes place over time rather than between groups. More specifically, the UI program is structured to act as a counter-cyclical program in terms of its impact on the economy—during recessions increased benefit payments (much higher than taxes paid) provide temporary income support and greater economic stimulus which prevents greater economic distress, while during expansions the program acts through higher taxes to lower overall employment and demand levels. Because a State whose Trigger Value meets or exceeds the threshold and whose look-back falls short of meeting the requirement by 0.05 percentage point or less would trigger ''on'' under the proposed rounding computation while under the truncation method would keep the State ''off,'' the proposed change would marginally increase extended compensation as the TUR Trigger Value increases in a recession. A change to increase the duration of benefits during recessions will ultimately increase the counter-cyclical nature of the program by increasing stimulus during recessions while slightly decreasing economic activity during expansions. Following is an impact analysis which estimates the change in the level and timing of the UI benefits paid and taxes collected as a result of the proposed change for the look-back provision of the TUR indicator.

The actual future impacts of changing the look-back calculation on the flow of UI benefits and taxes are dependent upon the unemployment rate in relation to the TUR trigger threshold and the number of States that have actually implemented the optional TUR indicator. Historically, the proportion of months that the EB Program has been in effect was extremely low, due primarily to a relatively high threshold in relation to the level of unemployment, unwillingness by States to adopt the optional indicators, and Federal emergency benefit programs that at times can and have supplanted the EB Program. For example, on average for the 1991 and 2001 high unemployment periods, State indicators were ''on'' in roughly 3 percent of the State trigger months.[7] In contrast, this past recession a high unemployment period (2007–2011) has been quite unique: in over 40 percent of the State trigger months, the EB Program has been ''on,'' due primarily to the large number of States adopting the optional TUR indicator once the Federal Government began paying 100 percent of the costs (see Table 1). However, the low number of States permanently enacting the optional TUR indicator will cause the number of States triggering ''on'' to the EB Program in the future to return to the historically low levels once the full Federal funding expires.

TABLE 1—HOW OFTEN THE EXTENDED BENEFIT PROGRAM IS ''ON''

High unemployment periods	State trigger months	State trigger months EB was ''on''	Percent of trigger months EB was ''on'' (percent)
1991–1994[1]	2,226	111	5.0
2001–2004[2]	2,438	38	1.4
2007–2011[3]	2,392	1,055	44

[1] Period begins in July 1991 and goes to Dec. 1994 to include the post recessionary period of high unemployment.
[2] Period begins in Mar. 2001 and goes to Dec. 2004 to include the post recessionary period of high unemployment.
[3] Period begins in Dec. 2007 and goes to Sept. 2011 to include the post recessionary period of high unemployment.

Only seven States adopted the optional TUR indicator upon its introduction in 1993. Then from 1994 through 2008, only four more States added the TUR indicator to their State law, bringing the number to 11 at the start of 2009 (see Table 2). The number of States implementing the optional TUR indicator and how often the EB Program is actually activated are critical pieces of information for estimating the impacts of the proposed look-back rounding methodology change. In 2009, as part of the American Recovery and Reinvestment Act (Recovery Act), the Federal government began paying 100 percent of extended compensation and high unemployment extended compensation, so the number of States that adopted the optional TUR indicator went up to 38 in 2009, then 39 in 2011.[8] All of the 28 States that adopted the TUR indicator post-Recovery Act instituted the TUR indicator on a temporary basis—for as long as the Federal government was paying 100 percent of the compensation for the EB Program. Therefore, the number of States that are expected to continue using the TUR indicator is anticipated to decrease back to 11 when the Federal financing provisions expire.

TABLE 2—STATES THAT HAVE ADOPTED THE OPTIONAL EB TUR INDICATOR

Years	1993–1998	1999–2001	2002	2003–2004	2005–2008	2009–2010	2011
Total TUR Indicator States	7	8	9	10	11	38	39.

[6] *See* Office of Management and Budget, *Circular A–4: Regulatory Analysis,* p. 46 (Sept. 17, 2003), *available at http://www.whitehouse.gov/omb/circulars_default.*

[7] State trigger months are the number of months during high unemployment periods (see notes to Table 1) multiplied by the number of States, i.e., 53. During non-recessionary the percentage would be even less and close to zero. Extended Benefit Program data is found in the DOL ETA–394 annual report. *http://www.workforcesecurity.doleta.gov/unemploy/hb394.asp.*

[8] An additional feature of the TUR trigger that should be noted is that for claims beginning after December, 2010, Congress added a third year to the look-back calculation, so that if for the most recent three-month period the TUR equals or exceeds 6.5 percent (or 8.0 percent) and the average TUR in the State equals or exceeds 110 percent of the average TUR for any or all three of the corresponding three-month periods in the three preceding calendar years, then EB will trigger ''on.'' Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, § 502 (Dec. 17, 2010). This feature expired on January 1, 2012, and was not included in the impact analysis.

TABLE 2—STATES THAT HAVE ADOPTED THE OPTIONAL EB TUR INDICATOR—Continued

States	Alaska Connecticut Kansas Oregon Rhode Island Vermont Washington	New Hampshire	North Carolina	New Mexico	New Jersey	Alabama Arizona California Colorado Delaware District of Columbia Florida Georgia Idaho Illinois Indiana Kentucky Maine Massachusetts Michigan Minnesota Missouri Nevada New York Ohio Pennsylvania South Carolina Tennessee Texas Virginia West Virginia Wisconsin	Maryland.

Impact Assessment Methodology

ETA used two distinct methodologies, a time-series simulation and a Monte Carlo-type simulation analysis (each explained more fully below), to provide quantitative impact estimates for the change in the level and timing of the UI benefits paid and taxes collected as a result of the proposed change in formulation of the TUR indicator. The specific goal of these two analyses is to provide a quantitative measure for: (1) The increased probability of a State turning ''on'' the EB Program under the new rounding rules, and (2) the likely change in the aggregate level of UI benefits and taxes with each instance of additional EB benefits paid. The results of these measures will allow a determination of the economic impact of that occurrence of additional EB benefits paid on the overall economy and on any subgroups.

The time-series simulation estimates are developed using a historical simulation methodology: By first applying the existing TUR indicator computation, and then applying the new rounding rules to data from a specified period of time and measuring the difference in outcomes. To examine the impact on outcomes, the data used is from the introduction of the optional TUR indicator in 1993 through September 2011 when this analysis was completed. This period encompasses two recessions of varying severity, two complete economic cycles, and a large number of States turning ''on'' the EB Program. This period also includes the temporary period of 100 percent Federal reimbursement of EB benefit payments when a majority of States, 39, adopted the TUR indicator.[9]

The baseline case is considered to be the simulated outcomes under the current TUR look-back computation for the States that had adopted the optional TUR indicator. For each month during this historical period (January 1993 through September 2011), the actual seasonally-adjusted three-month average TUR [10] was used as well as the actual look-back percentages for each State that had adopted the TUR indicator. The number of months in EB periods was then estimated for each state.[11] The TUR look-back percentage was then computed using the new rounding methodology and the analysis rerun. These computations enabled measurement of the differences between the two types of trigger formulations in the number months when the EB Program is triggered ''on,'' and then the amount of extended benefits paid.[12]

Probability of Turning ''On'' EB. Using just the States that had adopted the TUR indicator, there were 2,271 monthly observations in this simulation, of which there were 1,170 instances when a State triggered ''on'' the EB Program by using the TUR indicator under the current methodology. When the new rounding rules were applied there were 1,177 instances—only 7 additional instances when a State would have triggered ''on'' EB, an increase of 0.6 percent (see Table 3).

[9] The analysis does not include the computation of the three year look-back or the periods under which any State may have triggered ''on'' the EB Program by using the three year look-back. State data on adoption of the TUR trigger can be found on the weekly trigger notice at *http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp* .

[10] The data for monthly seasonally adjusted State total unemployment rates is from Bureau of Labor Statistics LASST01000006 (*http://data.bls.gov/timeseries/LASST01000006*). The total amount of monthly EB benefits paid is from the Division of Fiscal and Actuarial Services in the Employment and Training Administration of the Department of Labor report 394 can be found here: *http://www.workforcesecurity.doleta.gov/unemploy/hb394.asp.*

[11] The ''on'' period was computed for each state rather than using the actual historical outcome.

[12] Under the new rounding of the look-back formulation there will only be cases when the look back percentage in either of the two years, will be higher than the original so the EB Program will turn ''on'' while the original method will have the EB Program as ''off.''

TABLE 3—EXTENDED BENEFIT PERIODS UNDER THE OLD AND NEW TUR INDICATOR [1]

[1993–2011]

	Estimated # of instances of EB ''on''	Number of instances of EB w/TUR indicator ≥6.0%	Number of instances of EB w/TUR indicator ≥8.0%
Old Method	1,170	362	808
New Method	1,177	365	812

Source: Periods of EB are estimated using federal law and data from the Bureau of Labor Statistics seasonally adjusted Total Unemployment Rate series by State LASST01000006.

[1] Data consists of measuring only the periods when the EB Program triggered ''on'' based on the TUR indicator and included only the States that had adopted the optional TUR indicator. The number of instances refers to the number of State months.

The seven instances included six different States. In four of the instances, the State was triggering ''on'' because of the 8.0 percent high unemployment period. In none of the instances were there two consecutive months in which a State had a different EB triggering outcome under the new rounding methodology compared to the truncation method. Two of the instances when States triggered ''on'' EB due to the rounding calculation occurred following the 1991 recession, one occurred following the 2001 recession, and four occurred following the 2007 recession when 39 States had adopted the optional TUR indicator (see Table 4). In six of the seven occurrences, the difference in the look-back calculation occurred in the second prior year look-back calculation.

TABLE 4—PERIODS WHEN EB WAS TRIGGERED ''ON'' UNDER THE NEW ROUNDING FORMULATION

State	EB Trigger date	Rounded 3-month SATUR	First year look-back truncated	Second year look-back truncated	First year look-back rounded	Second year look-back rounded
Alaska	2/28/1993	8.0	86.02	109.58	86	110
Connecticut	5/31/1993	6.8	91.89	109.67	92	110
Oregon	11/30/2003	8.0	106.66	109.58	107	110
Alaska	1/31/2009	6.8	109.67	109.67	110	110
Alabama	3/31/2011	9.2	90.19	109.52	90	110
Kansas	3/31/2011	6.8	94.44	109.67	94	110
Georgia	4/30/2011	10.0	98.03	109.89	98	110

The 0.6 percent increase in the EB Program's being ''on'' in this simulation represents the percentage likelihood change in the number of times that the EB Program would trigger ''on'' due solely to the change in formulation of the look-back mechanism for, on average, 13 States having the TUR indicator in place. Therefore, the likelihood of a State turning ''on'' the EB Program with the new rounding formulation may be represented by .04 percent (.6/13).

The time series estimates used the actual State unemployment rates as they occurred from 1993 through September 2011 and include only the States which had adopted the optional TUR indicator. To provide further support for the estimate of the difference in the number of times the EB Program may trigger ''on'' due to rounding in the look-back calculation during a recession, an additional analysis was employed based on a Monte Carlo-type methodology. The Monte-Carlo methodology allows the simulation of thousands of possible State TUR values rather than just the historical values used in the time series analysis. Thirteen States—the seven original States that adopted the optional TUR indicator and six additional randomly selected States—were chosen,[13] and then, using the mean and standard deviation of their total unemployment rates during the past four recessions,[14] one thousand TUR periods were created for each State using a random number generator with a normal distribution. The number of periods when the EB Program would trigger ''on'' by rounding (proposed method) as opposed to truncating (current method) was computed. Of the 13,000 total State observation periods (each representing recessionary periods), the EB Program would have triggered ''on'' in 4,822 periods using the original method of truncation for the look-back computation, while the EB Program would have triggered ''on'' in 4,903 periods using the proposed method of rounding, an increase of 81 additional periods (see Table 5).

TABLE 5—DIFFERENCE BETWEEN EB TRIGGER FORMULATIONS UNDER SIMULATED RECESSIONARY TURS

[For 1,000 simulations for each State]

State [1]	Mean TUR in recession periods (%) [2]	Standard deviation of recession period [2]	Instances when EB ''on'' w/truncating	Instances when EB ''on'' w/rounding	Difference	% increase due to rounding
Alaska	8.14	1.21	448	459	11	2.40

[13] Thirteen States were used as a number of States likely to maintain the TUR indicator in the future. The six States were randomly selected to insure a representative group from the remaining States. The six States randomly chosen were: Colorado; Delaware; Illinois; Kentucky; Maine; and Maryland.

[14] The mean and standard deviation were taken from actual monthly observations over the recession and post-recession periods of: 1980–1983; 1991–1993; 2001–2003; and 2008–2011.

TABLE 5—DIFFERENCE BETWEEN EB TRIGGER FORMULATIONS UNDER SIMULATED RECESSIONARY TURS—Continued

[For 1,000 simulations for each State]

State [1]	Mean TUR in recession periods (%) [2]	Standard deviation of recession period [2]	Instances when EB "on" w/truncating	Instances when EB "on" w/rounding	Difference	% increase due to rounding
Colorado	6.35	1.48	226	229	3	1.31
Connecticut	6.31	1.59	363	375	12	3.20
Delaware	6.23	1.80	367	371	4	1.62
Illinois	8.22	1.98	499	507	8	1.58
Kansas	5.32	1.08	119	120	1	0.83
Kentucky	8.04	2.07	510	517	7	1.35
Maine	6.70	1.48	418	425	7	1.65
Maryland	5.24	1.30	183	185	2	1.08
Oregon	8.53	2.03	512	521	9	1.73
Rhode Island	8.01	2.08	497	506	9	1.78
Vermont	5.66	1.21	221	223	2	0.90
Washington	8.06	1.95	459	465	6	1.29

[1] Original seven States to adopt the optional TUR indicator are in bold.

[2] The mean and standard deviation were taken from actual monthly TUR observations over the recession and post-recession periods of: 1980–1983; 1991–1993; 2001–2003; 2008–2011.

Across the States this represents, on average, a 1.7 percent (81/4822) increase in the likelihood of turning ''on'' the EB Program under the new rounding rules (see Table 6). This also represents the cumulative difference of the 13 States, meaning that each State in this simulation could be considered to have added a 0.13 percent increase of an added instance of turning ''on'' the EB Program (1.7/13). This value will be used as the per-State increase in the likelihood of turning ''on'' the EB Program under the new rounding rules in this simulation.

TABLE 6—MONTE CARLO-TYPE ANALYSIS OF DIFFERENCE IN EB TRIGGER FORMULATION

[For 1,000 simulated monthly trigger values per State]

State	Number instances EB "on" w/truncating	Number instances EB "on" w/rounding	Difference	% Difference
13 States	4,822	4,903	81	1.7
Per State Average	371	377	6	.....

Source: Computations made by U.S. DOL ETA/OUI/DFAS.

Transfer to EB Recipients: Temporary Income Support (During Recession)

The proposed revision to the TUR indicator computation methodology would result in increased benefits payments during a recession, which provide temporary income support and greater economic stimulus than would otherwise exist during that economic time period. This increased economic stimulus would prevent greater economic distress during a recession. This impact is not a true benefit of the proposed rule because, as explained above, the proposed TUR indicator formulation would redistribute existing transfer payments only over time. That is, a change to increase extended benefits during recessions will ultimately increase the counter-cyclical nature of the program by increasing stimulus during recessions while slightly decreasing economic activity during expansions.

Increased Compensation. A value for the amount of additional extended compensation and number of people who would receive the extended compensation under the proposed rounding rules was estimated using a time-series methodology. The estimated total level of extended compensation that would have been paid under the proposed look-back computation was estimated using a weekly survival rate method. In this methodology, for each week that the EB Program is ''on,'' the number of State EB claimants is multiplied by the State average weekly benefit amount to get the weekly total benefit amount. To arrive at the weekly number of EB claimants, a weekly survival rate is applied for each week of EB to a beginning number of regular UI program exhaustees.[15] This was done for each week of the EB period (either 13 or 20 weeks) and aggregated to get total EB payments for the applicable period, i.e., the period during which each State was ''on'' EB. This computation is represented in the formula below.

Computation of Total Extended Compensation Paid:

Total Wkly Extended Compensation EB Benefits =

Σ (Reg. Program Wkly Exhaustions [16] * Wkly Survival Rate [17]) * Avg. Wkly Benefit [18]

(Summed over each week of the EB period.)

[15] Survival rate is the probability that a claimant will collect Unemployment Compensation from one week to the next. An exhaustee is a person collecting Unemployment Compensation who would be in their last week of compensation but for the EB Program.

[16] ETA–5159 report includes monthly regular program exhaustees which were divided by the number of weeks in a month to get weekly data.

[17] The weekly survival rate is the proportion of individuals claiming unemployment compensation in week n that will also claim unemployment compensation in week n+1. A weekly survival rate of 0.97 was used as a constant for each week of extended benefits. This level is derived from the Division of Fiscal and Actuarial Services State Benefit Forecasting Model.

[18] State average weekly benefit is derived from the ETA–5159 monthly claims report: *http://www.workforcesecurity.doleta.gov/unemploy/finance.asp* .

Applying this computation to the seven State periods that turned ''on'' the EB Program under the proposed rounding formulation in the time series simulation, it was estimated that in total $294 million [19] more would have been paid out in extended compensation, and there would be an increase of 148,000 new first payments in the EB Program. This translates into an estimated 1.2 percent increase ($294 million/$24,897 million − total extended compensation in the simulation) in extended compensation and a 1.5 percent increase ($151,000/$9.6 million − total EB first pays in the simulation) of EB first payments under the proposed rounding rules compared to the current methodology (i.e., truncating the look-back computation after two decimal places).

TABLE 7—COMPENSATION PAID UNDER NEW ROUNDING FORMULATION DURING RECESSIONARY PERIODS

Period [1]	Total extended compensation (mil.)	Increase in extended compensation w/rounding (mil.)	Total EB first pays (mil.)	Increase in first pays w/rounding
Recession 2001–2003	$478	$66	1.1	30,385
Recession 2007–2011	23,844	201	5.7	91,362

Source: U.S. DOL ETA/OUI/DFAS—computations from constructed database.
[1] Recessionary periods for this purpose are defined as beginning with the start of the official recession and ending with the end of any Federal Emergency benefit program or a subjective determination for the end of the high unemployment period.

Again, dividing these results into the per State added percentage point increase for each instance of triggering ''on'' the EB Program means there would be a 0.17 percent increase in extended compensation paid [20] and a 0.22 percent increase [21] in first payments.

In terms of how the increased extended compensation paid would be distributed among subgroups of EB recipients, attempting to disaggregate this level of benefits into numerically small select subgroups of claimants such as low-wage workers, or minority claimants, would mean working with monetary flows of very little statistical consequence. Therefore, the Department has determined that no distributional analysis is necessary.

Transfer From State Unemployment Insurance Accounts: Increased Employer Taxes (During Expansions)

The proposed revision to the TUR indicator computation methodology would result in increased economic stimulus during recessions, while dampening overall activity with higher taxes during expansions. In particular, a significant increase in extended compensation may result in a State UI tax increase on employers. An increased UI tax on employers might result in dampened overall economic activity as employers postpone equipment purchases or hiring. This impact does not represent a true cost of the proposed rule because it is associated with a corresponding transfer of payments to EB recipients during recessions. That is, the proposed regulation would result in redistribution of wealth over time (based on the counter-cyclical nature of the EB Program), rather than have a net social welfare impact.

UI Taxes. Except for the temporary provisions that are no longer in effect, Federal statutes specify that 50 percent of extended compensation is paid from the Extended Unemployment Compensation Account (EUCA) in the Unemployment Trust Fund (UTF), which is funded through the Federal Unemployment Tax Act (FUTA), and 50 percent is paid by the liable State from its account in the UTF.

The Federal monies for extended compensation flow from EUCA, which is also used to fund additional Federal emergency benefit programs. Historically, the balance of this account has been sufficient to pay the level of extended compensation during a recession and would therefore be much greater than the estimated amounts that may result from the proposed change in the look-back mechanism.[22] Nevertheless, even if EUCA, together with the other Federal accounts in the UTF is depleted, the account can obtain advances from the General Fund with no impact on the FUTA tax, which means there would be no expected increase in Federal taxes from the change in formulation of the TUR indicator.

On the State side, every State has a tax structure that responds with higher taxes when the amount of reserves in its UTF account declines.[23] Thus, a significant increase in paid extended compensation may result in a State UI tax increase on employers. However, the tax response takes place only with relatively large changes in the State trust fund account balance, and differs by State depending on the size of the account balance; small changes in a State trust fund account balance may actually have no impact in a State's UI taxes. To gauge the magnitude of the tax impact from an increase in extended compensation paid, a generalized rule of State UI tax collections can be applied: For any specified increase in unemployment compensation, 100 percent of the increase will be collected in UI taxes over a 10-year period.[24]

Using the estimated increase of extended compensation paid (due to the TUR indicator rounding computation) from the time-series simulation, $294 million, an estimate was derived for the amount of potential State tax increases by assuming the increase in extended compensation was divided among the average number of States that

[19] This amount is, of course, dependent on the size of the States, but it does represent a reasonable estimate since these are the States most likely to have the TUR indicator in the future. Also, this amount is considered a high estimate, since 4 of the States triggered on to 20 weeks of benefits, and the average is a reasonable expected value for the level of per State extended benefits. For all of the periods except one (Alaska, 1/2009) during the State EB period triggered on by the rounding calculation, there was no ''on'' period for the truncation calculation. The Alaska data was adjusted for the truncation period.

[20] Total additional extended compensation from rounding, $294 million divided by the number of State periods, 7, and then divided by the total extended compensation for the entire period, $24,897 million.

[21] The increase in first pays due to rounding, 148,000, divided by the number of State periods, 7, and then dividing by the total number of EB first pays during the period of 9.6 million.

[22] Historical balances of the EUCA fund can be found here: *http://www.treasurydirect.gov/govt/reports/tfmp/tfmp_utf.htm.*

[23] For applicable State triggering laws see Comparison of State UI Laws: *http://www.workforcesecurity.doleta.gov/unemploy/comparison2011.asp.*

[24] Recoupment rule of UI taxes in response to a compensation increase is from an Office of Unemployment Insurance, Division of Fiscal and Actuarial Services State Revenue model run over a range of scenarios, 12/2011.

experienced an increase in extended EB compensation paid over a 10-year period. To arrive at an estimate for the expected increase in State unemployment compensation taxes due to a change in the rounding rule for the look-back feature of the TUR indicator, 50 percent of the total extended compensation, $147 million, is assumed to be financed by seven States for an average of $21 million per State. The amount is assumed to be financed by increased State taxes over a 10-year period for an average of $2.1 million per year. This amount represents an estimated increase of 0.14 percent [25] in State unemployment compensation taxes for each State that turns ''on'' the EB Program under the proposed new rounding rules.

TABLE 8—ESTIMATED INCREASE IN STATE TAXES COLLECTED UNDER NEW ROUNDING FORMULATION

[Based on the estimated extended compensation from the time-series data, 1993–2011]

Period	Est. amt. of added extended compensation to finance [1] (mil.)	Amt. financed per state [2] (mil.)	Avg. amt. financed per year (mil.)	% Increase in taxes per state [3]
1993–2011 data period	$147	$21	$2.1	0.14

[1] Fifty percent of total estimated amount of increased extended compensation paid due to rounding from the Time-Series Data.

[2] Derived from 50 percent of the estimated increase in extended compensation payments under the Time Series data divided by the number of States that experienced an increase.

[3] Total extended compensation to be financed divided by the total unemployment compensation contributions over the period: *http://www.workforcesecurity.doleta.gov/unemploy/hb394.asp*

In terms of specific distribution of these impacts, disaggregating the tax increases into subgroups of employers such as small businesses would mean working with monetary flows of very little consequence. Therefore, the Department has determined that no distributional analysis is necessary.

Non-Quantified Impacts

OMB Circular No. A–4 requires the identification of any non-quantifiable benefits and costs that cannot be reasonably measured.[26] One primary non-quantifiable benefit of implementing regulations for the TUR indicator and the associated rounding rule, and which is a driving factor for its adoption, is that by codifying the TUR indicator the Department will explicitly clarify a methodology for computing the TUR look-back that regulations previously left unspecified. The proposed regulation would remove the potential for future misunderstanding in the computation of the optional TUR indicator, as compared to the current status quo where the TUR look-back computation method is not specified in Department regulations.

Regarding the secondary impacts from increased temporary income during recessions and increased employer taxes during expansions, the Department has determined that the estimates of extended compensation and UI tax increases are too small to meaningfully model their impact on the macro economy. With a likely impact of increasing the number of instances the EB Program triggers ''on'' by two during an average recession and nine instances during a severe recession (as computed in detail in the scenarios below), these impact numbers are too small to model any stimulus impact during a recession or a dampening effect of the tax increases during expansions. Not only are the impacts on extended compensation and taxes small compared to the U.S. economy (e.g., far below the $1 billion limit for use of an economic multiplier effect on the level of employment or economic activity [27]), but even compared to aggregate unemployment compensation payments and taxes the numbers are rather insignificant.

Summary: Potential Future Stimulative and Distributional Impacts Scenarios

By increasing the overall level of benefits paid by States during recessionary periods, the proposed change in TUR indicator computation methodology would aid in the counter-cyclical nature of the Unemployment Compensation program by increasing the economic stimulus during recessions and then tend to dampen the overall activity with higher taxes during expansions. The estimates for the increased probability of States triggering ''on'' the EB Program, increased benefits, higher first payments, and potential changes to UI taxes, can provide estimates for the change in flows of the Unemployment Compensation program that this proposal may cause under various future recessionary scenarios.

Scenario 1 (11 States with the optional TUR indicator; typical severity three-year recession and post-recession period).[28] In a likely scenario, assuming a recession and post-recession high unemployment period lasting three years, with 11 States having the optional TUR indicator in place, it would mean 396 possible State months (11 States * 36 months) of high enough unemployment for the EB Program to trigger ''on.'' Using the results from the high unemployment periods in the Monte Carlo-type analysis, we could expect approximately 147 periods of the EB Program to be triggered ''on'' in States with the optional TUR indicator (37 percent [29] * 396 State months) using the original truncation methodology. With 11 States having the optional TUR indicator, the likelihood of turning ''on'' the EB Program under the rounding methodology would be 1.4 percent (11 States * 0.13 percent per State likelihood), this would increase the number of EB Program periods by two instances (1.4 percent * 147 periods). Assuming a recession with $2 billion in total extended compensation paid and 1.5 million first payments in the EB

[25] Derived by taking the average estimated yearly tax increase per State, $2.1 million, divided by the estimated amount of contributions per State per year, $1.4 billion. This is certainly a very rough estimate that depends on the size of the States having the optional TUR indicator in the simulation. However, because those States would be expected to continue having the indicator, it is considered a reasonable level.

[26] *See* Office of Management and Budget, *Circular A–4: Regulatory Analysis,* pp. 2–3, 10, 26–27 (Sept. 17, 2003), *available at http://www.whitehouse.gov/omb/circulars_default.*

[27] In OMB Circular A–4 in reference to the size of stimulative impacts: ''. . . that rules with annual costs that are less than one billion dollars are likely to have a minimal effect on economic growth.''

[28] Similar in severity to the 1991 recession.

[29] A value similar to the percentage of State months that triggered on to EB in the 1991 and 2001 recessions.

Program, then with two more instance of the EB Program triggering ''on'' we would expect an increase in extended compensation paid of $7 million (0.34 percent * $2 billion) and an increase of 9,000 in the number of first payments (1.5 million * 0.44 percent). The resulting tax increases spread over a 10-year period in one State would then be expected to be approximately $350,000 per year (($7 million * 0.5 State cost)/10 years).

Scenario 2 (20 States with optional TUR indicator; more severe three-year recession and post-recession period).[30] In a less likely scenario, but one with possibly the highest expected impact, assuming a recession and post-recession period lasting three years, with 20 States having the optional TUR indicator in place—720 State months (20 States * 36 months). In a more severe recession we could expect 360 periods of the EB Program to be triggered ''on'' with the optional TUR indicator (720 * 50 percent). With 20 States having the optional TUR indicator the likelihood of triggering ''on'' the EB Program under the new rounding rules would be 2.6 percent (20 States * 0.13 percent) this would increase the number of periods the EB Program would be triggered ''on'' by nine instances (2.6 percent * 360 periods). Assuming a recession with $5 billion in total extended compensation paid and 3.0 million first payments for the program, with nine more instances of the EB Program triggering ''on,'' we would expect an increase in extended compensation of $77 million (0.17 percent * 9 periods * $5 billion) and an increase of 60,000 in the number of first payments for the program (3 million * 8 periods * 0.22 percent). The resulting tax increases spread over a 10-year period in one State would then be expected to be approximately $190,000 per year ($77 million * 0.5 State cost)/20 States)/10 years).

Impact of the TUR Option

The preceding impact analysis focused on changing the computational methodology of the TUR look-back provision. Since the Department is not considering the removal of the optional TUR indicator, the analysis does not measure the impact of the original adoption of the TUR indicator in 1992. However, it should be noted that a review of the most evident differences caused by the implementation of this option shows a rather small impact.

From 1993 to 2006, for the 11 States that adopted the TUR indicator by 2006 (Table 2), EB costs are totaled for each period when one of these States triggered on to the EB Program with the TUR option but would not have turned on extended compensation under the IUR option.[31] During this 14-year period, there were 28 instances when a State triggered on to the EB Program using the TUR option and would not have triggered on using the IUR trigger. The total extended compensation costs of these instances were approximately $310 million and the number of First Payments was 330,000.

TABLE 9—STATES TRIGGERING ON TO THE EB PROGRAM USING THE TUR OPTION

[Without qualifying with the IUR option]

1993	1994	1995	1996	1997	1998	1999
Alaska Oregon Rhode Is. Washington	Alaska Oregon Rhode Is.	Alaska Rhode Is.	Alaska	Alaska	Alaska	Alaska
2000	2001	2002	2003	2004	2005	2006
Alaska	Alaska	Alaska	Alaska N. Carolina Oregon	Alaska Michigan N. Carolina Oregon Washington	Alaska Michigan Oregon Washington	

This is a relatively small number of States and amount spent, on average approximately $22 million per year, and in no year did the amount spent on extended compensation from States that triggered on using the TUR option ever exceed $100 million. Indeed, measuring the change in cyclical financial flows of the UI program does not seem necessary under these aggregates.

Conclusion

Placing the optional TUR indicator in regulations does not impose any additional change in burden, since no change in the operational procedure will occur. In addition, it incorporates in regulations the computational methodology previously communicated in UIPL No. 16–11 for the TUR's look-back.

Changing the look-back computation does have an impact, although it is estimated to be small. For each State that adopted the optional TUR indicator, it was found that the new rounding rule would likely add a 0.13 percentage point increase in the likelihood of a single State triggering ''on'' the EB Program during a recession. For each State that triggered ''on'' the EB Program, it would likely add a 0.17 percent increase in the level of extended compensation paid, a 0.22 percent increase in people receiving extended compensation, and a per State increase in unemployment compensation taxes of 0.14 percent per year. These numbers indicate a negligible impact on the redistribution of the flows (unemployment compensation and taxes) in the Unemployment Compensation program. These impacts are so small that any stimulative or distributional effects would be considered of little consequence. Indeed, the probable economic impact encompasses the likely possibility (depending on the future level of the TUR) that there would be no measurable impact from a change in the derivation of the TUR indicator due to rounding the look-back proportion as opposed to truncating that value.

[30] Similar in severity to the 2007 recession.

[31] For a state to trigger on extended compensation using the IUR, its insured unemployment rate (IUR) for the previous 13 weeks is at least 5 percent and is 120 percent of the average of the rates for the corresponding 13-week period in each of the two previous years.

Paperwork Reduction Act

The purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* include minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing a summary of the collection of information and a brief description of the need for and proposed use of the information.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

The Department has determined that this rule does not contain new information collection requiring it to submit a paperwork package to OMB.

Executive Order 13132

Section 6 of Executive Order 13132 requires Federal agencies to consult with State entities when a regulation or policy may have a substantial direct effect on the States or the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government, within the meaning of the Executive Order. Section 3(b) of the Executive Order further provides that Federal agencies must implement regulations that have a substantial direct effect only if statutory authority permits the regulation and it is of national significance.

This proposed rule does not have a substantial direct effect on the States or the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of Government, within the meaning of the Executive Order 13132. Any action taken by a State as a result of the proposed rule would be at its own discretion as the rule imposes no requirements.

Unfunded Mandates Reform Act of 1995

This regulatory action has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (Reform Act). Under the Reform Act, a Federal agency must determine whether a regulation proposes a Federal mandate that would result in the increased expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any single year. The Department has determined this proposed rule does not include any Federal mandate that may result in increased expenditure by State, local, and Tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million.

Accordingly, it is unnecessary for the Department to prepare a budgetary impact statement. Further, as noted above in the conclusion of the economic impact analysis, the impact is positive for State UTF accounts.

Effect on Family Life

The Department certifies that this proposed rule has been assessed according to section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681), for its effect on family well-being. It will not adversely affect the well-being of the nation's families. Therefore, the Department certifies that this proposed rule does not adversely impact family well-being.

Regulatory Flexibility Act/SBREFA

The Regulatory Flexibility Act (RFA) at 5 U.S.C. 603(a) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis which will describe the impact of the proposed rule on small entities. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Furthermore, under the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 (SBREFA), an agency is required to produce compliance guidance for small entities if the rule has a significant economic impact on a substantial number of small entities.

The RFA defines small entities as small business concerns, small not-for-profit enterprises, or small governmental jurisdictions. The proposed rule does not regulate small entities. As a result, any indirect impact on small entities would be from a tax increase resulting from a State triggering ''on'' because of the new computation method for the look-back. Therefore, the Department certifies that the proposed rule will not have a significant economic impact on a substantial number of these small entities.

Plain Language

The Department drafted this rule in plain language.

List of Subjects in 20 CFR Part 615

Grant programs—labor; Reporting and recordkeeping requirements; Unemployment compensation.

For the reasons discussed in the preamble, ETA proposes to amend 20 CFR part 615 as follows:

PART 615—EXTENDED BENEFITS IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

■ 1. The authority citation for 20 CFR part 615 is revised to read as follows:

Authority: 26 U.S.C. 7805; 26 U.S.C. 1102; Secretary's Order No. 6–10.

■ 2. In part 615 remove the words ''the Act'' and add, in their place, the acronym ''EUCA'' in the following places:
■ a. Section 615.1 introductory text (two places);
■ b. Section 615.2 introductory text;
■ c. Section 615.2(g);
■ d. Section 615.2(i)(1);
■ e. Section 615.2(i)(1);
■ f. Section 615.2(i)(2);
■ g. Section 615.2(i)(3);
■ h. Section 615.2(j)(2);
■ i. Section 615.2(n)(2);
■ j. Section 615.2(o);
■ k. Section 615.2(o)(1) (three places);
■ l. Section 615.2(o)(4);
■ m. Section 615.3 introductory text (four places);
■ n. Section 615.4(a);
■ o. Section 615.4(b);
■ p. Section 615.7(d);
■ q. Section 615.8(a);
■ r. Section 615.8(c);
■ s. Section 615.8(c)(2);
■ t. Section 615.8(d);
■ u. Section 615.8(d)(3) (two places);
■ v. Section 615.8(d)(4);
■ w. Section 615.8(e);
■ x. Section 615.8(e)(8);
■ y. Section 615.8(f);
■ z. Section 615.8(f)(1)(ii);
■ aa. Section 615.8(f)(4);
■ bb. Section 615.8(g)(1);
■ cc. Section 615.8(g)(5);
■ dd. Section 615.9(d);
■ ee. Section 615.12(e);
■ ff. Section 615.14(a);
■ gg. Section 615.14(a)(2);
■ hh. Section 615.14(a)(3);
■ ii. Section 615.14(a)(4);
■ jj. Section 615.14(b);
■ kk. Section 615.14(c)(1);
■ ll. Section 615.14(c)(2) (two places);
■ mm. Section 615.14(c)(3);

■ nn. Section 615.14(c)(4);
■ oo. Section 615.14(c)(5);
■ pp. Section 615.14(c)(6);
■ qq. Section 615.14(c)(7)(i);
■ rr. Section 615.14(c)(7)(ii);
■ ss. Section 615.14(c)(7)(iii);
■ tt. Section 615.14(d);
■ uu. Section 615.14(d)(2) (two places);
■ vv. Section 615.14(d)(3)(four places);
■ ww. Section 615.14(d)(6); and
■ xx. Section 615.15(a).
■ 3. Revise § 615.1 to read as follows:

§ 615.1 Purpose.

This part implements the ''Federal-State Extended Unemployment Compensation Act of 1970'' (EUCA). Under the Federal Unemployment Tax Act, 26 U.S.C. 3304(a)(11), an approved State law must provide for the payment of extended compensation to eligible individuals who have exhausted all rights to regular compensation during specified periods of unemployment, as prescribed in EUCA and this part.
■ 4. Amend § 615.2 by:
■ a. Removing the paragraph designations wherever they may occur and reorder the definitions alphabetically; and
■ b. Adding alphabetical order the definitions for ''EUCA,'' ''Extended benefit period,'' ''Extended Benefits Program or EB Program,'' ''Extended compensation account,'' ''Extended unemployment compensation,'' ''High unemployment extended compensation,'' ''High unemployment period,'' ''Insured Unemployment Rate,'' ''Regular extended compensation,'' ''Regular EB period,'' ''Total Unemployment Rate,'' ''Trigger Value or average rate of total unemployment'' as set forth below;
■ c. Revising the definitions for ''Applicable Benefit Year,'' ''Department,'' ''Eligibility Period,'' ''Extended Compensation,'' ''Provisions of Applicable State Law,'' ''Sharable Compensation,'' and ''Week;'' and
■ d. Removing introductory paragraph (o) and redesignating them accordingly.

The revisions and additions read as follows:

§ 615.2 Definitions.

* * * * *

Applicable benefit year means, with respect to an individual, the current benefit year if, at the time an initial claim for extended compensation is filed, the individual has an unexpired benefit year only in the State in which such claim is filed, or, in any other case, the individual's most recent benefit year. For this purpose, the most recent benefit year for an individual who has unexpired benefit years in more than one State when an initial claim for extended compensation is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed. The individual's most recent benefit year which expires in an extended benefit period, when either extended compensation or high unemployment extended compensation is payable, is the applicable benefit year if the individual cannot establish a second benefit year or is precluded from receiving regular compensation in a second benefit year solely by reason of a State law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)(7)).

Department means the United States Department of Labor, and shall include the Employment and Training Administration, the agency of the United States Department of Labor headed by the Assistant Secretary of Labor for Employment and Training to whom has been delegated the Secretary's authority under the Act in Secretary's Order No. 6–2010 (75 FR 66268).

Eligibility period means, for an individual, the period consisting of—

(1) The weeks in the individual's applicable benefit year which begin in an extended benefit period or high unemployment period, or for a single benefit year, the weeks in the benefit year which begin in more than one extended benefit period or high unemployment period, and

(2) If the applicable benefit year ends within an extended benefit period or high unemployment period, any weeks thereafter which begin in such extended benefit period or high unemployment period,

(3) An individual may not have more than one eligibility period for any one exhaustion of regular benefits, or carry over from one eligibility period to another any entitlement to extended compensation.

EUCA means the Federal-State Extended Unemployment Compensation Act of 1970, title II of Public Law 91–373, 84 Stat. 695, 708 (codified in note to 26 U.S.C. 3304), as amended.

Extended benefit period means the weeks during which extended compensation is payable in a State in accordance with § 615.11.

Extended Benefits Program or *EB Program* means the entire program under which monetary payments are made to workers who have exhausted their regular compensation during periods of high unemployment.

Extended compensation means the funds payable to an individual for weeks of unemployment which begin in a regular EB period or high unemployment period (HUP), under those provisions of a State law which satisfy the requirements of EUCA and this part with respect to the payment of extended unemployment compensation, and, when so payable, includes compensation payable under 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation.

Extended compensation account is the account established for each individual claimant for the payment of regular extended compensation or high unemployment extended compensation.

Extended unemployment compensation means:

(1) Regular extended compensation paid to an eligible individual under those provisions of a State law which are consistent with EUCA and this part, and that does not exceed the smallest of the following:

(i) 50 percent of the total amount of regular compensation payable to the individual during the applicable benefit year; or

(ii) 13 times the individual's weekly amount of extended compensation payable for a week of total unemployment, as determined under § 615.6(a); or

(iii) 39 times the individual's weekly benefit amount, referred to in paragraph (1)(ii) of this definition, reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year; or

(2) High unemployment extended compensation paid to an eligible individual under an optional TUR indicator enacted under State law when the State is in a high unemployment period, in accordance with § 615.11(e) of this part, and that does not exceed the smallest of the following:

(i) 80 percent of the total amount of regular compensation payable to the individual during the applicable benefit year; or

(ii) 20 times the individual's weekly amount of extended compensation payable for a week of total unemployment, as determined under § 615.6(a); or

(iii) 46 times the individual's weekly benefit amount, referred to in paragraph (1)(ii) of this definition, reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year.

(3) Regular extended compensation paid to an eligible individual for weeks of unemployment in the individual's eligibility period, but only to the extent

that the sum of such compensation, plus the regular compensation paid (or deemed paid) to the individual for prior weeks of unemployment in the applicable benefit year, exceeds 26 times the individual's weekly benefit amount and does not exceed 39 times the individual's weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to the individual under the State law in such benefit year: Provided, that such regular compensation is paid under provisions of a State law which is consistent with EUCA and this part.

(4) Notwithstanding the preceding provisions of this paragraph, sharable compensation does not include any regular or extended compensation for which a State is not entitled to a payment under section 202(a)(6) or 204 of EUCA or § 615.14 of this part.

High unemployment extended compensation means the benefits payable to an individual for weeks of unemployment which begin in a high unemployment period, under those provisions of a State law which satisfy the requirements of EUCA and this part for the payment of high unemployment extended compensation. When so payable, high unemployment extended compensation includes compensation payable under 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Regular extended unemployment compensation, along with high unemployment extended compensation, are part of the program referred to in this part as Extended Benefits.

High unemployment period (or HUP) means a period where the Department determines that the Trigger Value in a State, which has enacted the alternative Total Unemployment Rate indicator in law, for the most recent three months for which data for all States is published equals or exceeds 8 percent and such Trigger Value equals or exceeds 110 percent of such Trigger Value for either or both of the corresponding three-month periods ending in the two preceding calendar years.

Insured Unemployment Rate means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in a State for weeks of unemployment in the most recent 13-consecutive-week period as determined by the State on the basis of State reports to the United States Secretary of Labor by the average monthly employment covered under State law for the first four of the most recent six completed calendar quarters before the end of such 13-week period.

Provisions of the applicable State law, as used in section 202(a)(3)(D)(iii) of EUCA, means that State law provisions must not be inconsistent with sections 202(a)(3)(C) and 202(a)(3)(E). Therefore, decisions based on State law provisions must not require an individual to take a job which requires traveling an unreasonable distance to work, or which involves an unreasonable risk to the individual's health, safety or morals. Such State law provisions must also include labor standards and training provisions required under sections 3304(a)(5) and 3304(a)(8) of the Internal Revenue Code of 1986 and section 236(d) of the Trade Act of 1974.

Regular extended compensation means the benefits payable to an individual for weeks of unemployment which begin in an extended benefit period, under those provisions of a State law which satisfy the requirements of EUCA and this part for the payment of extended unemployment compensation, and, when so payable, includes compensation payable under 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Regular extended compensation, along with high unemployment extended compensation, are part of the program referred to in this part as Extended Benefits.

Regular EB period means a period in which a state is ''on'' the EB Program because either the mandatory or optional IUR indicator satisfies the criteria to be ''on'' and the state is not in a 13-week mandatory ''off'' period; or the State is ''on'' the EB Program because the TUR indicator's Trigger Value is at least 6.5 percent and it is at least 110 percent of the Trigger Value for the comparable three months in either of the prior two years.

Sharable compensation means:

(1) Extended compensation paid to an eligible individual under those provisions of a State law which are consistent with EUCA and this part, and that does not exceed the smallest of the following:

(i) 50 percent of the total amount of regular compensation payable to the individual during the applicable benefit year; or

(ii) 13 times the individual's weekly amount of extended compensation payable for a week of total unemployment, as determined under § 615.6(a); or

(iii) 39 times the individual's weekly benefit amount, referred to in paragraph (1)(ii) of this definition, reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year.

(2) Extended compensation paid to an eligible individual under an optional TUR indicator enacted under State law when the State is in a high unemployment period, in accordance with § 615.12(f) of this part, and that does not exceed the smallest of the following:

(i) 80 percent of the total amount of regular compensation payable to the individual during the applicable benefit year; or

(ii) 20 times the individual's weekly amount of extended compensation payable for a week of total unemployment, as determined under § 615.6(a); or

(iii) 46 times the individual's weekly benefit amount, referred to in paragraph (1)(ii) of this definition, reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year.

(3) Regular compensation paid to an eligible individual for weeks of unemployment in the individual's eligibility period, but only to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to the individual for prior weeks of unemployment in the applicable benefit year, exceeds 26 times and does not exceed 39 times the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to the individual under the State law in such benefit year: Provided, that such regular compensation is paid under provisions of a State law which are consistent with EUCA and this part.

(4) Notwithstanding the preceding provisions of this paragraph, sharable compensation does not include any regular or extended compensation for which a State is not entitled to a payment under section 202(a)(6) or 204 of EUCA or § 615.14 of this part.

Total Unemployment Rate means the number of unemployed individuals in a State (seasonally adjusted) divided by the civilian labor force (seasonally adjusted) in the State for the same period.

Trigger Value or *average rate of total unemployment* means the ratio computed using three months of the level of seasonally adjusted unemployment in a State in the numerator and three months of the level of the seasonally adjusted civilian labor force in the State in the denominator. This rate is used for triggering States ''on'' and ''off'' the optional Total Unemployment Rate indicator is described in § 615.12(e).

Week means:

(1) For purposes of eligibility for and payment of extended compensation, a week as defined in the applicable State law.

(2) For purposes of computation of extended compensation ''on'' and ''off'' and ''no change'' indicators and insured unemployment rates and the beginning and ending of an EB Period or a HUP, a calendar week.

* * * * *

■ 5. Amend section 615.3 by revising the third sentence in the paragraph to read as follows:

§ 615.3 Effective period of the program.

* * * Conformity with EUCA and this part in the payment of regular compensation, regular extended compensation, and high unemployment extended compensation (if State law so provides) to any individual is a continuing requirement, applicable to every week as a condition of a State's entitlement to payment for any compensation as provided in EUCA and this part.

■ 6. Amend § 615.7 by:

■ a. Removing the term ''Extended Benefits'' wherever it appears and replacing it with the term ''Extended compensation'' throughout;

■ b. Adding paragraph (b)(3); and

■ c. Revising introductory paragraph (d).

The additions and revisions read as follows:

§ 615.7 Extended Benefits; maximum amount.

* * * * *

(b) * * *

(3) If State law provides, in accordance with § 615.12(e), for a high unemployment period for weeks of unemployment beginning after March 6, 1993, the provisions of paragraph (b)(1) of this section are applied by substituting:

(i) 80 percent for 50 percent in (b)(1)(i),

(ii) 20 for 13 in (b)(1)(ii), and

(iii) 46 for 39 in (b)(1)(iii).

Note to paragraph (b)(3). *Provided,* that if an individual's extended compensation account is determined in accordance with the provisions of paragraphs (b)(3)(i) through (b)(3)(iii) (for a ''high unemployment period'' as defined in § 615.2) during the individual's eligibility period, upon termination of the high unemployment period, such individual's account must be reduced by the amount in the account that is more than the maximum amount of extended compensation or high extended compensation payable to the individual. *Provided further,* if the account balance is equal to or less than the maximum amount of extended compensation or high unemployment extended compensation payable, there will be no reduction in the account balance upon termination of a high unemployment period. In no case will the individual receive more regular extended compensation or high unemployment extended compensation than the amount determined in accordance with paragraphs (b)(1)(i) through (b)(1)(iii) of this section, nor more extended compensation or high unemployment extended compensation than as provided in paragraphs (b)(2)(i) through (b)(2)(iii) of this section.

* * *

(d) *Reduction because of trade readjustment allowances.* Section 233(c) of the Trade Act of 1974 (and section 204(a)(2)(C) of EUCA), requiring a reduction of extended compensation because of the receipt of trade readjustment allowances, must be applied as follows:

* * * * *

■ 7. Amend § 615.8 by revising paragraph (e)(5)(iii), (f)(2)(i), (f)(2)(iii), (h)(3) and (h)(4) to read as follows:

§ 615.8 Provisions of State law applicable to claims.

* * * * *

(e) * * *

(5) * * *

(iii) The work pays less than the higher of the minimum wage set in section 6(a)(1) of the Fair Labor Standards Act of 1938, or any applicable State or local minimum wage, without regard to any exemption elsewhere in those laws, or

* * * * *

(f) * * *

(2) * * *

(i) The gross average weekly remuneration for the work for any week does not exceed the sum of the individual's weekly benefit amount plus any supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1986) payable to the individual,

(ii) * * *

(iii) The work pays less than the higher of the minimum wage set in section 6(a)(1) of the Fair Labor Standards Act of 1938, or any applicable State or local minimum wage, without regard to any exemption elsewhere in those laws, or

* * * * *

(h) * * *

(3) What kind of jobs he/she must be actively engaged in seeking each week depending on the classification of his/her job prospects, and what tangible evidence of such search must be furnished to the State agency with each claim for benefits. In addition, the State must inform the claimant that he/she is required to apply for and accept suitable work, and

(4) The resulting disqualification if he/she fails to apply for work to which referred, or fails to accept work offered, or fails to actively engage in seeking work or to furnish tangible evidence of such search for each week for which extended compensation or sharable regular benefits is claimed, beginning with the week following the week in which such information shall be furnished in writing to the individual.

■ 8. Revise § 615.11 to read as follows:

§ 615.11 Extended Benefit Periods.

(a) *Beginning date.* Except as provided in paragraph (d) of this section, an extended benefit period or high unemployment period begins in a State on the first day of the third calendar week after a week for which there is a State ''on'' indicator in that State under either § 615.12(a) or (b).

(b) *Ending date.* Except as provided in paragraphs (c) and (e) of this section, an extended benefit period or high unemployment period in a State ends on the last day of the third week after the first week for which there is a State ''off'' indicator in that State, unless another indicator is in ''on'' status.

(c) *Duration.* When an extended benefit period and/or high unemployment period becomes effective in any State, or triggers ''off,'' the attained status must continue in effect for not less than 13 consecutive weeks.

(d) *Limitation.* No extended benefit period or high unemployment period may begin in any State by reason of a State ''on'' indicator before the 14th week after the ending of a prior extended benefit period or high unemployment period in such State. Conversely, no extended benefit period or high unemployment period may end in any State by reason of a State ''off'' indicator before the 14th week after the beginning of an extended benefit period or high unemployment period in such State. In addition, no extended benefit period or high unemployment period may begin or end in any State before the most recent week for which data used to trigger the State ''on'' or ''off'' or ''no change'' indicator has been published.

(e) *Specific applications of the 13-week rule:*

(1) If a State concludes a 13-week mandatory ''on'' period by virtue of the IUR indicator which, at the end of the 13-week period no longer satisfies the requirements for a State to be ''on,'' the extended benefit period continues if the TUR indicator is ''on'' during the 11th week of the 13-week mandatory ''on'' period.

(2) If a State concludes a 13-week mandatory ''on'' period by virtue of the TUR indicator which, at the end of the 13-week period no longer satisfies the requirements for a State to be ''on,'' the extended benefit period continues if the IUR indicator is ''on'' during the 11th week of the 13-week mandatory ''on'' period.

(f) *Determining if a State remains ''off'' as a result of a total unemployment rate indicator after the 13-week mandatory ''off'' period ends:*

(1) The State remains ''off'' if there is not an IUR ''on'' indicator the 11th week of the 13-week mandatory ''off'' period, and there is a TUR ''off'' indicator for the third week before the last week of the 13-week mandatory ''off'' period.

■ 9. Amend § 615.12 by:

■ a. Revising paragraph (d)(1) and (d)(2);

■ b. Adding paragraph (d)(3);

■ c. Revising and redesignating paragraph (e) as paragraph (f);and

■ d. Adding new paragraph (e).

The additions and revisions read as follows:

§ 615.12 Determination of ''on'' and ''off'' indicators.

* * * * *

(d) * * *

(1) Any determination by the head of a State agency of an ''on'' or ''off'' or ''no change'' IUR indicator may not be corrected more than three weeks after the close of the week to which it applies. If any figure used in the computation of a rate of insured unemployment is later found to be wrong, the correct figure must be used to redetermine the rate of insured unemployment and the 120 percent factor for that week and all later weeks, but no determination of previous ''on'' or ''off'' or ''no change'' indicator shall be affected unless the redetermination is made within the time the indicator may be corrected under the first sentence of this paragraph (d)(1). Any change is subject to our concurrence as provided in paragraph (e) of this section.

(2) The initial release of the TUR by BLS is subject to revision. However, a State's TUR indicator will be determined by the initial release of the TUR data and is not subject to revision even if the BLS TUR is revised.

(3) The ''on'' period under a State's optional IUR or TUR indicator may not begin before the later of the date of the State's adoption of the optional insured unemployment rate or total unemployment rate indicator, or the effective date of that enactment. The ''off'' period under a State's optional insured unemployment rate or total unemployment rate indicator may not occur until after the effective date of the repeal of the optional insured unemployment rate or total unemployment rate indicator from State law.

(e) *Other optional indicators.*

(1) A State may, as an option, in addition to the State indicators in paragraphs (a) and (b) of this section, provide by its law that there is a State ''on'' or ''off'' indicator in the State for a week if we determine that—

(i) The Trigger Value in such State computed using the most recent three months for which data for all States are published before the close of such week equals or exceeds 6.5 percent; and

(ii) The Trigger Value computed using data from the three-month period referred to in paragraph (e)(1)(i) of this section equals or exceeds 110 percent of the Trigger Value for either (or both) of the corresponding three-month periods ending in the two preceding calendar years, (The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the ''look-back''. This provision has been extended in the past and could be again.) This ''look-back'' is computed by dividing the Trigger Value by the same measure for the corresponding three months in each of the applicable prior years, and the resulting decimal fraction is rounded to the hundredths place, multiplied by 100 and reported as an integer and compared to the statutory threshold to help determine the State's EB Program status; and

(iii) There is a State ''off'' indicator for a week if either the requirements of paragraph (e)(1)(i) or (e)(1)(ii) of this section are not satisfied.

(2) Where a State adopts the optional indicator under paragraph (e)(1) of this section, there is a State ''on'' indicator for a high unemployment period (as defined in § 615.2) under State law if—

(i) The Trigger Value in the State computed using the most recent three months for which data for all State are published before the close of such week equals or exceeds 8.0 percent, and

(ii) The Trigger Value in the State computed using data from the three-month period referred to in paragraph (e)(2)(i) of this section equals or exceeds 110 percent of the Trigger Value for either (or both) of the corresponding three-month periods ending in the two preceding calendar years. (The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111–312, allowed States to temporarily modify provisions in their EB laws to use the prior three years in applying the ''look-back.'' This provision has been extended in the past and could be again.) This ''look-back'' is computed by dividing the Trigger Value by the same measure for the corresponding three months in each of the applicable prior years, and the resulting decimal fraction is rounded to the hundredths place, multiplied by 100 and reported as an integer and compared to the statutory threshold to help determine the State's EB Program status; and

(iii) There is a State ''off'' indicator for high unemployment period for a week if either the requirements of paragraph (e)(2)(i) or (e)(2)(ii) of this section are not satisfied.

(3) *Method of computing the average rate of total unemployment.* The average rate of total unemployment is computed by dividing the average of three months of the level of seasonally adjusted unemployment in the State by the average of three months of the level of seasonally adjusted unemployment and employment in the State. The resulting rate is multiplied by 100 to convert it to a percentage basis and then rounded to the tenths place (the first digit to the right of the decimal place).

(4) *Method of computing the State ''look-back.''* The average rate of total unemployment, ending with a given month, is divided by the same measure for the corresponding three months in each of the applicable prior years. The resultant decimal fraction is then rounded to the hundredths place (the second digit to the right of the decimal place). The resulting number is then multiplied by 100 and reported as an integer (no decimal places) and compared to the statutory threshold to help determine the State's EB Program status.

(f) *Notice to Secretary.* Within 10 calendar days after the end of any week for which the head of a State agency has determined that there is an ''on,'' or ''off,'' or ''no change'' IUR indicator in the State, the head of the State agency must notify the Secretary of the determination. The notice must state clearly the State agency head's determination of the specific week for which there is a State ''on'' or ''off'' or ''no change'' indicator. The notice must include also the State agency head's findings supporting the determination, with a certification that the findings are made in accordance with the requirements of § 615.15. However, the Secretary may provide additional instructions for the contents of the notice to assure the correctness and verification of notices given under this paragraph. The Secretary will accept determinations and findings made in accordance with the provisions of this

paragraph and of any instructions issued under this paragraph. A notice does not become final for purposes of EUCA and this part until the Secretary accepts the notice.

■ 10. Amend § 615.13 by:

■ a. Adding the term ''or High Unemployment Periods'' after the term ''Extended Benefit Periods'' throughout so that it reads as ''Announcement of the beginning and ending of Extended Benefit Periods or High Unemployment Period'';

■ b. Adding paragraphs (a)(1), (a)(2), (b)(1), (b)(2), and (b)(3);

■ c. Revising paragraphs (c)(1) through (c)(4).

The additions and revisions read as follows:

§ 615.13 Announcement of the beginning and ending of Extended Benefit Periods.

* * * * *

(a) * * *

(1) *Extended benefit period.* Upon receipt of the notice required by § 615.12(f) which is acceptable to us, we publish in the **Federal Register** a notice of the State agency head's determination that there is an ''on'' or an ''off'' indicator in the State, as the case may be, the name of the State and the beginning or ending of the extended benefit period, whichever is appropriate. If an ''on'' or ''off'' EB period is a result of our determination based on a State's TUR Trigger Value, we publish that information in the **Federal Register** as well.

(2) *Notification.* We also notify the heads of all other State agencies, and the Regional Administrators of the Employment and Training Administration of the State agency head's determination of the State ''on'' or ''off'' indicator for an extended benefit period (based on the insured unemployment rate in the State) or our determination of an ''on'' or ''off'' indicator (based on the total unemployment rate in a State) for an extended benefit period or high unemployment period and of the indicator's effect.

(b) * * *

(1) Whenever a State agency head determines that there is an ''on'' indicator in the State by reason of which an extended benefit period (based on the insured unemployment rate in the State) will begin in the State, or an ''off'' indicator by reason of which an extended benefit period in the State (based on the insured unemployment rate) will end, the head of the State agency must promptly announce the determination through appropriate news media in the State after the Department accepts notice from the agency head in accordance the 615.12(f).

(2) Whenever the head of a State agency receives notification from us in accordance with § 615.12(f) that there is an ''on'' indicator by reason of which an extended benefit period or high unemployment period (based on the total unemployment rate in the State) will begin in the State, or an ''off'' indicator by reason of which a regular extended benefit period or high unemployment period (based on the total unemployment rate) will end, the head of the State agency must promptly announce the determination through the appropriate news media in the State.

(3) Announcements made in accordance with paragraphs (b)(1) or (b)(2) of this section must include the beginning or ending date of the extended benefit period or high unemployment period, whichever is appropriate. In the case of a regular EB period or high unemployment period that is about to begin, the announcement must describe clearly the unemployed individuals who may be eligible for extended compensation or high extended compensation during the period, and in the case of a regular EB period or high unemployment period that is about to end, the announcement must also describe clearly the individuals whose entitlement to extended compensation or high extended compensation will be terminated. If a high unemployment period is ending, but an extended benefit period will remain ''on,'' the announcement must clearly state that fact and the effect on entitlement to extended compensation.

(c) * * *

(1) Whenever there has been a determination that a regular extended benefit period or high unemployment period will begin in a State, the State agency must provide prompt written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not end before the beginning of the regular extended benefit period or high unemployment period, and who exhausted all rights under the State law to regular compensation before the beginning of the regular extended benefit period or high unemployment period.

(2) The State agency must provide the notice promptly to each individual who begins to claim sharable regular benefits or who exhausts all rights under the State law to regular compensation during a regular extended benefit period or high unemployment period, including exhaustion by reason of the expiration of the individual's benefit year.

(3) The notices required by paragraphs (c)(1) and (c)(2) of this section must describe the actions required of claimants for sharable regular compensation and extended compensation and those disqualifications which apply to the benefits which are different from those applicable to other claimants for regular compensation which is not sharable.

(4) Whenever there is a determination that a regular extended benefit period or high unemployment period will end in a State, the State agency must provide prompt written notice to each individual who is currently filing claims for extended compensation of the forthcoming end of the regular extended benefit period or high unemployment period and its effect on the individual's right to extended compensation.

■ 11. Amend § 615.14 by revising paragraph (a)(4) to read as follows:

§ 615.14 Payments to States.

(a) * * *

(4) As provided in section 204(a)(2)(C) of EUCA, for any week in which extended compensation is not payable because of the payment of trade readjustment allowances, as provided in section 233(c) of the Trade Act of 1974, and § 615.7(d).

* * * * *

■ 12. Amend § 615.15 by removing paragraphs (c) and (d) and revising paragraphs (a) and (b) to read as follows:

§ 615.15 Records and reports.

(a) *General.* State agencies must furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of this part.

(b) *Recordkeeping.* Each State agency must make and maintain records pertaining to the administration of the Extended Benefit Program as we require, and must make all such records available for inspection, examination and audit by such Federal officials or employees as we may designate or as may be required by law.

Portia Wu,

Assistant Secretary for Employment and Training.

[FR Doc. 2014–24314 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–FW–P

POSTAL SERVICE

39 CFR Part 241

Relocating Retail Services; Adding New Retail Service Facilities

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to revise its current rules concerning the expansion, relocation, and construction of Post Offices™ to clarify its procedures and to require more information about certain types of projects to be provided earlier in the planning phase. Under the revised rule, the Postal Service will notify communities and officials, and solicit and consider their input, regarding proposals to relocate retail services or add a new retail services facility. The revised rule will also require the Postal Service to provide information about the anticipated new location for relocated services, or the new retail services facility, when the Postal Service first gives notice of the proposal.

DATES: Comments must be received by November 26, 2014.

ADDRESSES: Please submit written comments by email to *USPSFAC@usps.gov,* with the subject heading ''241.4 Rulemaking,'' or by mail to Angie Mitchell, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 6611, Washington, DC 20260.

FOR FURTHER INFORMATION CONTACT: Richard Hancock, Real Estate Specialist, U.S. Postal Service, at *Richard.A.Hancock2@usps.gov* or 919–420–5284.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service proposes to revise 39 CFR 241.4 to clarify its procedures and to require the Postal Service to provide more information about certain types of projects earlier in the planning phase. The current rule prescribes procedures by which the Postal Service notifies communities and local officials of certain types of proposed facility projects, and solicits and considers the community's input before making a final decision to expand an existing retail services facility, relocate retail services, or construct a new building to provide retail services. Under the proposed rule, the Postal Service will continue to notify communities and officials, and to solicit and consider input regarding proposals to relocate retail services or to add a new retail services facility. Additionally, however, the revised rule will enhance transparency by requiring the Postal Service to provide information about the anticipated new location for the relocated services, or for the new retail services facility, when the Postal Service first engages with the community and officials concerning the proposal.

When the Postal Service published the current rule in 1998 (63 FR 46656), the Postal Service was adding space to its facilities network to serve an expanding customer base, often in suburban areas, and to support a growing volume of mail. Exemplifying the focus at that time on adding space, the current rule calls for the Postal Service to emphasize that in meeting a need for increased space, the first priority is to expand the existing facility, the second priority is to find an existing building in the same area as the current facility, and the third option is to build on a new site that will be either owned or leased. 39 CFR 241.4(c)(1)(ii).

Today, the Postal Service focuses on innovating to adapt to a dynamic marketplace that has changed dramatically since the current rule's publication. For many years now, Postal Service customers have been decreasing their demand for the Postal Service's primary service category, First-Class Mail®, turning instead to electronic communications for correspondence, bill deliveries and payments, and other communications and transactions. Demand for First-Class Mail service has also declined dramatically due to the ongoing effects of the Great Recession. Postal Service operations are self-funding and not supported by tax dollars. To be self-sustaining, and meet its universal service obligation, the Postal Service must provide adequate and affordable postal services efficiently and economically. The Postal Service is therefore responding to the decreasing demand for its First-Class Mail services and to the corresponding loss of revenue by optimizing its facilities network, often by relocating out of oversized spaces into right-sized spaces. Through experience with applying the current rule to relocations, the Postal Service determined that it could improve the rule by clarifying its terms and applicability, by focusing the rule on the types of projects that are most likely to be sensitive to a community, and by increasing transparency through providing more information about those projects earlier in the planning phase. Accordingly, the Postal Service proposes to revise the rule in several ways.

Proposed Modifications

Although the current rule applies only to ''customer service facilities,'' the rule does not define ''customer service facility.'' The revised rule adds definitions to clarify its terms and applicability, including a definition for ''retail service facility,'' a term the revised rule uses instead of ''customer service facility'' to define the type of facility to which the rule applies.

With regard to relocations of retail services, the current rule calls for the Postal Service to conduct community outreach in a two-step process. First, the Postal Service solicits and considers input from the community and local officials on whether to relocate. Second, if the Postal Service decides to pursue the relocation, then the Postal Service solicits and considers input on selection of the relocation site. The Postal Service believes it can enhance its community outreach by providing information about the planned relocation and the anticipated relocation site at the same time when it first engages with the community and officials regarding a proposed relocation. Accordingly, when the Postal Service meets with the community to discuss the proposed relocation, the revised rule specifically calls for the Postal Service to also identify the site or area to which the Postal Service anticipates relocating the retail services. Further, while the current rule allows appeals of the relocation decision, and allows the community and officials to comment on the proposed new sites, it does not provide an avenue to appeal the site selection. By consolidating the discussions of relocation and site selection, the revised rule bolsters the community input process by providing a process to appeal both the relocation and site selection proposals and permits the Postal Service to deliver its final decision in a timelier manner.

The current rule also requires soliciting and considering community input for construction of a new building for a retail service facility, and for expansion of an existing retail service facility. However, the current rule does not require community input when the Postal Service leases space for a new retail services facility, although in practice the Postal Service commonly solicits and considers input in those situations. Based on experience, the Postal Service believes communities often are concerned about a proposal to add a retail services facility, regardless of whether the Postal Service plans to build a new building or to lease space. In contrast to adding a retail services facility or relocating retail services, an expansion of a retail service facility does not raise the same concerns because the retail services remain in place. Further, as the Postal Service

adapts to a changing marketplace, it forecasts, at most, an increasingly rare need to expand existing retail services sites in a manner significantly affecting surrounding communities. Conversely, it does anticipate leasing new sites as needed to provide retail services in additional facilities. Accordingly, the revised rule will not apply to ''expansions,'' but will broaden and revise the ''new construction'' category to require community input whenever the Postal Service adds a new retail service facility to a community, whether as a new building or as a leased space. Therefore, the revised rule will expand opportunities for community input for those projects.

When community members or officials appeal a decision, the current rule calls for the ''Vice President, Facilities'' to determine those appeals. Although the Vice President, Facilities is not an approving official for initial project decisions to which the current rule applies, the Postal Service decided to revise the rule to avoid concerns that the same official is approving an initial project and determining appeals for the project. Therefore, the revised rule permits the Postal Service to designate an official other than the Vice President, Facilities to determine such appeals.

The current rule excuses community input for temporary and emergency relocations, but limits such relocations to 180 days without distinguishing between temporary and emergency relocations. While the 180-day limit may be appropriate for temporary relocations, it is unnecessarily arbitrary for emergency relocations. The revised rule distinguishes temporary additions and relocations (e.g., for holidays, or special events) from emergency relocations (e.g., due to earthquakes, fire, or lease terminations). It retains the 180-day limit for temporary additions and relocations, while substituting a requirement for community input ''as soon as prudent'' following emergency relocations. The revised rule also adds a process for soliciting and considering community input following an emergency relocation.

Several years after the Postal Service published the current rule, Congress enacted the Postal Accountability and Enhancement Act (PAEA) (Pub. L. 109–435,120 Stat 3198). As added by PAEA, 39 U.S.C. 409(f) sets forth requirements for the Postal Service when it constructs or alters a building, including requirements to consult with local officials concerning local zoning and building code requirements. Those requirements overlap with the current rule's requirements at 39 CFR 241.4(f), but the two sets of requirements are not entirely consistent. Because the subsequently enacted PAEA applies to all Postal Service projects, not just projects subject to the current rule, the revised rule will eliminate 39 CFR 241.4(f) to allow the Postal Service and local communities to look to a single set of requirements, as set forth in PAEA, for all Postal Service projects.

Last, the revised rule clarifies in 39 CFR 241.4(d) that it does not add to, reduce, or otherwise modify the Postal Service's legal obligations or policies for compliance with other laws and regulations. This clarification preserves and strengthens the original intent of the current rule.

List of Subjects in 39 CFR Part 241

Organization and functions (Government agencies), Retail service facilities.

Although exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment at the above address and will consider any comments received before issuing a final rule.

Accordingly, the Postal Service proposes to revise 39 CFR 241.4 as set forth below.

PART 241—ESTABLISHMENT CLASSIFICATION, AND DISCONTINUANCE

■ 1. The authority citation for 39 CFR part 241 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 403, 404, 410, 1001.

■ 2. Revise § 241.4 to read as follows:

§ 241.4 Relocating retail services; adding new retail service facilities.

(a) *Application.* (1) Except as otherwise provided below, this section applies when the Postal Service proposes either to relocate all retail services from a retail service facility to a separate existing physical building; or to add a new retail service facility for a community. As used in this section, ''retail services'' means the single-piece mail services offered to individual members of the public on a walk-in basis at a retail service facility, and a ''retail service facility'' is a physical building where Postal Service employees provide such retail services.

(2) This section does not apply to temporary additions of retail service facilities or to temporary or emergency relocations of retail services. The Postal Service may use temporary additions or relocations when necessary to support Postal Service business for holidays, special events, or overflow business. Temporary additions and relocations normally will be limited to 180 days in duration. Any additional incremental time periods of up to 180 days each must be approved by the Vice President, Facilities or his designee. The Postal Service may use emergency relocations when the Postal Service determines relocation is required to protect Postal Service business due to events such as earthquakes, floods, fire, potential or actual OSHA violations, lease terminations or expirations, a lessor exercising a right to relocate the Postal Service's premises, safety factors, environmental causes, other business disrupting events, or as necessary to protect employees, customers, or the sanctity of the mail. Following an emergency relocation, as soon as the Postal Service determines it is prudent to identify the long term location for the retail services, the Postal Service will make an initial decision whether to remain in the emergency relocation site on a long term basis, to return to the original retail service facility (if feasible), or to relocate to another site. After such initial decision, the Postal Service will follow the process in paragraph (c) of this section with respect to collecting and considering community input on a proposal to implement such initial decision.

(b) *Purpose.* The purpose of this section is to provide opportunities for community members and their elected local officials to give input to the Postal Service concerning a proposal to which this section applies (a ''proposal''), and for the Postal Service to consider that input in determining whether to proceed with, modify, or cancel the proposal.

(c) *Collect and consider community input.* When the Postal Service makes a proposal, a Postal Service representative will take the following steps:

(1) *Identify the community and engage local elected officials.* The Postal Service representative will identify the community the Postal Service anticipates would be affected by implementing the proposal, taking into account such factors as the Postal Service determines are appropriate for the proposal. The Postal Service representative then will deliver to one or more local elected public officials a written outline of the proposal and offer to discuss the proposal with them. The Postal Service representative may elect to conduct such discussion either in person or using any other appropriate communication tool, including electronic communications. If the officials accept the offer, then the Postal Service representative will identify the

need and outline the proposal that is under consideration to meet it, explain the process by which the Postal Service will solicit and consider input from the affected community, and solicit input from the local officials regarding the proposal.

(2) *Notify the community and arrange for public presentation.* The Postal Service will send an initial news release outlining the proposal to one or more news media serving the community and, if the community has a retail service facility, then the Postal Service also will post a copy of the information given to local officials or the news release in the public lobby of that retail service facility. Additionally, the Postal Service representative will ask the local officials to place a Postal Service presentation of the proposal on the regular agenda of the next scheduled public meeting, or will schedule a separate Postal Service public meeting concerning the proposal. At least 15 days prior to the meeting, the Postal Service will advertise the date, time, and location of the public meeting in a local news medium and, if the community has an existing retail service facility, then the Postal Service also will post in the public lobby of that retail service facility a notice of the date, time, and location of the public meeting.

(3) *Present the proposal to the community.* At the public meeting, the Postal Service will identify the need, e.g., for relocating retail services or adding a retail service facility, outline the proposal to meet the need, invite questions, solicit written input on the proposal, and provide an address to which the community and local officials may send written comments and appeals of the proposal for a period of 30 days following the public meeting. Under exceptional circumstances that would prevent a Postal Service representative from attending or conducting a public meeting to present the proposal within a reasonable time, the Postal Service, in lieu of a public meeting, may give customers within the community written notification of the proposal by mail or by posting a notice of the proposal in the retail service facility that would be affected by the proposal, seeking their written input on the proposal and providing an address to which the community and local officials may send written comments and appeals of the proposal during the 30 days following such notification. An example of exceptional circumstances would be a proposal that would be implemented in a sparsely populated area remote from the seat of local government or any forum where the public meeting reasonably could be held.

(i) If the proposal concerns relocation, then the Postal Service will:

(A) Discuss the reasons for relocating;

(B) Identify the site or area to which the Postal Service anticipates relocating the retail services; and

(C) Describe the anticipated size of the retail service facility for the relocated retail services, and the anticipated services to be offered at such site or in such area. (The Postal Service may identify more than one potential relocation site or area, for example, when the Postal Service has not selected among competing sites.)

(ii) If the proposal concerns adding a new retail service facility for a community, then the Postal Service will:

(A) Discuss the reasons for the addition;

(B) Identify the site or area to which the Postal Service anticipates adding the retail service facility;

(C) Describe the anticipated size of the added retail service facility, and the anticipated services to be offered; and

(D) Outline any anticipated construction (e.g., of a stand-alone building or interior improvements to an existing building (or portion thereof) that will be leased by the Postal Service). (The Postal Service may identify more than one potential site or area, for example, when the Postal Service has not selected among competing sites.)

(4) *Consider comments and appeals.* After the 30 day comment and appeal period, the Postal Service will consider the comments and appeals received that identify reasons why the Postal Service's proposal (e.g., to relocate to the selected site, or to add a new retail service facility) is, or is not, the optimal solution for the identified need. Following such consideration, the Postal Service will make a final decision to proceed with, modify, or cancel the proposal. The Postal Service then will inform local officials in writing of its final decision and send an initial news release announcing the final decision to local news media. If the community has a retail service facility, then the Postal Service also will post a copy of the information given to local officials or the news release in the public lobby of that retail service facility. The Postal Service then will implement the final decision.

(5) *Subsequent site identification.* After the public meeting under paragraph (c)(3) of this section, if the Postal Service decides to use a site or area that it did not identify at the public meeting, and this Section applies with respect to such new site or area, then the Postal Service will undertake the steps in paragraphs (c)(2) through (4) of this section with regard to the new site or area.

(d) *Effect on other obligations and policies.* Nothing in this section shall add to, reduce, or otherwise modify the Postal Service's legal obligations or policies for compliance with independent policies or obligations of the Postal Service that are not dependent upon a relocation or addition of a retail service facility. These include:

(1) Section 106 of the National Historic Preservation Act, 16 U.S.C. 470, Executive Order 12072, and Executive Order 13006;

(2) 39 U.S.C. 404(d) and 39 CFR 241.3; and

(3) 39 U.S.C. 409(f).

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–25403 Filed 10–24–14; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2013–0602; FRL–9918–49–OAR]

RIN 2060–AR33

Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) published in the **Federal Register** on September 25, 2014, an extending the comment period for the proposed rule titled ''Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units'' by 45 days. Inadvertently, that proposed rule included an incorrect digit in the docket number for the proposed rule. This proposed rule corrects that error.

DATES: This correction is effective on October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Vasu, Sector Policies and Programs Division (D205–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–0107, facsimile number (919) 541–4991; email address: *vasu.amy@epa.gov* or Ms. Marguerite McLamb, Sector Policies and Programs Division (D205–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–7858, facsimile number (919) 541–4991; email address: *mclamb.marguerite@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA published in the **Federal Register** on September 25, 2014 (79 FR 57492), a proposed rule extending, by 45 days, the comment period for the proposed rule titled ''Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units.'' This proposed rule corrects an incorrect docket number published on September 25, 2014.

In FR Doc. 2014–22832, published on September 25, 2014 (79 FR 57492), in the first column of page 57492, correct the docket number listed in the notice to read:

Docket: The EPA has established the official public docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2013–0602.

Dated: October 20, 2014.

Mary E. Henigin,

Acting Director for Office of Air Quality Planning and Standards.

[FR Doc. 2014–25486 Filed 10–24–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 15, 27, 73, and 74

[GN Docket No. 12–268; Report No. 3011]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: In this document, Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding by Benjamin Perez, on behalf of Abacus Television, Stephen G. Perlman, on behalf of Artemis Networks, LLC, Ari Q. Fitzgerald, Esq., on behalf of GE Healthcare, Steven K. Berry, on behalf of Competitive Carriers Association, Louis Libin, on behalf of Advanced Television Broadcasting Alliance, Andrew W. Levin, on behalf of T-Mobile USA, Inc., Melodie A. Virtue, Esq., and Garvey Schubert Barer, on behalf of Beach TV Properties, Inc., and Free Access & Broadcast Telemedia, LLC, Jennifer Johnson, Esq., on behalf of Bonton Media Group, Inc., and Raycom Media, Inc., John R. Feore, Esq., on behalf of Block Communications, Inc. and FBC Television Affiliates Association, Eve Pogoriler, Esq., on behalf of Gannett Co., Inc., Graham Media Group, ICA Broadcasting, and the Dispatching Printing Company, Dean R. Brenner, on behalf of Qualicomm Incorporated, Gerard J. Waldron, Esq., on behalf of CBS Television Network Affiliates Association, and NBC Television Affiliates, Wade H. Hargrove, Esq., on behalf ABC Television Affiliates Associates Association, Donald G. Everist, on behalf of Cohen, Dippell and Everist, P.C., Dale Woodin, on behalf of the American Society for Healthcare Engineering of the American Hospital Association, Sally A. Buckman, Esq., on behalf Journal Broadcast Corporation, Margaret L. Tobey, on behalf NBC Telemundo License LLC, Mike Cavender, on behalf of Radio Television Digital News Association, Michael Gravino, on behalf of LPTV Spectrum Rights Coalition, Mitchell Lazarus, Esq., on behalf of Sennheiser Electronic Corporation, M. Anne Swanson, Esq., on behalf of Media General, Inc., Mace Rosenstein, Esq., on behalf of the Videohouse and Public Broadcasting Service, Inc., Lonna Thompson, on behalf of Association of Public Television Stations, J. Westwood Smithers, on behalf of Corporation for Public Broadcasting, Katherine Lauderdale, on behalf Public Broadcasting Service, A. Wray Fitch III, Esq., on behalf of American Legacy Foundation and Signal Above, LLC, Tom W. Davidson, Esq., on behalf of the Walt Disney Company, Paul J. Broyles, on behalf of International Broadcasting Network, Dean M. Mosely, on behalf U.S. Television, LLC, William H. Shawn, Esq., on behalf of Mako Communications, LLC., and Preston Padden, on behalf of Expanding Opportunities for Broadcasters Coalition.

DATES: Oppositions to the Petitions must be filed on or before November 12, 2014. Replies to an opposition must be filed on or before November 21, 2014.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: A.J. Glusman, Wireless Telecommunications Bureau, (202) 418–1425, email *AJ.Glusman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 3011, released October 2, 2014. The full text of Report No. 3011 is available for viewing and copying in Room CY–B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A) because this notice does not have an impact on any rules of particular applicability.

Subject: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, published at 79 FR 48442, August 15, 2014, in GN Docket No. 12–268, and published pursuant to 47 CFR 1.429(e). *See also* 1.4(b)(1) if the Commission's rules.

Number of Petitions Filed: 31.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–25456 Filed 10–24–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket Nos. 12–201; 13–140; 14–92; FCC 14–129]

Assessment and Collection of Regulatory Fees for Fiscal Year 2014; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; and Procedures for Assessment and Collection of Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on two regulatory fee issues. First, the Commission seeks comment on methods to ensure and encourage compliance with a new toll free regulatory fee requirement, and the appropriate procedures necessary to enforce non-payment of toll free regulatory fees. And second, the Commission seeks comment on a proposal to adopt a new direct broadcast satellite (DBS) regulatory fee category based on Media Bureau FTEs (Full-Time Equivalents) who perform work related to DBS regulatees.

DATES: Submit comments on November 26, 2014, and reply comments on December 26, 2014.

ADDRESSES: You may submit comments, identified by MD Docket No. 14–92, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov*

or phone: 202–418–0530 or TTY: 202–418–0432.

• *Email: ecfs@fcc.gov.* Include MD Docket No. 14–92 in the subject line of the message.

• *Mail:* Commercial overnight mail (other than U.S. Postal Service Express Mail, and Priority Mail, must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, FCC 14–129, MD Docket No. 14–92, MD Docket No. 13–140, and MD Docket No. 12–201, adopted on August 29, 2014 and released on August 29, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com,* or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

I. Procedural Matters

Ex Parte Rules Permit-But-Disclose Proceeding

1. The *Further Notice of Proposed Rulemaking* shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b). In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Comment Filing Procedures

2. *Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

3. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

4. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (''PDF'') at: *http://www.fcc.gov.*

Initial Paperwork Reduction Act

5. This *Further Notice of Proposed Rulemaking* document solicits possible proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the possible proposed information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

Initial Regulatory Flexibility Analysis

6. An initial regulatory flexibility analysis (''IRFA'') is contained in section III. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on this *Notice of Proposed Rulemaking* (NPRM). The Commission will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

II. Introduction

7. In this *Further Notice of Proposed Rulemakin*g, the Commission seeks comment on two regulatory fee issues: (1) Methods to ensure and encourage compliance with a new toll free regulatory fee requirement, and the appropriate procedures necessary to enforce non-payment of toll free regulatory fees, and (2) a proposal to adopt a new direct broadcast satellite (DBS) regulatory fee category based on Media Bureau FTEs who perform work related to DBS regulatees.

A. Toll Free Numbers

8. In the *FY 2014 Report and Order,* the Commission adopted a regulatory fee category for toll free numbers.[1] The Commission agreed with the commenters [2] that additional development in the record is needed regarding the appropriate procedures for enforcement for non-payment such as revocation of numbers or decertifying a RespOrg.

9. Therefore, the Commission seeks comment on what procedures we may use to enforce a RespOrg's obligation to pay any regulatory fees assessed on toll free numbers. For instance, section 9(c)(3) of the Act states that in lieu of penalties and dismissals, ''the Commission may revoke any instrument of authorization held by an entity that has failed to make payment of a regulatory fee assessed pursuant to the section.'' [3] The Commission seeks comment on whether section 9(c)(3) of the Act permits the Commission to classify toll free numbers as ''instruments of authorizations,'' thereby allowing reclamation of those numbers if regulatory fees are not paid. The Commission also invites input on whether it may decertify (or direct SMS/800 to decertify) a RespOrg in instances of delinquent regulatory fee payments. Does the Commission have authority under section 9(c) to revoke a certification granted by a third party, such as the SMS/800 Database Administrator? If so, would this certification be an ''instrument of authorization'' under section 9(c) of the Act that could be revoked if the RespOrg failed to pay regulatory fees? For instance, we might treat an SMS/800, Inc. certification as sufficient (though perhaps not necessary) evidence that an entity is entitled to an FCC authorization to operate as a RespOrg. Then, in the event of non-payment of regulatory fees, the Commission might revoke the FCC-issued authorization needed for the entity to serve as a RespOrg. The Commission seeks comment on this and any other possible approaches. In addition, the Commission also seeks comment on whether there are other statutory approaches for revoking such certification in the event of nonpayment. And finally, the Commission seeks comment on whether a RespOrg's application, either for certification by SMS/800, Inc. or to receive toll free numbers filed with SMS/800 Inc., can be delayed or denied, thus preventing either temporary or permanent access to the toll free database to reserve toll free numbers if regulatory fees are delinquent.[4] If not, should the Commission require that a separate application be submitted for the use of toll free numbers and payment of regulatory fees?

B. Direct Broadcast Satellites (DBS)

10. In this *Further NPRM,* the Commission proposes to adopt a new fee category for DBS, based on the Media Bureau FTEs that perform work related to these regulatees. DBS providers are multichannel video programming distributors (MVPDs), pursuant to section 602(13) of the Act.[5] These operators of U.S.-licensed geostationary space stations used to provide one-way subscription television service to consumers in the United States pay a regulatory fee under the category ''Space Station (Geostationary Orbit)'' in the regulatory fee schedule. DBS providers are also similar to cable operators and IPTV providers because DBS providers offer multi-channel video programming to end-users. Despite this similarity, DBS providers do not pay the per-subscriber regulatory fee assessed on cable operators and IPTV providers based on Media Bureau FTE regulation.

11. In the *FY 2014 NPRM,* the Commission sought comment on ''whether regulatory fees paid by DBS providers should be included in the cable television and IPTV category and assessed in the same manner as cable television system operators.'' [6] It noted that DBS providers currently pay less than nine percent of the regulatory fees they would be assessed if the Commission were to combine these categories ($2,052,450 vs. $23,120,000) and required DBS to pay the same rate as cable television and IPTV.[7] Various commenters have supported this proposal [8] arguing that assessing regulatory fees on DBS providers is warranted because Media Bureau FTEs provide similar regulatory work to both cable operators and DBS providers.[9] For example, DBS providers and cable operators are permitted to file program access complaints [10] and complaints seeking relief under the retransmission consent good faith rules; [11] and DBS providers are also required to comply with Media Bureau oversight and regulation such as Commercial Advertisement Loudness Mitigation Act (CALM Act),[12] the Twenty-First Century Video Accessibility Act (CVAA),[13] as well as the closed captioning and video description rules.[14] ACA argues that because DBS providers do not pay fees to cover the Media Bureau FTE expenses, the Media Bureau costs are

[1] 79 FR 54190 (September 11, 2014) at paras. 28–31.

[2] AT&T Comments at 5; US Telecom Reply Comments at 5; Bandwidth Reply Comments at 1.

[3] 47 U.S.C. 159(c)(3). The Commission notes that under section 9(c)(1) it has authority to issue penalties for late payment.

[4] Currently the SMS/800, Inc. tariff has a process in place to suspend or discontinue service to a RespOrg for nonpayment of SMS/800 fees. *See* 800 Service Management System (SMS) Functions Tariff, FCC Tariff No. 1 at section 2.1.8, *available at http://www.sms800.com/Controls/NAC/Tariff.aspx#*.

[5] 47 U.S.C. 522(13).

[6] *FY 2014 NPRM,* 79 FR 37982 at 37985 at para. 18 (July 3, 2014). The Commission sought comment on this issue in previous NPRMs. *See, e.g., FY 2013 NPRM,* 78 FR 34612 at 34625 at para. 43 (June 10, 2013); *FY 2008 FNPRM,* 73 FR 50285 at 50290–50291, paras. 24–25 (August 26, 2008).

[7] *FY 2014 NPRM,* 79 FR 37982 at 37991, Table 4.

[8] *See, e.g.,* ACA Comments at 3–9; ITTA Comments at 11–12; NCTA Comments at 3–6; NCTA & ACA Reply Comments at 3–11 (''basic principles of fairness and technological neutrality require the Commission to assess [DBS] service providers regulatory fees as part of a . . . fee category that also includes cable operators and IPTV services.'').

[9] *See FY 2014 NPRM,* 79 FR 37982 at 37990, para. 48.

[10] 47 U.S.C. 548; 47 CFR 76.1000–1004.

[11] 47 U.S.C. sections 325(b)(1), (3)(C)(ii); 47 CFR 76.65(b).

[12] *See Implementation of the Commercial Advertisement, Loudness Mitigation (CALM) Act,* Report and Order, 26 FCC Rcd 17222 (2011).

[13] 47 U.S.C. 618(b).

[14] 47 CFR Part 79.

shifted entirely to the entities that do pay regulatory fees based on Media Bureau FTEs.[15] DBS providers have opposed this proposal; arguing that they are not cable television operators and they are not subject to all of the regulations historically imposed on the cable industry by the Media Bureau; instead, their business model is based on satellite technology and is subject to satellite licensing rules through the International Bureau.[16]

12. The Commission recognizes that DBS providers are not subject to all of the regulations and requirements imposed on the cable industry.[17] However, as discussed above, there are certain rules that both DBS providers and cable operators are subject to, and Media Bureau FTEs provide the oversight and regulation of the DBS industry in these areas.[18] Last year, the Commission adopted a new category of regulatory fees for IPTV providers and cable television operators reasoning that ''assessing regulatory fees on cable television systems, but not on IPTV . . . may place cable providers at a competitive disadvantage,'' [19] and noting that there is a ''relatively small difference from a regulatory perspective'' between IPTV providers and cable operators.[20] This Media Bureau FTE involvement and the benefits received by DBS may support adoption of a new fee category. Therefore, the Commission believes that it may be appropriate under section 9 of the Act to recover the costs associated with Media Bureau FTE work.[21] Accordingly, the Commission proposes to adopt a new fee category to recover the costs incurred by the Media Bureau due to the DBS industry. Alternatively, should Media Bureau FTEs working on DBS issues be assigned to the International Bureau or as indirect FTEs for regulatory fee purposes? The Commission invites comment on the legal and policy implications of such a proposal.

13. Unlike cable television/IPTV, DBS providers already pay regulatory fees based on the oversight of their industry by International Bureau FTEs and do not pay any Media Bureau FTE fees. As a result, the Commission seeks comment on whether DBS providers should pay a regulatory fee under this category at a much lower rate than that for other MVPDs, such as one-tenth of the anticipated revenue if DBS were combined with MVPD, to recognize the International Bureau FTE fees DBS providers will continue to pay as well as the Media Bureau FTEs related to DBS regulation. The Commission estimates that this amount would be approximately $2.1 million.[22] We invite comment on the appropriateness of this amount, or whether it should be higher or lower. In assessing this proposal, the Commission also intends to factor in any resulting ''rate shock'' on DBS providers, the financial impact of such a fee on economic wellbeing of the DBS industry and the customers it serves, and the appropriateness of phasing in any permanent adjustments to our rate structure for DBS. This regulatory fee category, if adopted, would apply to all operators of U.S.-licensed geostationary space stations used to provide one-way subscription television service to consumers in the United States. The Commission seeks comment on whether assessing this fee on the space station operator is an efficient assessment mechanism or if there are alternative mechanisms for assessing a fee on providers of one-way subscription television service to consumers in the United States.

14. Commenters should discuss whether the payment obligations of this new category should increase over time to a larger percentage of the cable television/IPTV rate or if this fee category should be transitioned to a MVPD category together with cable television and IPTV. The Commission invites comment on the appropriateness of eventually adopting a new regulatory fee category that includes DBS, cable operators, and IPTV, all assessed using the same methodology and at the same rate. In doing so, the Commission asks for legal and policy implications of such a combination. The Commission also seeks comment on the time period the DBS providers should have in transitioning into such a fee category, and in what manner, or if they should continue to remain at a lower rate than cable operators and IPTV.

15. If DBS providers are assessed a more significant fee rate (comparable or the same as cable operators and IPTV), commenters should discuss whether they should have an offset or credit for all or a portion of the regulatory fees that they pay based on the International Bureau FTEs.

III. Initial Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act (RFA),[23] the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (*FNPRM*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *FNPRM.* The Commission will send a copy of the *FNPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[24] In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[25]

A. Need for, and Objectives of, the FNPRM

17. The *FNPRM* seeks comment regarding the adoption and implementation of creating a new DBS fee category per section 9(b)(3), and how a Responsible Organization (RespOrgs) can be held to their regulatory fee obligation for lack of payment. With respect to establishing a new DBS fee category, the Commission has determined that DBS providers do not qualify as small business entities. With respect to RespOrgs, the Commission has discovered that while it provides oversight for RespOrgs in various numbering plans, it does not assess a regulatory fee for the resources that it expends. Consequently, the Commission has decided to assess a fee on this group of regulatees to ensure equitable access to toll free numbers and to minimize the chance that these toll free numbers are not unjustly controlled. In addition to holding RespOrgs responsible for payment of regulatory fees, the Commission also seeks comment on the extent to which it can revoke an instrument of authorization for failure to pay regulatory fees section 9(c)(3). We invite comment on this topic to better inform the Commission concerning whether and/or how this service should be assessed under our regulatory fee methodology in future years.

---

[15] ACA Comments at 6.

[16] *See* DIRECTV and DISH Comments at 13–18.

[17] *See, e.g.,* DIRECTV and DISH Comments at 13–17; SIA Comments at 7.

[18] *See, e.g.,* 47 CFR 76.65(b); 76.1000–1004; Part 79; *see also Implementation of Commercial Advertisement, Loudness Mitigation (CALM) Act,* Report and Order, 26 FCC Rcd 17222 (2011); 47 U.S.C. 618(b).

[19] *FY 2013 Report and Order,* 78 FR 52433 at 52443–52444, para. 35 (August 23, 2013).

[20] *Id.,* 78 FR 52433 at 52443, para. 35, footnote 81 (August 23, 2013).

[21] 47 U.S.C. 159(a)(1).

[22] *See* Table 4 in the *FY 2014 NPRM,* 79 FR 37982 at 37991, Table 4. If adopted, the regulatory fee rate will be proposed in the annual notice of proposed rulemaking seeking comment on regulatory fees for the upcoming fiscal year.

[23] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[24] 5 U.S.C. 603(a).

[25] *Id.*

B. Legal Basis

18. This action, including publication of proposed rules, is authorized under Sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.[26]

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

19. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[27] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [28] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[29] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[30]

20. Small Businesses. Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[31]

21. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.[32] Thus, under this size standard, the majority of firms can be considered small.

22. Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[33] According to Commission data, census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.[34] The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the *FNPRM.*

23. Incumbent LECs. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[35] According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.[36] Of this total, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.[37] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies proposed in the *FNPRM.*

24. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[38] According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[39] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees.[40] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[41] In addition, 72 carriers have reported that they are Other Local Service Providers.[42] Of this total, 70 have 1,500 or fewer employees and two have more than 1,500 employees.[43] Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the proposals in this *FNPRM.*

25. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a small business size standard specifically applicable to interexchange services. The applicable size standard under SBA rules is for the Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[44] According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[45] Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.[46] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the *FNPRM.*

26. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[47] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[48] Thus under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission

[26] 47 U.S.C. 154(i) and (j), 159, and 303(r).

[27] 5 U.S.C. 603(b)(3).

[28] 5 U.S.C. 601(6).

[29] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[30] 15 U.S.C. 632.

[31] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.*

[32] *See id.*

[33] 13 CFR 121.201, NAICS code 517110.

[34] *See id.*

[35] 13 CFR 121.201, NAICS code 517110.

[36] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (*Trends in Telephone Service*).

[37] *Id.*

[38] 13 CFR 121.201, NAICS code 517110.

[39] *See Trends in Telephone Service,* at Table. 5.3.

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] 13 CFR 121.201, NAICS code 517110.

[45] *See Trends in Telephone Service,* at Table 5.3.

[46] *Id.*

[47] 13 CFR 121.201, NAICS code 517911.

[48] *Id.*

data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[49] All 193 carriers have 1,500 or fewer employees and none have more than 1,500 employees.[50] Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the *FNPRM.*

27. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[51] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[52] Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[53] Of this total, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.[54] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the proposals in this *FNPRM.*

28. Toll Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[55] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000.[56] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[57] Of this total, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees.[58] Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposals in the *FNPRM.*

29. Other Toll Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[59] Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.[60] Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[61] Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees.[62] Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted pursuant to the *FNPRM.*

30. Wireless Telecommunications Carriers (except Satellite). Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category.[63] Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.[64] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[65] For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year.[66] Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000 employees or more.[67] Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.[68] Of this total, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[69] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

31. Cable Television and other Program Distribution. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' [70] The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.[71] Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 had more than 100 employees, and 30,178 operated with fewer than 100 employees. Thus under

[49] *See Trends in Telephone Service,* at Table 5.3.
[50] *Id.*
[51] 13 CFR 121.201, NAICS code 517911.
[52] *Id.*
[53] *See Trends in Telephone Service,* at Table 5.3.
[54] *Id.*
[55] 13 CFR 121.201, NAICS code 517911.
[56] *Id.*
[57] *Trends in Telephone Service,* at Table 5.3.
[58] *Id.*
[59] 13 CFR 121.201, NAICS code 517110.
[60] *Id.*
[61] *Trends in Telephone Service,* at Table 5.3.
[62] *Id.*
[63] 13 CFR 121.201, NAICS code 517210.
[64] U.S. Census Bureau, 2002 NAICS Definitions, ''517211 Paging,'' available at *http://www.census.gov/cgibin/sssd/naics/naicsrch?code=517211&search=2002%20NAICS%20Search;* U.S. Census Bureau, 2002 NAICS Definitions, ''517212 Cellular and Other Wireless Telecommunications,'' available at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517212&search=2002%20NAICS%20Search.*
[65] 13 CFR 121.201, NAICS code 517210. The now-superseded, pre-2007 C.F.R. citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).
[66] U.S. Census Bureau, Subject Series: Information, Table 5, ''Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517210'' (issued Nov. 2010).
[67] *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''100 employees or more.''
[68] *Trends in Telephone Service,* at Table 5.3.
[69] *Id.*
[70] U.S. Census Bureau, 2007 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition), available at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517110&search=2007%20NAICS%20Search.*
[71] 13 CFR 121.201, NAICS code 517110.

this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted pursuant to the *FNPRM.*

32. Cable Companies and Systems. The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide.[72] Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.[73] In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[74] Industry data indicate that, of 6,635 systems nationwide, 5,802 systems have fewer than 10,000 subscribers, and an additional 302 systems have 10,000–19,999 subscribers.[75] Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the *FNPRM.*

33. All Other Telecommunications. The Census Bureau defines this industry as including ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' [76] The SBA has developed a small business size standard for this category; that size standard is $30.0 million or less in average annual receipts.[77] According to Census Bureau data for 2007, there were 2,623 firms in this category that operated for the entire year.[78] Of this total, 2478 establishments had annual receipts of under $10 million and 145 establishments had annual receipts of $10 million or more.[79] Consequently, we estimate that the majority of these firms are small entities that may be affected by our action in this *FNPRM.*

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

34. While this *FNPRM* seeks comment on changes to the Commission's current regulatory fee methodology and schedule, any changes to the regulatory fee methodology will not impact the information collection, reporting, and recordkeeping requirements. If a new fee is ultimately adopted, the Commission's current online procedures for payment of regulatory fees will apply for the collection and reporting of these fees.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant

1. Alternatives Considered

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[80]

36. Toll free numbers allow callers to reach the called party without being charged for the call; instead the charge for the call is paid by the called party (the toll free subscriber).[81] A Responsible Organization (RespOrg) is a company that manages toll free telephone numbers for subscribers. They use the SMS/800 data base to verify the availability of specific numbers and to reserve the numbers for subscribers. *See* 47 CFR 52.101(b). It is possible that our proposal, if adopted, would result in increasing or imposing a regulatory fee burden on small entities such as RespOrgs. The actual fee amount or financial burden, however, will be determined after comments are received and evaluated. Our proposal exempts entities that are already paying regulatory fees, such as Interexchange Carriers, but would assess fees on other Responsible Organizations that do not currently pay any regulatory fees. In addition, it is possible that many of the RespOrgs may also qualify for de minimis status if their total regulatory fee obligation is $500 or less, beginning in FY 2015. The Commission seeks comment on the abovementioned proposal, including methods on how to minimize significant economic impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

37. None.

IV. Ordering Clauses

38. Accordingly, *it is ordered* that, pursuant to Sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, and 303(r), this *Further Notice of Proposed Rulemaking is hereby adopted.*

39. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Further Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–24939 Filed 10–24–14; 8:45 am]

BILLING CODE 6712–01–P

[72] *See* 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *See Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation,* MM Docket Nos. 92–266, 93–215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, para. 28 (1995).

[73] These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

[74] *See* 47 CFR 76.901(c).

[75] WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, ''U.S. Cable Systems by Subscriber Size,'' page F–2 (data current as of Oct. 2007). The data do not include 851 systems for which classifying data were not available.

[76] U.S. Census Bureau, ''2007 NAICS Definitions: 517919 All Other Telecommunications,'' available at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517919&search=2007%20NAICS%20Search.*

[77] 13 CFR 121.201, NAICS code 517919.

[78] U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 4, ''Establishment and Firm Size: Receipts Size of Firms for the United States: 2007 NAICS Code 517919'' (issued Nov. 2010).

[79] *Id.*

[80] 5 U.S.C. 603(c)(1)–(c)(4).

[81] 47 U.S.C. 52.101(e), (f).

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–179, RM–11736; DA 14–1502]

Television Broadcasting Services; Denver, Colorado

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Entravision Holdings, LLC (''Entravision''), the licensee of station KCEC(TV), channel 51, Denver, Colorado, requesting the substitution of channel 26 for channel 51 at Denver. While the Commission instituted a freeze on the acceptance of full power television rulemaking petitions requesting channel substitutions in May 2011, it subsequently announced that it would lift the freeze to accept such petitions for rulemaking seeking to relocate from channel 51 pursuant to a voluntary relocation agreement with Lower 700 MHz A Block licensees. KCEC(TV) has entered into such a voluntary relocation agreement with T-Mobile USA, Inc. and states that operation on channel 26 would eliminate potential interference to and from wireless operations in the adjacent Lower 700 MHZ A Block.

DATES: Comments must be filed on or before November 26, 2014, and reply comments on or before December 11, 2014.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Barry A. Friedman, Esq., Thompson Hine, LLP, Suite 700, 1919 M Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 14–179, adopted October 16, 2014, and released October 17, 2014. The full text of this document is available for public 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 will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via email *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). 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 (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rules

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.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Colorado is amended by adding channel 26 and removing channel 51 at Denver.

[FR Doc. 2014–25529 Filed 10–24–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 79, No. 207
Monday, October 27, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Request for Proposals: 2015 Wood Innovations Funding Opportunity

AGENCY: Forest Service.

ACTION: Request for proposals.

SUMMARY: The U.S. Forest Service (Forest Service) requests proposals to substantially expand and accelerate wood energy and wood products markets throughout the United States to support forest management needs on National Forest System and other forest lands. The grants and cooperative agreements awarded under this announcement will support the Agricultural Act of 2014 (Public Law 113–79), Rural Revitalization Technologies (7 U.S.C. 6601), and the nationwide challenge of disposing of hazardous fuels and other wood residues from the National Forest System and other forest lands in a manner that supports wood energy and wood products markets.

DATES: The application deadline is Friday, January 23, 2015 at 11:59 p.m. The Forest Service will hold an informational Pre-Application Webinar on November 5, 2014 at 1:00 p.m. Eastern Standard Time to present this funding opportunity and answer questions. The link is: *https://www.livemeeting.com/cc/usda/join?id=BGW262&role=attend&pw=tK-%287%26Dwt.*

FOR FURTHER INFORMATION: Information on application requirements, eligibility, and prerequisites for consideration are available at *www.na.fs.fed.us/werc/* and *www.grants.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 800–877–8339 24 hours a day, every day of the year, including holidays.

Please direct questions regarding this announcement to the appropriate Forest Service Regional Biomass Coordinator listed in the table below. If you have questions that a Coordinator is unable to assist you with, please contact Ed Cesa (*ecesa@fs.fed.us* or (304) 285–1530) or Steve Milauskas (*smilauskas@fs.fed.us* or (304) 487–1510) at the Wood Education and Resource Center in Princeton, WV.

TABLE 1—FOREST SERVICE REGIONAL BIOMASS COORDINATORS

Forest Service Region 1 (MT, ND, Northern ID, & Northwestern SD), ATTN: Angela Farr, Forest Service Northern Region (R1), Federal Building, 200 East Broadway, Missoula, MT 59802, *afarr@fs.fed.us,* (406) 329–3521.	Forest Service Region 2 (CO, KS, NE, SD, & WY), ATTN: Mike Eckhoff, Forest Service, Rocky Mountain Region (R2), 740 Simms St, Golden, CO 80401–4702, *mike.eckhoff@colostate.edu,* (970) 219–2140.
Forest Service Region 3 (AZ & NM), ATTN: Walter Dunn, Forest Service, Southwestern Region (R3), 333 Broadway Blvd. SE., Albuquerque, NM 87102, *wdunn@fs.fed.us,* (505) 842–3425.	Forest Service Region 4 (Southern ID, NV, UT, & Western WY), ATTN: Scott Bell, Forest Service, Intermountain Region (R4), Federal Building, 324 25th St, Ogden, UT 84401, *sbell@fs.fed.us,* (801) 625–5259.
Forest Service Region 5 (CA, HI, Guam, and Trust Territories of the Pacific Islands), ATTN: Larry Swan, Forest Service, Pacific Southwest Region (R5), 1323 Club Drive, Vallejo, CA 94592, *lswan01@fs.fed.us,* (707) 562–8917.	Forest Service Region 6 (OR & WA), ATTN: Ron Saranich, Forest Service, Pacific Northwest Region (R6), 1220 SW 3rd Ave., Portland, OR 97204, *rsaranich@fs.fed.us,* (503) 808–2346.
Forest Service Region 8 (AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, Virgin Islands, & Puerto Rico), ATTN: Dan Len, Forest Service, Southern Region (R8), 1720 Peachtree Rd NW., Atlanta, GA 30309, *dlen@fs.fed.us,* (404) 347–4034.	Forest Service Region 9/Northeastern Area (CT, DL, IL, IN, IA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, WV, WI), ATTN: Lew McCreery, Forest Service, Northeastern Area—S&PF, 180 Canfield St, Morgantown, WV 26505, *lmccreery@fs.fed.us,* (304) 285–1538.
Forest Service Region 10 (Alaska), ATTN: Daniel Parrent, Forest Service, Alaska Region (R10), 161 East 1st Avenue, Door 8, Anchorage, AK 99501, *djparrent@fs.fed.us,* (907) 743–9467.	

Grant Program Overview:

Available Funding: The Forest Service plans to award approximately $5 million under this announcement. The maximum for each award is generally $250,000; however, the Forest Service may consider awarding more than $250,000 to a proposal that shows far reaching or significant impact. All awards are based on availability of funding.

Eligible Applicants: Eligible applicants are for-profit entities; State, local, and Tribal governments; school districts; communities; not-for-profit organizations; or special purpose districts (e.g., public utilities districts, fire districts, conservation districts, or ports).

Matching Requirements: A minimum 35:65 match is required. That is, an applicant must contribute at least 35 percent of the total project cost. The Forest Service's share of the project will be no more than 65 percent of the total. The applicant's match or contribution must come from non-Federal source funds. The match may include cash or in-kind contributions. All matching funds must be *directly* related to the proposed project. The source of third-party contributions must be identified in an accompanying letter of support.

Deadline: Friday, January 23, 2015 at 11:59 p.m.

Award Information: Grants and Cooperative Agreements awarded under this announcement are typically awarded for two to three years. Projects of greater complexity may be awarded for up to five years. The Forest Service will notify a recipient if their proposal is selected for award and indicate whether any additional forms or information is required and an estimate

of when they may proceed. The Federal government will incur no legal obligation until appropriated funds are available and a Forest Service Grant Officer returns a fully executed award letter to a successful applicant.

Note: An award to a for-profit entity will generate an Internal Revenue Service (IRS) Form 1099 Miscellaneous Income that will be filed with the IRS and provided to the awardee. The Forest Service expresses no opinion on the taxability, if any, of the awarded grant funds.

Reporting Requirements: A Federal Financial Report (SF–425) and progress report are required on an annual calendar year basis and must be submitted to the appropriate Grant Officer. A detailed final report is required and should include: (1) Final Summary Report (brief overview of accomplishments of the goals and objectives described in the approved award); and (2) Final Accomplishment Report (includes assessments, reports, case studies, and related documents that resulted from project activities). Ten percent of awarded funds will be withheld until an acceptable final report is approved by the Forest Service. Forest Service will post final reports on the Wood Education and Resource Center Web site.

Wood Innovations Grant Categories

The Forest Service seeks proposals that significantly increase or stimulate markets for wood energy and wood products in a manner that has a measurable and meaningful long-term impact on National Forest System and other forest lands that need robust wood supply markets for low value wood.

This Request for Proposal focuses on the following priorities to:

- Reduce hazardous fuels and improve forest health on National Forest System and other forest lands.
- Reduce costs of forest management on all land types.
- Promote economic and environmental health of communities.

Funding will be awarded to two separate categories outlined as follows.

Grant Category 1: Expansion of Wood Energy Markets

The intent of this category is to stimulate, expand, or support wood energy markets that depend on forest residues or forest byproducts generated from all land types. Preference will be given to projects that make use of low value wood generated from National Forest System and other forest lands with high wildfire risk.

The most competitive proposals will generate immediate and measurable on-the-ground results or substantially stimulate adoption of wood energy. Research based proposals or proposals incorporating technologies that are not commercially proven will *not* be competitive under this category.

Grant Category 1 is separated into the following three main project types:

1. Statewide Wood Energy Teams

Establish a statewide wood energy team that provides technical, financial, and outreach assistance for wood energy projects. Example team activities include, but are not limited to, holding public workshops, conducting prefeasibility and preliminary engineering assessments, offering training for Architects and Engineers to scope and design wood energy systems, and identifying financing opportunities.

Note: You can view the activities of existing Statewide Wood Energy Teams at: *http://na.fs.fed.us/werc/swet/.* Proposals to establish a Statewide Wood Energy team in the following states will not be considered because a team is already in place: AK, AZ, CA, CO, ID, KY, MN, MT, NH, NM, NY, OR, VT, WA, WI, and WV.

2. Wood Energy Projects

Complete engineering designs, cost analyses, permitting, or other requirements for wood energy projects that are necessary in the later stages of project development to secure financing.

Note: Preference will be given to proposals that bundle or address multiple wood energy projects. Projects in early project scoping or planning that need preliminary analyses, pre-feasibility assessments, or other assistance that is typical in the early phases of project development will not be competitive.

3. Wood Energy Markets

Expand or support wood energy markets that use low value wood residues for heating, cooling, or electricity production. Projects can include, but are not limited to the following:

a. Develop a cluster of wood energy projects in a geographic area or specific sector (e.g., prisons, hospitals, universities, manufacturing sector, or industrial sector).

b. Evaluate and recommend a commercial, institutional, or industrial sector most suitable for wood energy that has not traditionally used wood for heating, cooling, or electricity.

c. Conduct a feasibility assessment of several municipalities that would be ideal candidates to construct a district wood energy system for heating, cooling, and electricity.

d. Develop innovative financing or new funding opportunities for wood energy development.

e. Overcome market barriers and stimulate expansion of wood energy in the commercial sector.

Grant Category 2: Expansion of Wood Products Markets

The intent of this category is to promote markets that create or expand the demand for non-energy based wood products. Preference will be given to projects that support commercial building markets or other markets that use existing or innovative wood products. Wood energy projects will not be considered under this category because those projects can apply for funding under Grant Category 1.

Projects can include, but are not limited to the following:

1. Develop training on construction or manufacturing techniques that use new building materials or building designs (e.g., structural roundwood or cross-laminated timbers).
2. Conduct a market analysis and perform targeted marketing to expand the use of wood materials in commercial construction (e.g., buildings or bridges).
3. Establish statewide wood action teams that focus on using wood in support of Forest Service Regional/Area priorities and State Forest Action Plans.
4. Facilitate establishment of new building codes to support expanded use of wood materials.
5. Demonstrate the beneficial characteristics of wood as a green building material, including investments in life cycle assessments and environmental product declarations for wood products.
6. Develop a carbon trading market protocol for wood building materials that accounts for the fossil carbon offset from using wood.
7. Develop markets to use unexpected increases in volumes of wood caused by natural events (e.g., insects, diseases, hurricanes, tornadoes, and ice storms).
8. Develop manufacturing capacity and markets for wood products that support forest ecosystem restoration, such as biochar, biofuel, mulch, and soil amendments.

The above list of examples is not exhaustive and is intended only to give you a sense of the types of projects considered.

Funding for construction projects or equipment purchases *will not be funded* under either Grant Category.

Application Process

Application information is available at the following two Web sites:

- *http://www.na.fs.fed.us/werc/* (under Wood Innovations)

• *www.grants.gov* (Search: Opportunity: USDA–FS–WERC–2015 or CFDA 10.674 Wood Utilization Assistance, Agency Forest Service).

Applicants should consult with the appropriate Forest Service Regional Biomass Coordinator to develop proposals (see Table 1 of Contacts section). Proposals should align with Forest Service Regional/Area priorities and State Forest Action Plans.

Application Submission: Applications must be submitted by email to the respective Forest Service Regional Biomass Coordinator listed in the Contacts section of this announcement by 11:59 p.m. on January 23, 2015. NO EXCEPTIONS. Paper submittals will not be accepted.

Note: Your Forest Service Region is generally determined by the State where the majority of the proposed work will be conducted. Two Forest Service regions may exist in one State. You can locate your Forest Service region at: http://www.fs.fed.us/maps/products/guide-national-forests09.pdf. Consult with a Forest Service Regional Biomass Coordinator if you are not certain which Region applies.

Application Format and Content: Each submittal must consist of two separate PDF files, preferably in a searchable format, as follows:

• *PDF file #1:* Application Part 1 (Cooperator Contact Information) and Application Part 2 (Proposal and Appendices).

• *PDF file #2:* Application Part 3 (Required Financial Forms, which must include SF–424, SF–424A, SF–424B, AD–1047, AD–1049 (or AD–1052 for States and State agencies), AD–3030, FS–1500–35 (certificate regarding lobbying activities), and Financial Capability Questionnaire FS–1500–22).

Note: The applicant must include a DUNS number and register at www.sam.gov to receive a federal award.

Application Parts 1, 2, and 3 can be found at *http://www.na.fs.fed.us/werc/* under Wood Innovations. *S*ubmit all application information at the same time.

The Proposal in Application Part 2 must be presented on 8.5 x 11 single-spaced pages with 1-inch margins using 12-point Times New Roman font. A maximum of 11 pages for items #1 through #5 listed below will be accepted for Application Part 2:

1. Project Narrative (4 pages):

• The project narrative should provide a clear description and anticipated impact of the project, including the following where appropriate: (1) Magnitude of the impact on markets generating renewable energy or creating non-energy wood products; (2) Benefits to National Forest System lands (e.g., tons of biomass removed in fire-prone areas, air quality improvements, cost savings for forest management, or carbon offsets); (3) Source of biomass removed from forested areas broken out by land ownership; and (4) Job creation and retention.

• Describe methods and reasoning for selecting areas of focus (e.g., geographic clusters, sector-based clusters, or larger projects to be targeted).

• Specify the number of years requested for the award.

2. Program of Work (3 pages):

• Describe statement of need, goals, and objectives.

• Describe methods to accomplish goals and objectives.

• Specify projected accomplishments and deliverables.

• Discuss communication and outreach activities that create social acceptance in communities or markets where projects are targeted.

• Describe monitoring plan, which must include annual and final reports.

• Discuss all relevant aspects of the project, such as preliminary assessments, resource inventories, and success stories.

• Describe projected impact on wood energy or wood products markets.

• Include a timeline for key activities.

3. Budget Summary and Justification in Support of SF–424A (2 pages);

• Address proposed expenditures in relation to the proposed program of work.

• Specify cash and in-kind match, other Federal funds, and staff time that will help accomplish the program of work.

• Describe the fee structure if fee-for-services is planned.

4. Qualifications of Staff, Organization, and Partners (1.5 page):

• Include key personnel qualifications, certifications, and relevant experience.

• Describe experience and success of any prior funded Forest Service projects.

5. Project Outcomes, Annual Progress Reports, and Final Reports (0.5 pages):

• List anticipated project outcomes and accomplishments.

• Describe types of reports, documents, and success stories that will be provided at the end of the project to be posted on the Wood Education and Resource Center Web site.

Documentation exceeding the designated page limit requirements for any given section will not be considered. Appendices should be very well organized so that a reviewer can readily find information of interest. Include information in the Appendices that will help a review panel better understand and evaluate your project. Below are examples of information to include in the Appendices:

• Feasibility Assessments

• Woody Biomass Resource Supply Assessment

• If appropriate, quotes for Professional Engineering Services and rationale for selection of contractor, if already selected.

• Letters of Support from Partners, Individuals, or Organizations, especially those playing a key role or providing any matching funds. Letters of support should display the degree of collaboration occurring between the different entities engaged on the project. These letters must include partner commitments of cash or in-kind services from all those listed in the SF–424 and SF–424A.

• Miscellaneous, such as schematics, engineering designs, or executive summaries of reports.

• List of all other Federal funds received for this project within the last 3 years (include agency, program name, and dollar amount).

Proposal Evaluation

All applications will be screened to ensure basic compliance with the directions in this announcement. Applications not following the directions will be disqualified without appeal. A panel of Federal experts and their designees will perform a thorough technical review of eligible proposals and evaluate the proposals according to the criteria outlined in this announcement. Regional Foresters and the Northeastern Area Director will rank proposals according to regional and area priorities. The panel, Regional Foresters, and Northeastern Area Director will submit their recommendations to the Forest Service national leadership for a final decision.

Evaluation Criteria and Point System: Reviewers will assign points to each proposal based on its ability to meet the following criteria. A maximum of 100 total points can be earned per proposal.

• Alignment with goals and objectives of this Request for Proposals. (20 points)

• Technical approach, deliverables, and timetable. (30 points)

• Impact on wood energy or wood products markets. (20 points)

• Qualifications, relevant experience, and roles of team members. (20 points)

• Leveraging of federal funds. (10 points)

Dated: September 19, 2014.

James Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. 2014–25514 Filed 10–24–14; 8:45 a.m.]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Islands Region Vessel and Gear Identification Requirements.

OMB Control Number: 0648–0360.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 344.

Average Hours per Response: Vessel marking, 45 minutes except for purse seine vessels, 1 hour, 15 minutes. Gear, 5 minutes for each piece of gear.

Burden Hours: 2,352.

Needs and Uses: This request is for revision and extension of a currently approved information collection.

Regulations at 50 CFR 665.16 require that all U.S. vessels with Federal permits fishing for Western Pacific fishery management unit species display identification markings on the vessel and gear, as specified in 50 CFR 665 and 50 CFR 300. Vessels registered for use with a permit issued under Subparts B through E and Subparts G through I of 50 CFR 665, must display the vessel's official number on both sides of the deckhouse or hull, and on an appropriate weather deck. Vessels fishing in the Western and Central Pacific Convention (WCPFC) Area with a WCPFC Area Endorsement, or required to have a WCPFC Area Endorsement, must comply with the regulations at 50 CFR 300.14 and 50 CFR 300.217. These regulations require that vessels must display their international radio call sign on both sides of the deckhouse or hull, and on an appropriate weather deck, unless specifically exempted. Regulations at 50 CFR 300.35 require that vessels fishing under the South Pacific Tuna Treaty must display their international radio call sign on the hull, the deck, and on the sides of auxiliary equipment such as skiffs and helicopters. The numbers must be a specific size at specified locations. The display of the identifying numbers aids in fishery law enforcement.

Western Pacific fisheries regulations at 50 CFR 665.128, 665.228, 665.428, 665,628 and 665.804 require that certain fishing gear must be marked. In the pelagic longline fisheries, the vessel operator must ensure that the official number of the vessel is affixed to every longline buoy and float. In the coral reef ecosystem fisheries, the vessel number must be affixed to all fish and crab traps. The marking of gear links fishing or other activity to the vessel, aids law enforcement, and is valuable in actions concerning the damage, loss of gear, and civil proceedings.

Revision: New permit programs now require vessel and gear marking for their vessels.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 21, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–25382 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

Manufacturing Council

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

ACTION: Notice of extension of the application period for membership on the Manufacturing Council.

SUMMARY: On September 10, 2014 the Department of Commerce published a notice in the **Federal Register** seeking applications for appointment of up to 30 members of the Manufacturing Council (Council) for a two-year term to begin in December 2014. The September 10, 2014 notice provided that all applications must be received by the Office of Advisory Committees and Industry Outreach of the Department of Commerce by close of business on October 14, 2014. This notice extends the application period in order to provide the public with an additional opportunity to submit applications. The eligibility and evaluation criteria contained in the September 10, 2014 notice shall continue to apply. The purpose of the Council is to advise the Secretary of Commerce on matters relating to the U.S. manufacturing sector and to provide regular communication between Government and the manufacturing sector.

The Industry and Analysis unit of the International Trade Administration oversees the administration of the Council and collaborates with Congress and other stakeholders to increase the global competitiveness of the U.S. manufacturing sector.

DATES: All applications for immediate consideration for appointment must be received by the Office of Advisory Committees and Industry Outreach by 5:00 p.m. Eastern Daylight Time (EDT) on Friday, November 14, 2014. After that date, ITA will continue to accept applications under this notice for a period of up to two years from the deadline to fill any vacancies that may arise.

ADDRESSES: Please submit applications via email to *mc@trade.gov* or by mail to Office of Advisory Committees and Industry Outreach, Manufacturing Council Executive Secretariat, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Office of Advisory Committees and Industry Outreach, Manufacturing Council Executive Secretariat, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *mc@trade.gov.* Additional information is also available on the Manufacturing Council Web site at *http://trade.gov/manufacturingcouncil.*

SUPPLEMENTARY INFORMATION: The Office of Advisory Committees and Industry Outreach is extending the application deadline for accepting applications for 30 positions on the Council for a two-year term beginning in December of 2014. The criteria and procedures for selecting the members contained in the September 10, 2014 notice continue to apply and are republished herein for convenience.

The Council advises the Secretary of Commerce on matters relating to the U.S. manufacturing industry, including on government policies and programs that affect the U.S. manufacturing industry and identifying and recommending programs and policies to

help United States manufacturers maintain competitiveness both at home and abroad.

The Council provides a means of ensuring regular contact between the U.S. Government and the manufacturing sector, acting as a liaison among the stakeholders represented by the membership, and may provide a forum for those stakeholders on current and emerging issues in the manufacturing sector. The Council shall recommend ways to ensure that the United States remains the preeminent destination for investment in manufacturing throughout the world.

The Council shall report to the Secretary on its activities and recommendations regarding United States manufacturing. In creating the reports, the Council should: Survey and evaluate the manufacturing activities of the stakeholders represented by the membership; identify and examine specific problems facing the manufacturing industry; examine the needs of the industry to expand the Council's efforts; and recommend specific solutions to these problems and needs.

The Council functions solely as an advisory committee in accordance with the provisions of FACA.

Members will be selected in accordance with applicable Department of Commerce guidelines based on each individual's ability to advise the Secretary of Commerce on matters relating to the U.S. manufacturing sector, to act as a liaison among the stakeholders represented by the membership, and to represent the viewpoint of those stakeholders on current and emerging issues in the manufacturing sector. In assessing this ability, the Department will consider such factors as, but not limited to, the candidate's proven experience in promoting, developing and marketing programs in support of manufacturing industries, job creation in the manufacturing sector, and the candidate's proven abilities to manage manufacturing organizations. Given the duties and objectives of the Council, the Department particularly seeks applicants who are active manufacturing executives (Chief Executive Officer, President, or a comparable level of responsibility) who are leaders within their local manufacturing communities and industry sectors. The Council's membership shall reflect the diversity of American manufacturing by representing a balanced cross-section of the U.S. manufacturing industry in terms of industry sectors, geographic locations, demographics, and company size, particularly seeking the representation of small- and medium-sized enterprises.

The Secretary of Commerce appoints all Council members. All Council members serve at the discretion of the Secretary of Commerce. Council members shall serve in a representative capacity, representing the views and interests of a U.S. entity in the manufacturing industry and its particular sector. For the purposes of eligibility, a U.S. entity is defined as a firm incorporated in the United States (or an unincorporated firm with its principal place of business in the United States) that is (a) majority controlled (more than 50% ownership interest and/or voting stock) by U.S. citizens or by another U.S. entity or (b) majority controlled (more than 50% ownership interest and/or voting stock) directly or indirectly by a foreign parent company.

Because Council members serve in a representative capacity, expressing the views and interests of a U.S. entity, they are therefore not Special Government Employees. Council members receive no compensation for their participation in Council activities. Members participating in Council meetings and events are responsible for their travel, living and other personal expenses. Meetings are held regularly and not less than annually, usually in Washington, DC. Members are required to attend a majority of the Council's meetings. To be considered for membership, an applicant must provide the following information, statements and documents. Incomplete applications cannot be considered.

1. Name and title of the individual requesting consideration.

2. A sponsor letter from the applicant on his or her entity's letterhead containing a brief statement of why the applicant should be considered for membership on the Council. This sponsor letter should also address the applicant's manufacturing-related experience, including any manufacturing trade policy experience.

3. The applicant's personal resume.

4. An affirmative statement that the applicant meets all eligibility criteria.

5. An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

6. Information regarding the ownership and control of the entity to be represented, including the governing structure and stock holdings, as appropriate, demonstrating compliance with the criteria set forth above.

7. The entity's size, place of incorporation or principal place of business, additional manufacturing, innovation and R&D locations, product line, major markets in which the entity operates, and the entity's exporting experience.

8. Information on the challenges the entity faces to stay competitive as a U.S. manufacturer, and the priorities the entity would hope to see the Manufacturing Council address during their term.

9. Please include all relevant contact information such as mailing address, fax, email, phone number, and support staff information where relevant.

Dated: October 21, 2014.

Jennifer Pilat,

Executive Secretary, The Manufacturing Council.

[FR Doc. 2014–25531 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment

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

SUMMARY: The Department of Commerce (Department) seeks public comment on any subsidies, including stumpage subsidies, provided by certain countries exporting softwood lumber or softwood lumber products to the United States during the period January 1, 2014 through June 30, 2014.

DATES: Comments must be submitted within thirty days after publication of this notice.

ADDRESSES: *See* the Submission of Comments section below.

FOR FURTHER INFORMATION CONTACT: James Terpstra, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3965.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2008, section 805 of Title VIII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008) was enacted into law. Under this provision, the Secretary of Commerce is mandated to submit to the appropriate Congressional committees a report every 180 days on any subsidy provided by countries exporting softwood lumber or

softwood lumber products to the United States, including stumpage subsidies.

The Department submitted its last subsidy report on June 16, 2014. As part of its newest report, the Department intends to include a list of subsidy programs identified with sufficient clarity by the public in response to this notice.

Request for Comments

Given the large number of countries that export softwood lumber and softwood lumber products to the United States, we are soliciting public comment only on subsidies provided by countries whose exports accounted for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under Harmonized Tariff Schedule code 4407.1001 (which accounts for the vast majority of imports), during the period January 1, 2014 through June 30, 2014. Official U.S. import data published by the United States International Trade Commission Tariff and Trade DataWeb indicate that only one country, Canada, exported softwood lumber to the United States during that time period in amounts sufficient to account for at least one percent of U.S. imports of softwood lumber products. We intend to rely on similar previous six-month periods to identify the countries subject to future reports on softwood lumber subsidies. For example, we will rely on U.S. imports of softwood lumber and softwood lumber products during the period July 1, 2014 through December 31, 2014, to select the countries subject to the next report.

Under U.S. trade law, a subsidy exists where an authority: (i) Provides a financial contribution; (ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994; or (iii) makes a payment to a funding mechanism to provide a financial contribution to a person, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments, and a benefit is thereby conferred.[1]

Parties should include in their comments: (1) The country which provided the subsidy; (2) the name of the subsidy program; (3) a brief description (at least 3–4 sentences) of the subsidy program; and (4) the government body or authority that provided the subsidy.

[1] *See* section 771(5)(B) of the Tariff Act of 1930, as amended.

Submission of Comments

Persons wishing to comment should file comments by the date specified above. Comments should only include publicly available information. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially due to business proprietary concerns or for any other reason. The Department will return such comments or materials to the persons submitting the comments and will not include them in its report on softwood lumber subsidies. The Department requests submission of comments filed in electronic Portable Document Format (PDF) submitted on CD–ROM or by email to the email address of the EC Webmaster, below.

The comments received will be made available to the public in PDF on the Enforcement and Compliance Web site at the following address: *http://enforcement.trade.gov/sla2008/sla-index.html.* Any questions concerning file formatting, access on the Internet, or other electronic filing issues should be addressed to Laura Merchant, Enforcement and Compliance Webmaster, at (202) 482–0367, email address: *webmaster_support@trade.gov.*

All comments and submissions in response to this Request for Comment should be received by the Department no later than 5 p.m. Eastern Standard Time on the above-referenced deadline date.

Dated: October 20, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–25476 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD585

Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, and Chartering Permits; Letters of Acknowledgment

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

ACTION: Notice of intent; request for comments.

SUMMARY: NMFS announces its intent to issue Exempted Fishing Permits (EFPs), Scientific Research Permits (SRPs), Display Permits, Letters of Acknowledgment (LOAs), and Chartering Permits for Atlantic highly migratory species (HMS) in 2015. Exempted fishing permits and related permits would authorize collection of a limited number of tunas, swordfish, billfishes, and sharks (collectively known as HMS) from Federal waters in the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico for the purposes of scientific data collection, bycatch research, and public display. Chartering permits allow the collection of HMS on the high seas or in the Exclusive Economic Zone of other nations under certain conditions. Generally, EFPs and related permits will be valid from the date of issuance through December 31, 2015, unless otherwise specified, subject to the terms and conditions of individual permits.

DATES: Written comments on these activities received in response to this notice will be considered by NMFS when issuing EFPs and related permits and must be received on or before November 26, 2014.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Email: nmfs.hms.efp2015@noaa.gov.* Include in the subject line the following identifier: 0648–XD585.
- *Mail:* Craig Cockrell, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, phone: (301) 427–8503, fax: (301) 713–1917.

SUPPLEMENTARY INFORMATION: Issuance of EFPs and related permits are necessary for the collections of HMS for scientific research; the acquisition of information and data; the enhancement of safety at sea; the purpose of collecting animals for public education or display; and the investigation of bycatch, economic discards, and regulatory discards. These permits exempt permit holders from regulations (e.g., fishing seasons, prohibited species, authorized gear, closed areas, and minimum sizes) that may otherwise prohibit the collection of HMS. Collection under EFPs, SRPs, LOAs, display, and chartering permits represents a small portion of the overall fishing mortality for HMS, and this mortality is counted against the quota of the species harvested, as appropriate and applicable. The terms and conditions of individual permits are unique; however, all permits will include reporting requirements, limit the number and/or species of HMS to be collected, and only authorize collection in Federal waters of

the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

EFPs and related permits are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 635.32 govern scientific research activity, exempted fishing, chartering arrangements, and exempted public display and educational activities with respect to Atlantic HMS. Since the Magnuson-Stevens Act does not define fishing to include scientific research, scientific research is exempt from this statute, and NMFS does not issue EFPs for bona fide research activities (e.g., research conducted from a research vessel and not a commercial or recreational fishing vessel) involving species that are only regulated under the Magnuson-Stevens Act (e.g., most species of sharks) and not under ATCA. NMFS generally does not consider recreational or commercial vessels to be bona fide research vessels. However, if the vessels have been contracted only to conduct research and not participate in any commercial or recreational fishing activities during that research, NMFS may consider those vessels as bona fide research platforms while conducting the specified research. For example, in the past, NMFS has determined that commercial pelagic longline vessels assisting with population surveys for sharks may be considered ''bona fide research vessels'' while engaged only in the specified research. NMFS requests copies of scientific research plans for these activities and acknowledges the activity by issuing an LOA to researchers to indicate that the proposed activity meets the definition of research. Examples of research conducted under LOAs include tagging and releasing of sharks during bottom longline surveys to understand the distribution and seasonal abundance of different shark species, and collecting and sampling sharks caught during trawl surveys for life history studies.

Scientific research is not exempt from regulation under ATCA. NMFS issues SRPs which authorize researchers to collect HMS from bona fide research vessels for collection of species managed under this statute (e.g., tunas, swordfish, billfish, and some species of sharks). One example of research conducted under SRPs consists of scientific surveys of HMS conducted from NOAA research vessels. EFPs are issued to researchers collecting ATCA and Magnuson-Stevens Act-managed species and conducting research from commercial or recreational fishing vessels. NMFS regulations concerning the implantation or attachment of archival tags in Atlantic HMS require scientists to report their activities associated with these tags. Examples of research conducted under EFPs include deploying pop-up satellite archival tags on billfish, sharks, and tunas to determine migration patterns of these species; conducting billfish larval tows to determine billfish habitat use, life history, and population structure; and determining catch rates and gear characteristics of the swordfish buoy gear fishery.

NMFS is also seeking public comment on its intent to issue display permits for the collection of sharks and other HMS for public display in 2015. Collection of sharks and other HMS sought for public display in aquaria often involves collection when the commercial fishing seasons are closed, collection of otherwise prohibited species, and collection of fish below the regulatory minimum size. NMFS established a 60-metric ton (mt) whole weight (ww) (approximately 3,000 sharks, although conversion factors, and thus final numbers, differ by species) quota for the public display and research of sharks (combined) in the final Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). Out of this 60 mt ww quota, 1.4 mt ww is set aside to collect sandbar sharks under a display permit and 1.4 mt ww is set aside to collect sandbar sharks under EFPs created in 2008 under Amendment 2 to the 2006 Consolidated HMS FMP. Public display of dusky sharks is prohibited; NMFS considers collection of dusky sharks for research under an EFP and/or SRP on a case-by-case basis. The environmental effects of these quotas have been analyzed in conjunction with other sources of mortality in the 2006 Consolidated HMS FMP and its amendments, and NMFS has determined that harvesting this amount for public display and scientific research will not have a significant impact on the stocks. The number of sharks harvested for display and research has remained under the annual 60-mt ww quota every year since establishment of the quota. In 2013, permits issued by NMFS requested approximately 30 percent of the 60 mt ww quota for sharks. Amendment 3 to the 2006 Consolidated HMS FMP established a separate set-aside quota of 6 mt ww for smoothhound sharks (i.e., smooth dogfish, Florida smoothhounds, and Gulf smoothhounds) taken for research purposes, which would be in addition to the overall 60-mt ww quota for the public display and research of all sharks. At this time, the smoothhound shark research set-aside quota is not yet effective and their harvest resulting from research activities is not yet deducted from the set-aside quota for public display and research of sharks. However, in Amendment 9 to the 2006 Consolidated HMS FMP, NMFS proposes to establish an effective date for the research set-aside for smoothhound sharks (August 7, 2014, 79 FR 46217). Once Amendment 9 is finalized, NMFS expects to issue EFPs and related permits for the public display and research of smoothhound sharks, as appropriate.

The majority of EFPs and related permits described in this annual notice relate to scientific sampling and tagging of Atlantic HMS, within existing quotas, the impacts of which have been previously analyzed in various environmental assessments and environmental impact statements for Atlantic HMS. NMFS intends to issue these permits without additional opportunity for public comment beyond what is provided in this notice. Occasionally NMFS receives applications for research activities that were not anticipated, or for research that is outside the scope of general scientific sampling and tagging of Atlantic HMS, or rarely, for research that is particularly controversial. Should NMFS receive such applications; NMFS will provide additional opportunity for public comment. Additionally, if the application from the purse seine vessel requests exemptions that are significantly different than those provided in the 2014 permit, NMFS will provide additional opportunity for public comment.

In 2015, NMFS expects to once again receive an application for an EFP from the owner of an Atlantic bluefin tuna purse seine vessel. A 2014 application requested an exemption from the annual incidental purse seine retention limit on the harvest of large medium Atlantic bluefin tuna. On June 30, 2014, NMFS published a notice (79 FR 36728) requesting comments on the application and the issuance of a permit. NMFS received several comments in support of and opposition to that EFP, and on August 1, 2014, NMFS issued an EFP to the vessel owner. The 2014 EFP contained the following terms and conditions: (1) Mandatory observer coverage on all trips, (2) all dead bluefin tuna at haul back must available to observers for sampling, (3) sub-legal bluefin tuna that are released alive and in good condition will not be counted against the vessel's quota, (4) any sub-legal bluefin tuna that are dead at

haulback may not be released by the vessel operator, and (5) only the observer has discretion over dead sub-legal fish that may be released without sampling. NMFS expects to receive a similar request for an EFP in 2015 and requests comments, via this notice, on the continuation of such an EFP with similar terms and conditions. NMFS will consider the information and data gathered through the EFP this year and will provide notice and an additional opportunity for public comment on the purse seine EFP application if new information warrants additional comment or if the application differs substantively from the 2014 application.

NMFS is also requesting comments on chartering permits considered for issuance in 2015 to U.S. vessels fishing for HMS while operating under chartering arrangements with foreign countries. NMFS has not issued any chartering permits since 2004. A chartering arrangement is a contract or agreement between a U.S. vessel owner and a foreign entity by which the control, use, or services of a vessel are secured for a period of time for fishing for Atlantic HMS. Before fishing under a chartering arrangement, the owner of the U.S. fishing vessel must apply for a chartering permit. The vessel chartering regulations can be found at 50 CFR 635.5(a)(4) and 635.32(e).

In addition, Amendment 2 to the 2006 Consolidated HMS FMP implemented a shark research fishery. This research fishery is conducted under the auspices of the exempted fishing permit program. Research fishery permit holders assist NMFS in collecting valuable shark life history data and data for future shark stock assessments. Fishermen must fill out an application for a shark research permit under the exempted fishing program to participate in the shark research fishery. Shark research fishery participants are subject to 100-percent observer coverage in addition to other terms and conditions. A **Federal Register** notice describing the objectives for the shark research fishery in 2015 and announcing that NMFS will be accepting applications is expected to publish in the near future. NMFS requests public comment specific to the specifics of this fishery during the comment period of this notice.

The authorized number of species for 2014, as well as the number of specimens collected in 2013, is summarized in Table 1. The number of specimens collected in 2014 will be available when all 2014 interim and annual reports are submitted to NMFS. In 2013, the number of specimens collected was less than the number of authorized specimens for all permit types.

In all cases, mortality associated with an EFP, SRP, Display Permit, or LOA (except for larvae) is counted against the appropriate quota. NMFS issued a total of 38 EFPs, SRPs, Display Permits, and LOAs in 2013 for the collection of HMS. As of October 9, 2014, NMFS has issued a total of 37 EFPs, SRPs, Display Permits, and LOAs.

TABLE 1—SUMMARY OF HMS EXEMPTED FISHING PERMITS ISSUED IN 2013 AND 2014

["HMS" refers to multiple species being collected under a given permit type]

Permit type	2013					2014		
	Permits issued **	Authorized fish (num)	Authorized larvae (num)	Fish kept/ discarded dead (num)	Larvae kept (num)	Permits issued **	Authorized fish (num)	Authorized larvae (num)
EFP:								
HMS	3	229	0	52	0	3	188	0
Shark	10	3,239	0	286	0	10	3,145	0
Tuna	5	327	0	0	0	3	1,677	0
Billfish	1	30	1,000	1	2,131	0	35	1,000
SRP:								
HMS	3	941	0	1	0	3	941	0
Shark	3	2,132	0	2	0	2	2,008	0
Tuna	2	80	2,000	0	0	2	80	2,000
Display:								
HMS	2	94	0	10	0	3	94	0
Shark	4	121	0	18	0	3	121	0
Total	32	7,193	3,000	370	2,243	29	8,289	3,000
LOA*								
Shark	6	2,770	0	1,964	0	8	2,770	0

*LOAs are issued for bona fide scientific research activities involving non-ATCA managed species (*e.g.,* most species of sharks). Collections made under an LOA are not authorized; rather this estimated harvest for research is acknowledged by NMFS. Permitees are encouraged to report all fishing activities in a timely manner.

Final decisions on the issuance of any EFPs, SRPs, Display Permits, and Chartering Permits will depend on the submission of all required information about the proposed activities, NMFS' review of public comments received on this notice, an applicant's reporting history on past permits issued any prior violations of marine resource laws administered by NOAA, consistency with relevant NEPA documents, and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies. NMFS does not anticipate any significant environmental impacts from the issuance of these EFPs as assessed in the 1999 FMP, the 2006 Consolidated HMS FMP and its amendments, 2011 Bluefin Tuna Specifications, and 2012 Swordfish Specifications.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: October 22, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–25470 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Requesting Public Comment on Updated Framework for the National System of Marine Protected Areas

AGENCY: National Marine Protected Areas Center, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice and request for public comments.

SUMMARY: The Department of Commerce and the Department of the Interior (DOI) jointly propose an updated Framework for the National System of Marine Protected Areas of the United States (Framework). The Framework is required by Executive Order 13158 on Marine Protected Areas (MPAs). This Framework provides overarching guidance for collaborative efforts among federal, state, commonwealth, territorial, tribal and local governments and stakeholders to implement an effective National System of MPAs (National System) from existing sites, build management capacity among MPA programs, coordinate collaborative efforts to address common management issues and identify ecosystem-based gaps in the protection of significant natural and cultural resources for possible future action by the nation's MPA authorities. The proposed draft document would update the previous version of the Framework, completed in November 2008, using experience gained implementing the National System and advice from the Marine Protected Areas Federal Advisory Committee and MPA programs.

DATES: Comments will be considered if received by December 26, 2014.

ADDRESSES: You may submit comments on this document, identified as NOAA–NOS–2014–0112, by any 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-NOS-2014-0112,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to National Marine Protected Areas Center, 1305 East West Highway, N/NMS, Silver Spring, Maryland 20910, Attn: Lauren Wenzel.

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 NOAA. 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, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA 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. The draft updated Framework is available for download at: *http://marineprotectedareas.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Acting Director, National Marine Protected Areas Center, 301–713–7265 or *lauren.wenzel@noaa.gov.*

Copies of the updated Framework can be downloaded or viewed on the Internet at *marineprotectedareas.noaa.gov.* Copies can also be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration's (NOAA) National Marine Protected Areas Center (MPA Center), in cooperation with the Department of the Interior (DOI), completed the *Framework for the National System of Marine Protected Areas of the United States* (Framework) to meet requirements under Executive Order 13158 on Marine Protected Areas (Order) in November 2008. NOAA and DOI are now proposing to update this Framework to reflect five years of implementation experience as well as advice from MPA management agencies and the Marine Protected Areas Federal Advisory Committee. The purpose of this notice is to notify the public of the availability of the draft updated Framework for public comment.

MPAs are an effective tool for conserving marine resources, and have been implemented by a wide range of agencies in the United States to conserve biodiversity, restore ecosystem functions, conserve cultural resources and restore fisheries. When used effectively and in conjunction with other management tools, MPAs can help to ensure healthy Great Lakes and oceans by contributing to the overall protection of critical marine habitats and resources. In this way, effective MPAs can offer social and economic opportunities for current and future generations, such as tourism, biotechnology, fishing, education, and scientific research.

Executive Order 13158 calls for the creation of a National System of MPAs to ''enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations.'' Established in November 2008, the National System provides a mechanism for MPA managers to: Voluntarily collaborate on shared management challenges; strengthen linkages among sites to enhance the management of marine resources; and build management capacity.

This proposed updated Framework is streamlined for greater clarity and readability, has an increased focus on the functions of the National System, and describes the role of the MPA Center in coordinating and supporting the National System. It also includes substantial revisions to the criteria for cultural resources, adding a criterion that allows MPAs created by tribes and indigenous people to be eligible for the National System.

Dated: October 21, 2014.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–25448 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD583

New England Fishery Management Council; Public Meetings

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

ACTION: Notice; public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on Wednesday, November 12, 2014 at 9 a.m. and Thursday, November 13, 2014 at 9 a.m.

ADDRESSES: The meetings will be held at the Four Points by Sheraton, 407 Squire Road Revere, MA 02151; telephone: (781) 284–7200; fax: (781) 289–3176.

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: The committee will discuss Framework 53 (FW53), specifically, status changes (Gulf of Maine (GOM) haddock) and specifications for groundfish stocks (GOM cod and haddock; GOM and Georges Bank (GB) winter flounder; pollock; GB yellowtail flounder, cod and haddock). They will also discuss the management measures (windowpane flounder sub-annual catch limit (ACLs) and accountability measures (AMs), expansion of the GOM cod inshore spawning closure, additional management measures for GOM cod, roll-over provision for specifications, and carryover provisions). Additionally, the committee will review the Groundfish Plan Development Team's (PDT) environmental impact analysis. They will also develop committee recommendations to the council regarding preferred alternative in FW 53. They will discuss other business as necessary.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: October 21, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–25369 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD581

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Council and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet November 12–19, 2014. The Council meeting will begin on Friday, November 14, 2014 at 1 p.m., reconvening each day through Wednesday, November 19, 2014. All meetings are open to the public, except a closed session will be held for approximately one hour at 1 p.m. on Friday, November 14 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Hilton Orange County Costa Mesa, 3050 Bristol Street, Costa Mesa, CA 92626; telephone: (714) 540–7000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll free; or access the Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The November 14–19, 2014 meeting of the Pacific Fishery Management Council will be streamed live on the Internet. The live meeting will be broadcast daily starting at 2 p.m. Pacific Time (PT) on Friday, November 14, 2014 through Wednesday, November 19, 2014. The broadcast will end daily at 6 p.m. PT or when business for the day is complete. Only the audio portion, and portions of the presentations displayed on the screen at the Council meeting, will be broadcast. The audio portion is listen-only; you will be unable to speak to the Council via the broadcast. Join the meeting by visiting this link *http://www.joinwebinar.com,* enter the Webinar ID for this meeting, which is 430–417–591 and enter your email address as required. It is recommended that you use a computer headset as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–646–307–1719 (not a toll free number); entering the phone audio access code 536–452–326; and then entering your Audio Pin which will be shown to you after joining the webinar. The webinar is broadcast in listen only mode.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''(Final Action)'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, and meeting rooms, is described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance November 2014 briefing materials and posted on the Council Web site (*www.pcouncil.org*).

A. Call to Order
   1. Opening Remarks
   2. Roll Call
   3. Executive Director's Report
   4. Approve Agenda
B. Open Comment Period
   1. Comments on Non-Agenda Items
C. Administrative Matters
   1. Marine Planning Update
   2. Recreational Fisheries Policy Update
   3. National Marine Fisheries Service West Coast Region Strategic Plan
   4. Approval of Council Meeting Minutes
   5. Fiscal Matters
   6. Advisory Body Position Appointments and Council Operating Procedures
   7. Future Council Meeting Agenda and Workload Planning
D. Habitat
   1. Current Habitat Issues
E. Coastal Pelagic Species Management
   1. National Marine Fisheries Service Report
   2. Sardine Harvest Fraction (Final Action)
   3. Methodology Preliminary Topic Selection and Review Process
   4. 2015 Exempted Fishing Permit (EFP) Notice of Intent
F. Salmon Management
   1. National Marine Fisheries Service

Report
2. Salmon Methodology Review (Final Action)
3. Preseason Salmon Management Schedule for 2015
4. Lower Columbia Coho Harvest Matrix (Final Action)
G. Pacific Halibut Management
1. 2015 Pacific Halibut Catch Sharing Plan and Regulations (Final Action)
H. Ecosystem Management
1. Report on the Atlantis Model Review
I. Highly Migratory Species Management
1. National Marine Fisheries Service Report
2. International Activities
3. Bluefin Tuna Management Measures for 2015–16 Fisheries (Final Action)
4. Drift Gillnet Hard Caps and Other Adopted Priorities for 2015–16 Fisheries
J. Groundfish Management
1. National Marine Fisheries Service Report
2. Widow Rockfish Reallocation and Divestiture Issues
3. Initial Consideration of Blackgill Rockfish Reallocation
4. Groundfish Management Ongoing Rulemaking (Final Action)
5. Economic Data Collection Program Report on Fishery Status and Overview on Social Science Research
6. Methodology Review Process Council Operating Procedure
7. Reconsideration of Open Access Registration under Amendment 22 (Final Action)
8. Consideration of Inseason Adjustments (Final Action)

Schedule of Ancillary Meetings

Day 1—Wednesday, November 12, 2014

Scientific and Statistical Committee Groundfish Subcommittee—9 a.m.

Day 2—Thursday, November 13, 2014

Scientific and Statistical Committee—8 a.m.
Habitat Committee—8:30 a.m.
Budget Committee—2:30 p.m.

Day 3—Friday, November 14, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Coastal Pelagic Species Advisory Subpanel—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Scientific and Statistical Committee—8 a.m.
Legislative Committee—9 a.m.
Annual Banquet—6 p.m.

Day 4—Saturday, November 15, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Highly Migratory Species Advisory Subpanel—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Groundfish Advisory Subpanel—1 p.m.
Groundfish Management Team—1 p.m.
Enforcement Consultants—3 p.m.

Day 5—Sunday, November 16, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Highly Migratory Species Advisory Subpanel—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Enforcement Consultants—Ad hoc

Day 6—Monday, November 17, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Highly Migratory Species Advisory Subpanel—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Enforcement Consultants—Ad hoc
National Marine Fisheries Service Mid-Water Gear Bottom Contact Meeting—7 p.m.

Day 7—Tuesday, November 18, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Enforcement Consultants Ad hoc

Day 8—Wednesday, November 19, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: October 21, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–25368 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD553

Fisheries of the Gulf of Mexico; Southeast Data, Assessment and Review (SEDAR); Public Meetings

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

ACTION: Notice of SEDAR 42 Data Workshop for Gulf of Mexico Red Grouper.

SUMMARY: The SEDAR 42 assessment of the Gulf of Mexico Red Grouper will consist of: a Data Workshop; a series of Assessment webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 42 Data Workshop will be held from 1 p.m. on November 17, 2014 until 12 p.m. on November 21, 2014; the Assessment webinars and Review Workshop dates and times will publish in a subsequent issue in the **Federal Register**. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: The SEDAR 42 Data Workshop will be held at the Hilton St. Petersburg Bayfront, 333 1st Street South, St. Petersburg, FL 33701; telephone: (727) 894–5000.

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

FOR FURTHER INFORMATION CONTACT: Julie Neer, SEDAR Coordinator; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *Julie.neer@safmc.net.*

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

The items of discussion in the Data Workshop agenda are as follows:

1. An assessment data set and associated documentation will be developed.

2. Participants will evaluate all available data and select appropriate sources for providing information on life history characteristics, catch statistics, discard estimates, length and age composition, and fishery dependent and fishery independent measures of stock abundance, as specified in the Terms of Reference for the workshop.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) three (3) days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 22, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–25466 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD576

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will hold a public meeting, jointly with the Atlantic States Marine Fisheries Commission's (ASMFC's) Summer Flounder, Scup, and Black Sea Bass Technical Committee.

DATES: The meeting will be held on Wednesday, November 12, 2014, from 12:30 p.m. to 5 p.m., on Thursday, November 13, from 8:30 a.m. to 5 p.m., and on Friday, November 14, from 8:30 a.m. to 5 p.m. See **SUPPLEMENTARY INFORMATION** for meeting topics.

ADDRESSES: The meeting will be held at the Doubletree by Hilton BWI Airport, 890 Elkridge Landing Road, Linthicum, MD 21090; telephone: (410)-859–8060.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committee, together with the Atlantic States Marine Fisheries Commission's Technical Committee, will meet from Wednesday, November 12 through Friday, November 14 (see **DATES** and **ADDRESSES**). Topics to be addressed include:

1. Review of updates to a statistical model for recommending recreational management measures;

2. Monitoring Committee recommendations for recreational management measures for the summer flounder, scup, and black sea bass fisheries for the 2015 fishing year;

3. Technical Committee review of fishery independent indices for black sea bass.

A detailed agenda and background documents will be made available on the Council's Web site (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: October 21, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–25370 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD551

Fisheries of the South Atlantic; South Atlantic Fishery Management Council (SAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council's (Council) Oculina Experimental Closed Area Evaluation Team will meet to discuss the Oculina Evaluation Team Report. The meeting will be held via webinar. See **SUPPLEMENTARY INFORMATION**.

DATES: The webinar will be held on Wednesday, November 12, 2014, from 1 p.m. until 4 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Chip Collier at the Council office (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of the webinar.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Chip Collier, Fishery Biologist; telephone: (843) 571–4366; email: *chip.collier@safmc.net.*

SUPPLEMENTARY INFORMATION: The Council extended the snapper grouper bottom fishing restrictions for the Oculina Experimental Closed Area (OECA) for an indefinite period in Snapper Grouper Amendment 13A. The amendment required that the size and configuration of the OECA be reviewed within 3 years of the implementation date of 13A and that a 10-year re-evaluation be conducted. The Oculina Evaluation Team is meeting to review and provide final recommendations for the ongoing research and monitoring, outreach, and law enforcement components of the Evaluation Plan for the Oculina Experimental Closed Area and will finalize the 10-Year Re-evaluation Report. The Team is comprised of law enforcement representatives, research scientists, resource managers, commercial fishermen, recreational fishermen, outreach experts, and non-governmental organization representatives.

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

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 21, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–25367 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD577

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold advisory body meetings in Hawaii and in the Marianas Archipelago during the month of November 2014 regarding the Council's Fishery Ecosystem and Program Plans. All Marianas Fishery Ecosystem Plan Review meetings will follow the same agenda.

DATES: The Marine Planning and Climate Change Committee will meet on Wednesday, November 12, 2014, and Thursday, November 13, 2014, from 9 a.m. to 5 p.m.; Guam Marianas Archipelago Regional Ecosystem Advisory Committee will meet on Thursday, November 13, 2014, from 9 a.m. to 12 p.m.; Guam Plan Team, Advisory Panel, and other advisors on Thursday, November 13, 2014, from 2 p.m. to 8 p.m.; Commonwealth of the Northern Mariana Islands (CNMI) Plan Team, Advisory Panel, and other advisors on Saturday, November 15 from 9 a.m. to 4 p.m.; and the CNMI Marianas Archipelago Regional Ecosystem Advisory Committee on Monday, November 17 from 9 a.m. to 12 p.m.

ADDRESSES: The Marine Planning and Climate Change Committee will meet at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI; telephone: (808) 522–8220. The meetings on Guam will be held in the Gallery at the Guam Hilton, 202 Hilton Road, Tamuning, Guam; telephone: (671) 646–1835. The meetings in the CNMI will be held in the Asuzena 2 meeting room, Fiesta Hotel, Coral Tree Avenue, Garapan, Saipan; telephone: (670) 234–6412.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION:

Marine Planning and Climate Change Committee Meeting

November 12, 2014

1. Introductions
2. Approval of draft agenda
3. Approval of September 15, 2014, Committee meeting minutes
4. Implementation plan for Council actions related to marine planning & climate change
   - A. Review Committee's categorization & prioritization of Council's marine planning and climate change action items
   - B. Review comments from Scientific & Statistical Committee
   - C. Review comments from Council
   - D. Public comment
   - E. Committee discussion and recommended plan for implementing action items
5. Round-robin of area updates related to marine planning & climate change (time permitting)

November 13, 2014

6. Draft Marine Planning and Climate Change Policy
   - A. Review of fisheries in Council's jurisdiction
   - B. Review of Magnuson-Stevens Fisheries Conservation and Management Act's National Standards
   - C. Review of Council's structure and federal fishery decision-making process
   - D. Overview of ongoing amendments to Council's fishery ecosystem plans and programs
   - E. Review draft MPCC policy statement
   - F. Public comment
   - G. Committee discussion and recommendations
7. Election of Officers
8. Other business and next meeting

Guam and CNMI Meetings

Council advisors and other participants will review current issues related to the Council's program plans and fishery ecosystem plans and provide input to assist in the evaluation and update of the fishery ecosystem plans. The meetings may result in formal recommendations on these topics.

Agendas (all meetings on Guam and CNMI will follow this same agenda):

1. Welcome and Introductions

2. Overview of the Council and its Fisheries
   A. Authority and Responsibilities
   B. Council Structure, Programs, and Fisheries
   C. Five Year Program Plan
   i. Integrating Ecosystem Information
   ii. Supporting Monitoring, Data Collection, and Research
   iii. Building Capacity
   iv. Highly Migratory Species, Trade, and Compliance
   v. Reviewing Fishery Ecosystem Plans
3. Review of Council's Fishery Ecosystem Plans
   A. Background
   B. Purpose
   C. Intended Outcomes
   D. Major missing elements
   i. Climate change
   ii. Protected Species
   iii. Social Science
   iv. Connecting the dots
4. Facilitated Evaluation of Council Programs and Focus Areas
   A. Pelagic Fisheries Program
   B. Island Fisheries Program
   C. Ecosystems Program
   i. Protected Species
   ii. Human Dimensions
   D. Fishing Community Program
   E. Education and Outreach Program
5. Other Relevant Topics
6. Discussion and Recommendations

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: October 22, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–25467 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD568

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Elliott Bay Seawall Project in Seattle, Washington

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

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the City of Seattle's Department of Transportation (SDOT) for the take of eight species of marine mammals incidental to pile driving activities associated with the Elliott Bay Seawall Project (EBSP).

DATES: Effective from October 22, 2014, through October 21, 2015.

ADDRESSES: The LOA and supporting documentation are available for review on the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours at the Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning the contact listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals 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. Under the MMPA, the term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill marine mammals.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the identified 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 in the regulations. 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.''

Regulations governing the taking of harbor seals (*Phoca vitulina richardii*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus monteriensis*), harbor porpoise (*Phocoena phocoena vomerina*), Dall's porpoise (*Phocoenoides dalli dalli*), southern resident and transient killer whales (*Orcinus orca*), gray whales (*Eschrichtius robustus*), and humpback whales (*Megaptera novaeangliae*), by harassment, incidental to pile driving activities in Elliott Bay, were issued on October 21, 2013 (78 FR 63396, October 24, 2013), and remain in effect until October 21, 2018. For detailed information on this action, please refer to that document. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during pile driving activities associated with the Elliott Bay Seawall.

Pursuant to those regulations, NMFS first issued an LOA, effective from October 22, 2013, through October 21, 2014. SDOT conducted activities as described, implemented the required mitigation measures, and conducted the required monitoring. The total number of potentially harassed marine mammals was well below the authorized limits, with the exception of the California sea lion. The reported take for California sea lion, by Level B harassment only, exceeded the annually authorized level by a small amount (186 versus 175). This overage does not affect the negligible impact, small numbers, and subsistence findings. In examining the proposed and final rules, we determined that an error was made in estimating take of California sea lions. We plan to correct that error through notification and opportunity for public comment in the **Federal Register**. Once corrected, the amount of take will not likely exceed authorized levels and we expect the correction will be made before SDOT approaches the amount authorized in the current subject LOA.

Authorization

NMFS has issued an LOA to SDOT authorizing the Level B harassment of marine mammals incidental to pile driving activities associated with the Elliott Bay Seawall Project at Seattle, Washington. Take of marine mammals will be minimized through implementation of the following mitigation measures: (1) Limited impact pile driving; (2) containment of impact pile driving; (3) additional sound attenuation measures; (4) ramp-up of pile-related activities; (5) marine mammal exclusion zones; and (6) shutdown and delay procedures. SDOT will also conduct visual monitoring and underwater acoustic monitoring for mitigation and research purposes. Reports will be submitted to NMFS at the time of request for a renewal of the LOA, and a final comprehensive report, which will summarize all previous reports and assess cumulative impacts, will be submitted before the rule expires.

Issuance of this LOA is based on the results of the monitoring report, which verifies that the total number of potentially harassed marine mammals was below the authorized limits, with the exception of the California sea lion (as discussed above). Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. No injury, serious injury, or mortality of affected species is anticipated.

Dated: October 21, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–25405 Filed 10–24–14; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before November 26, 2014.

ADDRESSES: Comments may be submitted to OMB within 30 days of the notice's publication. Comments, identified by ''Copies of Crop and Market Information Reports'' (OMB Control No. 3038–0015), should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503, and to Gary Martinaitis, Division of Market Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

Comments may also be submitted, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, identified by ''Copies of Crop and Market Information Reports'' (OMB Control No. 3038–0015), by any of the following methods:

- Agency Web site, via its Comments Online process: *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- Mail: Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.
- Hand Delivery/Courier: Same as Mail, above.
- Federal eRulemaking Portal: *http://www.regulations.gov/search/index.jsp.* Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of this matter will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1 (2014).

FOR FURTHER INFORMATION CONTACT: Gary Martinaitis, Division of Market Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418–5209; FAX: (202) 418–5527; email: *gmartinaitis@cftc.gov,* and refer to OMB Control No. 3038–0015. This contact can also provide a copy of the ICR.

SUPPLEMENTARY INFORMATION:

Title: ''Copies of Crop and Market Information Reports,'' OMB Control No. 3038–0015—Extension. This is a request for extension of a currently approved information collection.

Abstract: The information collected pursuant to this rule, 17 CFR 1.40, is in the public interest and is necessary for market surveillance. These rules are promulgated pursuant to the Commission's rulemaking authority contained in Sections 4a(a), 4i, and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6a(1), 6i, and 12a(5).

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 CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035, Dec. 30, 1981. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 25, 2014. *See* 79 FR 50631, Aug. 25, 2014.

No comments have been received.

Burden statement: The respondent burden for this collection is estimated to average 0.17 hours per response.

Respondents/Affected Entities: 15.

Estimated number of responses: 15.

Estimated total annual burden on respondents: 2.5 hours.

Frequency of collection: On occasion.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: October 22, 2014

Natise Allen,

Executive Assistant.

[FR Doc. 2014–25461 Filed 10–24–14; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0120]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by November 26, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for the Review of Discharge from the Armed Forces of the United States; DD Form 293; OMB Control Number 0704–0004.

Type of Request: Revision.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 7,500.

Needs and Uses: Former members of the Armed Forces who received an administrative discharge have the right to appeal the characterization or reason for separation. Title 10 of the U.S. Code, section 1553, and DoD Directive 1332.28 established a Board of Review consisting of five members to review appeals of former members of the Armed Forces. The DD Form 293, Application for Review of Discharge from the Armed Forces of the United States, provides the respondent a vehicle to present to the Board their reasons/justifications for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: October 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–25442 Filed 10–24–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notification of an Open Meeting of the National Defense University Board of Visitors (BOV)

AGENCY: National Defense University, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the National Defense University Board of Visitors (BOV) will take place. This meeting is open to the public.

DATES: The meeting will be held on Monday, November 17, 2014 from 12:00 p.m. to 5:00 p.m. and will continue on Tuesday, November 18, 2014, from 9:00 a.m. to 11:30 a.m.

ADDRESSES: The Board of Visitors meeting will be held at Lincoln Hall, Building 64, Room 1105, the National Defense University, 300 5th Avenue SW., Fort McNair, Washington, DC 20319–5066.

FOR FURTHER INFORMATION CONTACT: The point of contact for this notice of open meeting is Ms. Joycelyn Stevens at (202) 685–0079, Fax (202) 685–3920 or *StevensJ7@ndu.edu.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. The future agenda will include discussion on accreditation compliance, organizational management, strategic planning, resource management, and other matters of interest to the National Defense University.

Limited space made available for observers will be allocated on a first come, first served basis. Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by FAX or email to the point of contact person listed in the **FOR FURTHER INFORMATION CONTACT** section. (Subject Line: Comment/Statement to the NDU BOV).

Dated: October 21, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–25371 Filed 10–24–14; 8:45 a.m.]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Independent Review Panel on Military Medical Construction Standards; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Independent Review Panel on Military Medical Construction Standards (''the Panel'').

DATES:

Wednesday, November 12, 2014

8:15 a.m.–11:15 a.m. EST (Open Session)

ADDRESSES: Defense Health Headquarters (DHHQ), Pavilion Salon C, 7700 Arlington Blvd., Falls Church, Virginia 22042 (escort required; see guidance in **SUPPLEMENTARY INFORMATION**, ''Public's Accessibility to the Meeting.'').

FOR FURTHER INFORMATION CONTACT: The Director is Ms. Christine Bader, 7700

Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, *christine.bader@dha.mil,* (703) 681–6653, Fax: (703) 681–9539. For meeting information, please contact Ms. Kendal Brown, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, *kendal.brown.ctr@dha.mil,* (703) 681–6670, Fax: (703) 681–9539.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting

At this meeting, the Panel will address the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Pub. L. 111–383), Section 2852(b) requirement to provide the Secretary of Defense independent advice and recommendations regarding a construction standard for military medical centers to provide a single standard of care, as set forth in this notice:

a. Reviewing the unified military medical construction standards to determine the standards consistency with industry practices and benchmarks for world class medical construction;

b. Reviewing ongoing construction programs within the DoD to ensure medical construction standards are uniformly applied across applicable military centers;

c. Assessing the DoD approach to planning and programming facility improvements with specific emphasis on facility selection criteria and proportional assessment system; and facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the Military Departments;

d. Assessing whether the Comprehensive Master Plan for the National Capital Region Medical (''the Master Plan''), dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Pub. L. 111–84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the Master Plan result in world class military medical centers in the National Capital Region; and

e. Making recommendations regarding any adjustments of the Master Plan that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

Agenda

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the Panel meeting is open to the public from 8:15 a.m. to 11:15 a.m. on November 12, 2014, as the Panel will meet with health care leaders to discuss facility design standards and benchmarking processes.

Availability of Materials for the Meeting

A copy of the agenda or any updates to the agenda for the November 12, 2014, meeting, as well as any other materials presented in the meeting, may be obtained at the meeting.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Ms. Kendal Brown at the number listed in the section **FOR FURTHER INFORMATION CONTACT** no later than 12:00 p.m. on Wednesday, November 5, 2014, to register and make arrangements for an escort, if necessary. Public attendees requiring escort should arrive with sufficient time to complete security screening no later than 30 minutes prior to the start of each meeting. To complete security screening, please come prepared to present two forms of identification and one must be a picture identification card.

Special Accommodations

Individuals requiring special accommodations to access the public meeting should contact Ms. Kendal Brown at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements

Any member of the public wishing to provide comments to the Panel may do so in accordance with 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice.

Individuals desiring to provide comments to the Panel may do so by submitting a written statement to the Director (see **FOR FURTHER INFORMATION CONTACT**). Written statements should address the following details: The issue, discussion, and a recommended course of action. Supporting documentation may also be included, as needed, to establish the appropriate historical context and to provide any necessary background information.

If the written statement is not received at least five (5) business days prior to the meeting, the Director may choose to postpone consideration of the statement until the next open meeting.

The Director will review all timely submissions with the Panel Chairperson and ensure they are provided to members of the Panel before the meeting that is subject to this notice. After reviewing the written comments, the Panel Chairperson and the Director may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The Director, in consultation with the Panel Chairperson, may allot time for members of the public to present their issues for review and discussion by the Panel.

Dated: October 21, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–25384 Filed 10–24–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2014–0039]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Department of the Army proposes to alter a system of records notice A0027–10a DAJA, entitled ''Military Justice Files'' in its existing inventory of records systems subject to the Privacy Act of 1974, as amended. This system is used to prosecute or otherwise resolve military justice cases; to obtain information and assistance from federal, state, local, or foreign agencies, or from individuals or organizations relating to an investigation, allegation of criminal misconduct, or court-martial; and to provide information and support to victims and witnesses in compliance with Victim and Witness Assistance Statutes and regulations; and to provide support for non-judicial and other administrative or disciplinary proceedings.

Records will be used to conduct statistical studies for assisting The Judge Advocate General and servicing Staff Judge Advocates in the management and administration of military justice.

DATES: Comments will be accepted on or before November 26, 2014. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Jr., Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905 or by calling (703) 428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on October 20, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0027–10a DAJA

SYSTEM NAME:

Military Justice Files (August 5, 2003, 68 FR 46168)

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Primary location: Department of the Army, Office of The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310–2200.

Secondary locations: Staff Judge Advocate Offices, at major Army commands, field operating agencies, Brigade Judge Advocate Offices, installations and activities Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Any Army military individual who is the subject of a military justice investigation, trial by courts-martial, or other administrative or disciplinary proceeding.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's name, Social Security Number (SSN), witness statements; pretrial advice; documentary evidence; exhibits, evidence of previous convictions; personnel records; recommendations as to the disposition of the charges; explanation of any unusual features of the case; charge sheet; and criminal investigation reports; convening orders; appointment orders; investigative reports of federal, state, and local law enforcement agencies; local command investigations; immunity requests; search authorizations; general correspondence; legal research and memoranda; motions; forensic reports; pretrial confinement orders; personal, financial, and medical records; Article 32, Uniform Code of Military Justice (UCMJ) investigations; subpoenas; discovery requests; correspondence reflecting pretrial negotiations; requests for resignation or discharge in lieu of trial by court-martial; results of trial memoranda; and forms to comply with the Victim and Witness Assistance Program, the Sexual Assault Prevention and Response Program and the Victim's Rights and Restitution Act of 1990. Non-judicial punishment (Article 15) actions: administrative separation actions; suspension of favorable personnel actions; Trial Defense Service and trial defense counsel personnel information, and attorney work-product, trial judiciary personnel information, dockets; and trial records; Army Court of Criminal Appeals, judicial orders, and opinions; and all other documents related to the administration of Military Justice, administrative separations, memoranda of reprimand, and investigations.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 10607, Services to Victims; 10 U.S.C. 806b, Victim Rights; DoD Directive 1030.01, Victim and Witness Assistance; DoD Instruction 1030.2, Victim and Witness Procedures; Army Regulation 27–10, Military Justice; and E.O. 9397 (SSN), as amended.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Automated files are password protected and in compliance with the applicable laws and regulations. Paper records in file cabinets are accessible only to authorized personnel who are properly instructed in the permissible use. The files are not accessible to the public or to persons within the command without an official need to know. File cabinets have locking capabilities and offices are locked during non-work hours. DoD Components and approved users ensure that electronic records collected and used are maintained in controlled areas accessible only to authorized personnel. Physical security differs from site to site, but the automated records must be maintained in controlled areas accessible only by authorized personnel. Access to computerized data is restricted by use of common access cards (CACs) and is accessible only by users with an authorized account. The system and electronic backups are maintained in controlled facilities that employ physical restrictions and safeguards such as security guards, identification badges, key cards, and locks.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are destroyed by erasure, shredding or burning two years after final review/appellate action.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, Criminal Law Division, Office of The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310–2200.

Individual should provide his/her full name, current address and telephone number, case number and office symbol of Army element which furnished correspondence to the individual, other personnel identifying data that would assist in locating the records, and be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).' ''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, Criminal Law Division, Office of The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310–2200.

Individual should provide his/her full name, current address and telephone number, case number and office symbol of Army element which furnished correspondence to the individual, other personal identifying data that would assist in locating the records, and be signed.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).' ''

* * * * *

[FR Doc. 2014–25480 Filed 10–24–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0120]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Educational Agency and Local Educational Agency—School Data Collection and Reporting Under ESEA, Title I, Part A

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED) .

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq*.), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 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–0120 or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the *regulations.gov* site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Todd Stephenson, 202–205–1645.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Educational Agency and Local Educational Agency—School Data Collection and Reporting under ESEA, Title I, Part A.

OMB Control Number: 1810–0622.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 2,080.

Abstract: Although the U.S. Department of Education (ED) determines Title I, Part A allocations for Local Educational Agencies (LEAs), State Educational Agencies (SEAs) must adjust ED-determined Title I, Part A LEA allocations to account for newly created LEAs and LEA boundary changes, to redistribute Title I, Part A funds to small LEAs (under 20,000 total population) using alternative poverty data, and to reserve funds for school improvement, State administration, and the State academic achievement awards program. This control number covers only the burden associated with the actual procedures an SEA must follow when adjusting ED-determined LEA allocations.

Dated: October 21, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–25415 Filed 10–24–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0110]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; DC School Choice Incentive Program

AGENCY: Office of Innovation and Improvement, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 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–0110 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jeanne Gilroy, 202–205–5482.

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: DC School Choice Incentive Program.

OMB Control Number: 1855–0015.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 3,000.

Total Estimated Number of Annual Burden Hours: 1,000.

Abstract: The DC School Choice Incentive Program, authorized by the Consolidated Appropriations Act of 2004, awarded a grant to the DC Children and Youth Investment Trust Corporation that will administer scholarships to students who reside in the District of Columbia and come from households whose incomes do not exceed 185% of the poverty line. Priority is given to students who are currently attending schools in need of improvement, as defined by Title I. To assist in the student selection and assignment process, the information collected is used to determine the eligibility of those students who are interested in the available scholarships. Also, since the authorizing statute requires an evaluation we are proposing to collect certain family demographic information because they are important predictors of school success. Finally, we are asking to collect information about parental participation and satisfaction because these are key topics that the statute requires the evaluation to address.

Dated: October 21, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–25409 Filed 10–24–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0123]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 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–0123 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 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jo-Anne Cheatom, 202–377–3730.

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: Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

OMB Control Number: 1845–0089

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private sector

Total Estimated Number of Annual Responses: 732

Total Estimated Number of Annual Burden Hours: 3,660

Abstract: The purpose of the form is to gather financial information from the institution in order to process claims for payment. ED Payment Analysts compare data on the form with disbursement records in the Common Origination and Disbursement system to determine what amount will be paid to the institution under the restricted method of payments. Data and signatures are collected from the institution on these forms. The data collected is in regards to the Title IV program funds that are requested and certified by the institution in the President/Owner/Chief Executive Officer and the Financial Aid Director/Third Party Servicer section of the form. The forms are signed by the institution official and submitted when requesting payment for Reimbursement or Heightened Cash Monitoring 2 claims.

Dated: October 21, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–25372 Filed 10–24–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0114]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Plan of Assistive Technology

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 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–0114 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Robert Groenendaal, 202–245–7393.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Plan of Assistive Technology.

OMB Control Number: 1820–0664.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Federal Government.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 4,144.

Abstract: Section 4 of the Assistive Technology Act of 1998, as amended, requires states to submit an application in order to receive funds under the state grant for assistive technology program. This information collection will be used by states to meet their application requirements and annual data reports. The Rehabilitation Services Administration (RSA) calls this application a State Plan for Assistive Technology.

Dated: October 21, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–25411 Filed 10–24–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0113]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Progress Report for the Access to Telework Program Under the Rehabilitation Act of 1973, as Amended

AGENCY: Department of Education (ED), Office of Special Education and Rehabilitative Services (OSERS).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 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–0113 or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the *regulations.gov* site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Robert Groenendaal, 202–245–7393.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Progress Report for the Access to Telework Program Under the Rehabilitation Act of 1973, as Amended.

OMB Control Number: 1820–0687.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 19.

Total Estimated Number of Annual Burden Hours: 238.

Abstract: Nineteen states currently have Access to Telework programs that provide financial loans to individuals with disabilities for the purchase of computers and other equipment that support teleworking for an employee or self-employment on a full or part-time basis. These grantees are required to report annual data on their programs to the Rehabilitation Services Administration. This information collection provides a standard format for the submission of those annual performance reports and a follow-up survey to be administered to individuals who receive loans.

Dated: October 21, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–25410 Filed 10–24–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0119]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Agency Use of an Alternative Method To Distribute Title I Funds to Local Educational Agencies With Fewer Than 20,000 Total Residents

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0119 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Todd Stephenson, 202–205–1645.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the

Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Agency Use of an Alternative Method To Distribute Title I Funds to Local Educational Agencies With Fewer Than 20,000 Total Residents.

OMB Control Number: 1810–0620.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 25.

Total Estimated Number of Annual Burden Hours: 200.

Abstract: Title I, Part A of the Elementary and Secondary Education Act gives State Educational Agencies (SEA) the flexibility to use an alternative method to distribute Title I, Part A funds to small Local Educational Agencies (LEA). This data collection addresses the burden associated with the actual process an SEA must follow to obtain approval from ED to use alternative poverty data to redistribute Title I, Part A funds to small LEAs.

Dated: October 21, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–25414 Filed 10–24–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–403]

Application To Export Electric Energy; Frontera Marketing, LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Frontera Marketing, LLC (Applicant) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before November 26, 2014.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On September 12, 2014, DOE received an application from the Applicant for authority to transmit electric energy from the United States to Mexico for ten years as a power marketer. The Applicant's request is to export electricity from the Frontera Station to customers in Mexico over the international transmission facilities authorized by Presidential Permit PP–206. Because the facilities authorized by PP–206 are not capable of transmitting third party supply, the Applicant also seeks authorization to transmit electricity on other international transmission facilities identified as open-access lines. The Applicant is requesting expedited treatment of this application and issuance of an Order within 60 days.

In its application, the Applicant states that it does not own or operate any electric generation or transmission facilities. In those instances where Applicant purchases power from entities other than Frontera Generation to be exported over facilities other than the facilities permitted by Presidential Permit PP–206, the electric energy would be surplus energy purchased from third parties pursuant to voluntary agreements.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the Applicant's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–403. An additional copy is to be provided directly to Bilal Khan, Frontera Marketing, LLC, c/o The Blackstone Group L.P., 345 Park Avenue, New York, NY 10154 and to Brooksany Barrowes, Baker Botts L.L.P., 1299 Pennsylvania Avenue NW., Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available by request to the addresses provided above or by accessing the program Web site at *http://energy.gov/node/11845.*

Issued in Washington, DC, on October 21, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–25459 Filed 10–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 18, 2014; 8:00 a.m.–4:00 p.m.

The opportunity for public comment is at 2:00 p.m.

This time is subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Hampton Inn, 2500 Channing Way, Idaho Falls, ID 83402.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–6518; Fax (208) 526–8789 or email: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://inlcab.energy.gov/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Recent Public Involvement.
- Idaho Cleanup Project Progress to Date.

(Including Status Updates on Transuranic Waste, Spent Nuclear Fuel, and the Integrated Waste Treatment Unit).

- Update on Waste Isolation Pilot Plant (WIPP).
- Update on Integrated Waste Treatment Unit.
- Update on Accelerated Retrieval Project.
- Fiscal Year 2015 Budget/Plans.
- Settlement Agreement Impacts.
- Update on New Contract.
- 20 Years of Public Involvement Through the Citizens Advisory Board.

Public Participation: The EM SSAB, Idaho National Laboratory, 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 Robert L. Pence at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://inlcab.energy.gov/pages/meetings.php.*

Issued at Washington, DC, on October 22, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–25457 Filed 10–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 19, 2014, 5:00 p.m.

ADDRESSES: National Atomic Testing Museum, 755 East Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Annual Nevada National Security Site Environmental Report—Work Plan Item #5.
2. Assessment of the Underground Test Area Quality Assurance Plan Implementation—Work Plan Item #8.
3. Potential New RCRA Part B Permitted Mixed Waste Disposal Unit—Work Plan Item #9.

Public Participation: The EM SSAB, Nevada, 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 Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx.*

Issued at Washington, DC on October 21, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–25452 Filed 10–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 12, 2014; 6:00 p.m.

ADDRESSES: Olive Garden Meeting Facility, 7206 Kingston Pike, Knoxville, Tennessee 37919.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 576–0956 or email: *noemp@emor.doe.gov* or check the Web site at *http://energy.gov/orem/services/*

community-engagement/oak-ridge-site-specific-advisory-board.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Welcome and Announcements.
- Comments from the Deputy Designated Federal Officer.
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons.
- Public Comment Period.
- Board Business.
- Additions/Approval of Agenda.
- Motions/Approval of October 8, 2014 Meeting Minutes.
- Status of Recommendations with DOE.
- Committee Reports.
- Federal Coordinator Report.
- Adjourn.

Public Participation: The EM SSAB, Oak Ridge, 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 Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to logistical issues that had to be resolved prior to the meeting date.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following Web site: *http://energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

Issued at Washington, DC, on October 22, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–25455 Filed 10–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board; Correction

AGENCY: U.S. Department of Energy.

ACTION: Designation of Performance Review Board Standing Register; correction.

SUMMARY: The Department of Energy (DOE) published a notice in the **Federal Register** on October 8, 2014, (79 FR 60845) listing the names of the Performance Review Board Standing Register. This documents amends that notice by removing the name of Larry Buttress and adding in its place, the name of Suzanne B. Cooper.

Issued in Washington, DC, on October 17, 2014.

Tonya M. Mackey,

Director, Office of Executive Resources.

[FR Doc. 2014–25458 Filed 10–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The EIA has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Form EIA–846, ''Manufacturing Energy Consumption Survey'' (MECS), OMB Control Number 1905–0169. The proposed collection will collect data on energy consumption and related subjects for the manufacturing sector of the U.S. economy. Those manufacturing establishments selected for the 2014 sample will have data collected on basic energy consumption and expenditures, shipments of energy offsite, end use consumption, building characteristics, participation in energy management programs, technologies, and fuel-switching capacity. The MECS will be conducted by the U.S. Department of Commerce's Bureau of the Census, acting as the data collection agent for EIA. This survey will be fielded in early 2015 to collect data for calendar year 2014.

DATES: Comments regarding this proposed information collection must be received on or before November 26, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to the

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to

Tom Lorenz, Office of Energy Consumption and Efficiency Statistics, EI–22, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585 or by fax at (202) 586–9753, or by email at *Thomas.Lorenz@eia.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Tom Lorenz, Office of Energy Consumption and Efficiency Statistics, EI–22, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585 or by fax at (202) 586–9753, or by email at *Thomas.Lorenz@eia.gov.* To view the form online please go to: *http://www.eia.gov/survey/notice/consumption_mecs2014.cfm.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) OMB No. 1905–0169;

(2) *Information Collection Request Title:* Manufacturing Energy Consumption Survey (MECS);

(3) *Type of Request:* Reinstatement, with change, of a previously approved collection for which approval has expired;

(4) *Purpose:*

The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and (42 U.S.C. 7135(i)) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy

resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands and to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment.

The Manufacturing Energy Consumption Survey (MECS) is a self-administered sample survey designed to collect energy consumption and expenditures data from establishments in the manufacturing sector; i.e., North American Industry Classification System (NAICS) codes 31–33. Previous MECS required multiple collection forms depending on an establishment's primary business activity classification under NAICS. The increased use of technology by means of an Internet data collection system however, has allowed the MECS to eliminate the need to have multiple forms.

The 2014 MECS will collect information during 2015 for business activities in calendar year 2014. For the 2014 MECS, as in the past, EIA proposes to collect the following data from each MECS establishment: (1) For each energy source consumed—consumption (total, fuel and nonfuel uses) and the expenditures for each energy source, energy storage (as applicable), energy produced onsite, and shipments (as applicable); (2) energy end uses; (3) fuel-switching capabilities; (4) general energy-saving technologies; (5) energy management activities; and (6) square footage, and number of buildings in the establishment.

The MECS has been conducted eight times previously, covering the years 1985, 1988, 1991, 1994, 1998, 2002, 2006, and 2010. In all eight survey years, the MECS has collected baseline data on manufacturers' energy consumption and expenditures. The MECS collected data on fuel-switching capabilities in all years except 1998. In the 1991, 1994, 1998, 2002, 2006, and 2010 surveys, the MECS also collected data on end-uses, energy management activities, building square footage, and energy-saving technologies.

The MECS information is the basis for data and analytic products that can be found at *http://www.eia.gov/consumption/manufacturing.* Also on this Web site are past publications, articles, and a special analytic series, ''Industry Analysis Briefs.'' The 2014 MECS will also be used to benchmark EIA's industry forecasting model and update changes in the energy intensity and greenhouse gases data series.

The proposed 2014 MECS uses experience gained from the administration and processing of the eight previous surveys and past consultations with respondents, trade association representatives, and data users to improve the survey.

Please refer to the forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section;

(5) *Estimated Number of Respondents:* 15,500;

(6) *Annual Estimated Number of Total Responses:* 5,167;

(7) *Annual Estimated Number of Burden Hours:* 47,603;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no additional costs to respondents associated with the survey other than the costs associated with the burden hours.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, October 21, 2014.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2014–25460 Filed 10–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–80–000]

Calpine Construction Finance Company, L.P. v. Tampa Electric Company; Notice of Effective Date of Withdrawal of Complaint

1. On September 15, 2014, Calpine Construction Finance Company, L.P. (Calpine Construction) filed a Notice of Withdrawal of Complaint in the above-referenced docket.

2. On September 24, 2014, Tampa Electric Company, filed comments stating it does not oppose Calpine Construction's withdrawal of its complaint.

3. Pursuant to Rule 216 of the Commission's Rules of Practice and Procedure,[1] the withdrawal of a pleading is effective at the end of 15 days from the date the withdrawal pleading was filed, if no motion in opposition is filed and the Commission takes no action to disallow the withdrawal within the 15-day period.

4. No motion opposing the withdrawal was filed and the Commission has taken no action to disallow the withdrawal. Accordingly, the effective date of the withdrawal is September 30, 2014. This proceeding is thereby terminated.

Dated: October 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25543 Filed 10–24–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.216(b) (2014).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–3–000]

Gulf South Pipeline Company, LP; Notice of Request Under Blanket Authorization

Take notice that on October 9, 2014, Gulf South Pipeline Company, LP (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas, 77046 filed a prior notice request pursuant to sections 157.205 and 157.213 of the Commission's regulations under the Natural Gas Act for authorization to restate its maximum storage capacity at its Jackson Gas Storage Facility located in Rankin County, Mississippi (Jackson Storage) to reflect the actual operational capabilities of the facilities and to reallocate Jackson Storage's base and working gas volumes, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Gulf South requests that the certificated maximum storage capacity of its Jackson Storage facility be revised from 7.95 billion cubic feet (Bcf) to 7.73 Bcf to reflect the actual operational capability of the facility. Additionally, Gulf South requests that the working gas capacity of Jackson storage change from 5.13 Bcf to 5.80 Bcf and that the base capacity changes from 2.82 Bcf to 1.93 Bcf.

Any questions regarding this Application should be directed to M.L. Gutierrez, Director, Regulatory Affairs, by phone at (713) 479–8252, or fax (713) 479–1745 or by email at *Nell.Gutierrez@bwpmlp.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: October 20, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25380 Filed 10–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Settlement Agreement and Soliciting Comments

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* P–12686–004.

c. *Date filed:* October 10, 2014.

d. *Applicant:* Baker County, Oregon (Baker County).

e. *Name of Project:* Mason Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on the Powder River, at the existing U.S. Bureau of Reclamation's (Reclamation) Mason Dam, near Baker City, in Baker County, Oregon. The project would occupy 6.4 acres of federal land managed by Reclamation and the U.S. Forest Service.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Applicant Contact: Fred Warner Jr., Baker County Board of Commissioners Chairman, 1995 Third Street, Baker City, OR 97814, (541) 523–8200.

i. *FERC Contact:* Jennifer Adams, telephone (202) 502–8087, email *jennifer.adams@ferc.gov.*

j. *Deadline for filing comments:* November 20, 2014. Reply comments due December 5, 2014.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. Baker County, Oregon (Baker County) filed the Settlement Agreement on behalf of itself and the U.S. Bureau of Reclamation, U.S. Department of Agriculture Forest Service, U.S. Fish and Wildlife Service, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, and Oregon Water Resources Department. The purpose of the Settlement Agreement is to resolve among the signatories all issues associated with issuance of an original license for the project regarding annual coordination meetings, project operation, fish entrainment and passage, water quality, erosion and vegetation and noxious weed management, terrestrial wildlife resources, historic and archeologic resources, emergency contact and action, recreation, and road disturbance. Baker County requests that the Commission accept and incorporate into any original license the project the protection, mitigation, and enhancement measures stated in Appendices A through E of the Settlement Agreement.

l. A copy of the settlement agreement is available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via

email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–25544 Filed 10–24–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9918–47–Region 2]

Proposed CERCLA Section 122(h) Cost Recovery Settlement for the Hooker Chemical/Ruco Polymer Superfund Site, Located in Hicksville, Town of Oyster Bay, Nassau County, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region II, of a proposed cost recovery settlement agreement pursuant to Section 122(h) of CERCLA, with Occidental Chemical Corporation (''Settling Party'') for the Hooker Chemical/Ruco Polymer Superfund Site (the ''Site''), located in Hicksville, Town of Oyster Bay, Nassau County, New York. The Settling Party agrees to pay EPA $722,250 in reimbursement of past response costs related to EPA oversight of response actions performed by the Settling Party at the Site.

The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling party pursuant to Section 107(a) of CERCLA, with regard to the past response costs and future response costs as defined in the settlement agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region II, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before November 26, 2014.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region II offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Hooker Chemical/Ruco Polymer Superfund Site, located in Hicksville, Town of Oyster Bay, Nassau County, New York, Index No. CERCLA–02–2014–2017. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Argie Cirillo, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: 212–637–3178.

Dated: October 14, 2014.

Walter Mugdan,

Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2014–25477 Filed 10–24–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 21, 2014.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Citizens National Corporation,* Paintsville, Kentucky; to acquire 100 percent of the voting shares of Peoples Security Bancorp, Inc., and thereby indirectly acquire voting shares of Peoples Security Bank of Louisa, both in Louisa, Kentucky.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *FNB Bancorp,* South San Francisco, California; to acquire 100 percent of the voting shares of Valley Community Bank, Pleasanton, California.

Board of Governors of the Federal Reserve System, October 22, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–25474 Filed 10–24–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.18 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest, which is determined and fixed by the Secretary of the Treasury after considering private consumer rates of interest on the date that the Department of Health and Human Services becomes entitled to recovery. The rate cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities'' unless the Secretary waives interest in whole or part, or a different rate is prescribed by statute, contract, or repayment agreement. The Secretary of the Treasury may revise this rate quarterly. The Department of Health and Human Services publishes this rate in the **Federal Register**.

The current rate of 10¾%, as fixed by the Secretary of the Treasury, is certified for the quarter ended September 30, 2014. This rate is based on the Interest

Rates for Specific Legislation, ''National Health Services Corps Scholarship Program (42 U.S.C. 250(B)(1)(A))'' and ''National Research Service Award Program (42 U.S.C. 288(c)(4)(B)).'' This interest rate will be applied to overdue debt until the Department of Health and Human Services publishes a revision.

Dated: October 16, 2014.

David C. Horn,

Director, Office of Financial Policy and Reporting.

[FR Doc. 2014–25443 Filed 10–24–14; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1635–N]

Medicare, Medicaid, and Children's Health Insurance Programs; Advisory Panel on Clinical Diagnostic Laboratory Tests and Request for Nominations

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the establishment of an Advisory Panel on Clinical Diagnostic Laboratory Tests (the Panel) and requests nominations for individuals to serve on the Panel.

DATES: Nominations will be considered if we receive them at the appropriate address, provided in the **ADDRESSES** section of this notice, no later than 5 p.m., e.d.t. on November 26, 2014.

ADDRESSES: Mail or deliver written nominations for membership to the following address: Glenn C. McGuirk, Designated Federal Official, Center for Medicare, Division of Ambulatory Services, CMS, 7500 Security Boulevard, Mail Stop C4–01–26, Baltimore, MD 21244, or email to *Glenn.McGuirk@cms.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Glenn C. McGuirk, 410–786–5723, email *Glenn.McGuirk@cms.hhs.gov,* or visit the Web site *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/index.html?redirect=/ClinicalLabFeeSched/.*

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

I. Background

The Advisory Panel on Clinical Diagnostic Laboratory Tests is authorized by section 1834A(f)(1) of the Social Security Act (the Act) (42 U.S.C. 1395m–1), as established by section 216 of the Protecting Access to Medicare Act of 2014 (PAMA) (Pub L. 113–93, enacted April 1, 2014), and is subject to the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

II. Provisions of This Notice

A. Objectives and Scope of the Panel

Section 1834A of the Act requires the establishment of new Medicare payment rates for clinical diagnostic laboratory tests furnished on or after January 1, 2017, based on private payor rates, and establishes processes for determining initial payments for new clinical diagnostic laboratory tests (including advanced diagnostic laboratory tests). As set forth in section 1834A(f)(1) of the Act, the Secretary of Health and Human Services (the Secretary) will consult with an expert outside advisory panel, to be established by the Secretary not later than July 1, 2015, composed of an appropriate selection of individuals with expertise in issues related to clinical diagnostic laboratory tests. Such individuals may include representatives of clinical laboratories, molecular pathologists, clinical laboratory researchers, and individuals with expertise in clinical laboratory science or economics of clinical laboratory services. The Panel will provide input to the Secretary and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on the following:

- The establishment of payment rates under section 1834A of the Act for new clinical diagnostic laboratory tests, including whether to use crosswalking or gapfilling processes to determine payment for a specific new test; and
- The factors used in determining coverage and payment processes for new clinical diagnostic laboratory tests.

In addition, the Panel will provide recommendations to the Secretary and the Administrator of CMS under section 1834A of the Act.

B. Description of Duties

The Panel will provide input and recommendations on the following issues:

- Calculation of weighted median for laboratory services using private payor rates.
- Phase-in of reductions from private payor rate implementation.
- Application of market rates.
- Evaluation and designation of tests as advanced diagnostic laboratory tests.
- Whether to use crosswalking or gapfilling to determine payment for a specific new test.
- The factors used in determining coverage or payment processes for new clinical diagnostic laboratory tests.

The subject matter before the Panel will be limited to these and related topics. Unrelated topics will not be subjects for discussion. Unrelated topics will include, but are not limited to, definition of an applicable laboratory for purposes of reporting private payor data, definition of a data collection period, treatment of discounts, reporting of more than one payment rate for the same payor, certification of data, definition of a private payor, civil monetary penalties for noncompliance with reporting requirements, and generally, Medicare conditions of payment for clinical diagnostic laboratory tests.

Panel meetings will be held up to 4 times a year. The Panel will consist of up to 15 individuals and a Chair. The Panel Chair will be a federal official who is designated by the Secretary or the Administrator of CMS. The Panel Chair will facilitate meetings and the Designated Federal Officer (DFO) or designee must be present at all meetings. Meetings will be open to the public except as determined otherwise by the Secretary or other official to whom the authority has been delegated in accordance with the Government in the Sunshine Act of 1976 (5 U.S.C. 552b(c)) and FACA. Notice of all meetings will be published in the **Federal Register** as required by applicable laws and Departmental regulations. Meetings will be conducted, and records of the proceedings kept, as required by applicable laws and departmental regulations.

To conduct the business of the Panel, a quorum is required. A quorum exists when a majority of currently appointed members is present at full Panel or subcommittee meetings or is participating in conference calls.

Unless renewed by appropriate action prior to expiration, the Panel will terminate 2 years from the filing date of its charter.

C. Request for Nominations

We are requesting nominations for members to serve on the Panel. As noted previously, the Panel will consist of up to 15 individuals with expertise in issues related to clinical diagnostic laboratory tests, which may include representatives of clinical laboratories, molecular pathologists, clinical laboratory researchers, and individuals with expertise in clinical laboratory science or economics of clinical

laboratory services. Such issues may include the development, validation, performance, safety, and application of such tests. Nominees must demonstrate personal experience with clinical laboratory tests and services through a past or present history of direct employment with an organization that furnishes clinical diagnostic laboratory tests, or in an academic or research capacity. For purposes of this Panel, consultants or independent contractors are not considered to be representatives of clinical laboratories.

All members will serve on a voluntary basis, without compensation, pursuant to advance written agreement. Members of the Panel will be entitled to receive reimbursement for travel expenses and per diem in lieu of subsistence expenses, in accordance with standard Federal Travel Regulations. A member may serve after the expiration of his/her term until a successor has been sworn in.

The nominees will be evaluated based on expertise and factors needed to maintain a balance of representation on the Panel. These factors include, but are not limited to, geographic area representation, female and minority representation, points of view, and areas of expertise (for example, medical, scientific, financial, technical, or administrative). In addition, all nominees must have at least 5 years of experience with clinical diagnostic laboratory tests or genetic testing.

Nominations will be considered from all geographic locations within the United States or its territories. Any organization or person may nominate one or more qualified individuals for Panel membership. Self-nominations will also be accepted.

Each nomination must state that the nominee has expressed a willingness to serve as a Panel member and must be accompanied by a curriculum vitae and a brief biographical summary of the nominee's experience. All curricula vitae must include the following:

- Title and current position.
- Professional affiliation.
- Home and business address.
- Telephone and fax numbers.
- Email address.
- List of areas of expertise.

In addition, each nomination letter must include the reasons why the nominee should be considered, as well as a written and signed statement that the nominee is willing to serve on the Panel under the conditions described in the notice and further specified in the Charter.

The top nominees will be contacted in regard to their interest and availability. Phone interviews of nominees may also be requested after review of the nominations. The CMS Administrator or designee will make the final decision about who will serve on the Panel. Formal letters of invitation to serve on the Panel will be extended by the CMS Administrator.

To permit an evaluation of possible sources of conflict of interest, potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts.

The selected candidates will be invited to serve for a term of up to 3 years, contingent upon the renewal of the Panel by appropriate action prior to its termination. A member may serve after the expiration of that member's term until a successor takes office. Any member appointed to fill a vacancy for an unexpired term will be appointed for the remainder of that term.

III. Copies of the Charter

The Secretary's Charter for the Advisory Panel on Clinical Diagnostic Laboratory Tests is available on the CMS Web site at *http://www.cms.gov/FACA/XXXXXXX.asp*, or you may obtain a copy of the charter by submitting a request to the contact listed in the **FOR FURTHER INFORMATION** section of this notice.

Dated: October 21, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–25401 Filed 10–24–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects: Grant Reviewer Recruitment.

Title: Grant Reviewer Recruitment Form.

OMB No.: NEW.

Description: The Administration for Children and Families' Children's Bureau (CB) is responsible for administering the review of eligible grant applications submitted in response to funding opportunity announcements issued by CB. CB ensures that the objective review process is independent, efficient, effective, economical, and complies with the applicable statutes, regulations, and policies. Applications are reviewed by subject experts knowledgeable in child welfare and related fields. Review findings are advisory to CB; CB is responsible for making award decisions.

This announcement is a request for approval of the proposed information collection system, the Reviewer Recruitment Module (RRM). CB will use a web-based data collection form and database to gather critical reviewer information in drop down menu format for data such as: Degree, occupation, affiliations with organizations and institutions that serve special populations, and demographic information that may be voluntarily provided by a potential reviewer.

These data elements will help CB find and select expert grant reviewers for objective review committees. The web-based system will permit reviewers to access and update their information at will and as needed. The RRM will be accessible by the general public via *https://rrm.grantsolutions.gov/AgencyPortal/cb.aspx.*

Respondents: Generally, our reviewers are current or retired professionals with backgrounds in child welfare and related fields and in some instances current or former foster care parents or clients.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Reviewer recruitment module	500	1	.25	125

Estimated Total Annual Burden Hours: 125.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–25526 Filed 10–24–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1630]

Draft Guidance for Industry on Qualification for the Use of Galactomannan in Serum and Bronchoalveolar Lavage Fluid; 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 ''Draft Guidance on Qualification of Biomarker—*Galactomannan* in Studies of Treatments of Invasive Aspergillosis.'' This draft guidance provides recommendations on the use of *Galactomannan* detection in serum and/or bronchoalveolar lavage (BAL) fluid as the sole microbiological criterion to classify patients as having probable invasive Aspergillosis (IA) for enrollment in clinical trials. This draft guidance provides the context of use for which this biomarker drug development tool (DDT) is qualified through the Center for Drug Evaluation and Research (CDER) DDT Qualification Program. In the **Federal Register** of January 7, 2014, FDA announced the availability of a guidance for industry entitled ''Qualification Process for Drug Development Tools,'' which described the process that would be used to qualify DDTs and to make new DDT qualification recommendations available on FDA's Web site. The qualification recommendations in this draft guidance were developed using the process described in that guidance.

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 26, 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. 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: Marianne Noone, Center for Drug Evaluation and Research (Office of Translational Sciences, Immediate Office), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 4528, Silver Spring, MD 20993–0002, 301–796–2600.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Draft Guidance on Qualification of Biomarker—*Galactomannan* in studies of treatments of invasive Aspergillosis.'' This draft guidance provides recommendations on the use of *Galactomannan* detection in serum and/or BAL fluid as the sole microbiological criterion to classify patients as having probable IA for enrollment in clinical trials. The draft guidance provides the context of use for which this biomarker DDT is qualified through the CDER DDT Qualification Program. Qualification of this biomarker for this specific context of use represents the conclusion that analytically valid measurements of the biomarker can be relied on to have a specific use and interpretable meaning. Further, the biomarker can be used by drug developers for the qualified context in submission of investigational new drug applications, new drug applications, and biologics licensing applications without the relevant CDER review group reconsidering and reconfirming the suitability of the DDT. Qualification means that the use of this biomarker in the specific context of use is not limited to a single, specific drug development program. Making the qualification recommendations widely known and available for use by drug developers will contribute to drug innovation, thus supporting public health. The draft guidance is an attachment to the guidance for industry entitled ''Qualification Process for Drug Development Tools.''

In March 2006, FDA issued the ''Critical Path Opportunities Report and List,'' in which FDA described six key areas along the critical path to improved therapies and listed specific opportunities for advancement within these topic areas. The report noted that a new product development toolkit containing new scientific and technical methods was needed to improve the efficiency of drug development.

In 2008, the Mycoses Study Group proposed using *Galactomannan* in serum and BAL fluid as an indicator of IA in lieu of culture in patients with hematologic malignancies and recipients of allogeneic hematopoietic stem cell transplants and who also have radiologic evidence suggestive of invasive fungal infection (Ref. 1). A qualification review team of experts evaluated the data supporting the proposed context of use and rendered a qualification recommendation. The qualification recommendation in the draft guidance includes the following information:

- A use statement;
- conditions for qualified use of the assay;
- patient populations;

- limitations for use of the *Galactomannan* assay;
- considerations for sample acquisition and documentation;
- analysis of study results; and
- performance characteristics of the assay.

Innovative and improved DDTs can help streamline the drug development process, improve the chances for clinical trial success, and yield more information about a treatment and/or disease. DDTs include, but are not limited to, biomarkers, clinical outcome assessments and animal models. Refer to DDTs Qualification Programs at *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/DrugDevelopmentToolsQualificationProgram/default.htm* for additional information.

As stated previously in the **Federal Register** of January 7, 2014 (79 FR 831), FDA announced the availability of the guidance for industry entitled ''Qualification Process for Drug Development Tools,'' which described the process that would be used to qualify DDTs and to make new DDT qualification recommendations available on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*. CDER has developed this formal process to work with developers of these biomarker DDTs to guide the developers as they refine the tools and rigorously evaluate them for use in the regulatory context. Once qualified, DDTs will be publicly available for use in any drug development program for the qualified context of use. As described in the January 2014 guidance, biomarker DDTs should be developed and reviewed using this process.

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 *Galactomannan* in serum and BAL fluid. 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 guidance contains an information collection that is 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 information collection has been approved under the OMB control numbers 0910–0001 and 0910–0014. The information requested in the guidance is currently submitted to FDA to support medical product effectiveness (see 21 CFR 312.30, 21 CFR 314.50(d)(5), and 21 CFR 314.126(b)(6)).

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 either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

V. Reference

The following reference has been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.*

1. De Pauw, B., T.J. Walsh, J.P. Donnelly, et al., ''Revised Definitions of Invasive Fungal Disease from European Organization for Research and Treatment of Cancer/Invasive Fungal Infections Cooperative Group and the National Institute of Allergy and Infectious Diseases Mycoses Study Group (EORTC/MSG) Consensus Group,'' *Clinical Infectious Diseases* (2008) 46: 1813–1821.

Dated: October 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–25532 Filed 10–24–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–1078]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee meetings.

SUMMARY: The National Offshore Safety Advisory Committee and its Subcommittees will meet on November 18 and 19, 2014, in Houston, TX, to discuss the safety of operations and other matters affecting the offshore oil and gas industry. These meetings are open to the public.

DATES: Subcommittees of the National Offshore Safety Advisory Committee will meet on Tuesday, November 18, 2014, from 1 p.m. to 4 p.m. and the full Committee will meet on Wednesday, November 19, 2014, from 8:30 a.m. to 4:30 p.m. These meetings may end early if the Committee has completed its business, or they may be extended based on the number of public comments. All submitted written materials, comments, and requests to make oral presentations at the meetings should reach the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) by November 1, 2014. Any written material submitted by the public will be distributed to the Committee and become part of the public record.

ADDRESSES: The meetings will be held in the conference room of the American Bureau of Shipping, 15011 Katy Freeway, Suite 100, Houston, TX, 77094, 832–391–3300, *http://www.eagle.org.*

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the individuals listed in **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the ''Agenda'' section below. Written comments for distribution to Committee members must be submitted no later than November 1, 2014, if you want the Committee members to be able to review your comments before the meeting, and must be identified by docket number USCG–2013–1078 and submitted by *one* of the following methods:

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

(preferred method to avoid delays in processing).

• Fax: (202) 493–2251.

• Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

• Hand Delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please submit comments using only one of the above methods.

Instructions: All submissions must include the words ''Department of Homeland Security'' and the docket number for this action, USCG–2013–1078. All comments submitted will be posted without alteration at *http://www.regulations.gov* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert USCG–2013–1078 in the Search box, press Enter, and then click on the item you wish to view.

A public oral comment period will be held during the meeting on November 19, 2014, and speakers are requested to limit their comments to 3 minutes. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commander Thomas Kaminski, Designated Federal Official of the National Offshore Safety Advisory Committee, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1410, fax (202) 372–8382 or email *Thomas.J.Kaminski@uscg.mil*, or Mr. Scott Hartley, telephone (202) 372–1437, fax (202) 372–8382 or email *Scott.E.Hartley@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act*, Title 5 United States Code Appendix. The National Offshore Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/NOSAC.* Alternatively, you may contact Mr. Scott Hartley as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

Day 1

The National Offshore Safety Advisory Committee Subcommittees will meet on November 18, 2014, from 1 p.m. to 4 p.m. to review, discuss and formulate recommendations on the following matters:

• Commercial Diving Safety on the Outer Continental Shelf;

• Offshore Supply Vessel Purpose and Offshore Workers; and

• Training of personnel on Mobile Offshore Units and Offshore Supply Vessels working on the Outer Continental Shelf.

Day 2

The National Offshore Safety Advisory full Committee will meet on November 19, 2014, from 8:30 a.m. to 4:30 p.m. to review and discuss Subcommittee progress, reports and recommendations received from the above listed Subcommittees from their deliberations on November 18, 2014. The Committee will then use this information and consider public comments in formulating recommendations to the U.S. Coast Guard. Public comments or questions will be taken at the discretion of the Designated Federal Officer during the discussion and recommendation portion of the meeting as well as during the public comment period. A complete agenda for November 19, 2014, is as follows:

(1) Current Business—Presentation and discussion of progress reports, final reports and recommendations from the Subcommittees and subsequent actions on:

(a) Commercial Diving Safety on the Outer Continental Shelf;

(b) Offshore Supply Vessel Purpose and Offshore Workers; and

(c) Training of personnel on Mobile Offshore Units and Offshore Supply Vessels working on the Outer Continental Shelf.

(2) Presentations and discussions of the following matters:

(a) Offshore Service Vessel Dynamic Positioning Authority and Dynamic Positioning Operator Certification;

(b) NorSafe U.S.A. Lifeboat Fall Testing;

(c) American Bureau of Shipping Liquefied Natural Gas Bunkering;

(d) Center for Offshore Safety Activities; and

(e) American Petroleum Institute Recommended Practice 2D Operation and Maintenance of Offshore Cranes.

(3) Public comment period.

The agenda, progress reports, draft final reports, new task statements and presentations will be available approximately 7 days prior to the meeting at the *https://homeport.uscg.mil/NOSAC* Web site or by contacting Mr. Scott Hartley.

Minutes

Meeting minutes will be available for public view and copying within 90 days following the meeting at the *https://homeport.uscg.mil/NOSAC* Web site.

Notice of Future 2014 National Offshore Safety Advisory Committee Meetings

To receive automatic email notices of future National Offshore Safety Advisory Committee meetings in 2014, go to the online docket, USCG–2013–1078 (*http://www.regulations.gov/#!docketDetail:D=USCG-2013-1078*), and select the sign-up-for-email-alerts option.

Dated: October 22, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2014–25472 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to

adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of December 9, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.* The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 9, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Bartholomew County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1342	
City of Columbus	Bartholomew County Planning Department, 123 Washington Street, Suite 8, Columbus, IN 47201.
Town of Edinburgh	Town Hall, 107 South Holland Street, Edinburgh, IN 46124.
Town of Hartsville	Town Hall, 290 West Jefferson Street, Hartsville, IN 47244.
Town of Hope	Town Hall, 404 Jackson Street, Hope, IN 47246.
Unincorporated Areas of Bartholomew County	Bartholomew County Planning Department, 123 Washington Street, Suite 8, Columbus, IN 47201.
Grant County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1342	
City of Gas City	City Hall, 211 East Main Street, Gas City, IN 46933.
City of Jonesboro	Grant County Area Plan Commission, 401 South Adams Street, Marion, IN 46953.
City of Marion	City Hall, 301 South Branson Street, Marion, IN 46952.
Town of Fairmount	Grant County Area Plan Commission, 401 South Adams Street, Marion, IN 46953.
Town of Matthews	Grant County Area Plan Commission, 401 South Adams Street, Marion, IN 46953.
Town of Sweetser	Grant County Area Plan Commission, 401 South Adams Street, Marion, IN 46953.
Town of Upland	Grant County Area Plan Commission, 401 South Adams Street, Marion, IN 46953.
Town of Van Buren	Grant County Area Plan Commission, 401 South Adams Street, Marion, IN 46953.
Unincorporated Areas of Grant County	Grant County Area Planning Commission, 401 South Adams Street, Marion, IN 46953.
Clarion County, Pennsylvania (All Jurisdictions) Docket No.: FEMA–B–1312	
Borough of East Brady	Borough Building, 502 Ferry Street, Suite 15, East Brady, PA 16028.
Borough of Foxburg	Foxburg Municipal Building, 1417 Perryville Road, Parker, PA 16049.
Borough of New Bethlehem	Borough Building, 210 Lafayette Street, New Bethlehem, PA 16242.
Township of Brady	Brady Township Building, 935 Phillipston Road, Rimersburg, PA 16248.
Township of Madison	Madison Township Building, 1183 Madison Shop Road, Rimersburg, PA 16246.
Township of Perry	Perry Township Building, 5687 Doc Walker Road, Parker, PA 16049.
Township of Porter	Porter Township Building, 9485 Curllsville Road, New Bethlehem, PA 16242.

Community	Community map repository address
Township of Redbank	Redbank Township Building, 10 Swede Hollow Road, Fairmount City, PA 16224.
Township of Richland	Richland Township Building, 511 Dittman Road, Emlenton, PA 16373.
City of Newport News, Virginia (Independent City) Docket Nos.: FEMA–B–1284 and B–1344	
City of Newport News	Department of Engineering, 2400 Washington Avenue, Newport News, VA 23607.
Mathews County, Virginia (All Jurisdictions) Docket No.: FEMA–B–1332	
Unincorporated Areas of Mathews County	Mathews County Building Official's Office, 17 Court Street, Mathews, VA 23109.

[FR Doc. 2014–25388 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of November 19, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 9, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Hamilton County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1281	
City of Carmel	Department of Community Services, One Civic Square, Carmel, IN 46032.
City of Noblesville	City Hall, Department of Planning and Zoning, 16 South 10th Street, Noblesville, IN 46060.
City of Westfield	City Hall, 130 Penn Street, Westfield, IN 46074.
Town of Cicero	Utility Office, 150 West Jackson Street, Cicero, IN 46034.
Town of Fishers	Administrative Offices, One Municipal Drive, Fishers, IN 46038.
Town of Sheridan	Town Hall, 506 South Main Street, Sheridan, IN 46069.

Community	Community map repository address
Unincorporated Areas of Hamilton County	Hamilton County Government and Judicial Center, One Hamilton County Square, Noblesville, IN 46060.
Jackson County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1342	
City of Seymour	Department of Planning and Zoning, 301 North Chestnut Street, Seymour, IN 47274.
Town of Brownstown	Town Hall, 200 West Walnut Street, Brownstown, IN 47220.
Town of Crothersville	Town Hall, 111 East Howard Street, Crothersville, IN 47229.
Town of Medora	Town Hall, 27 North Perry Street, Medora, IN 47260.
Unincorporated Areas of Jackson County	Jackson County Courthouse, 111 South Main Street, Brownstown, IN 47220.
Calvert County, Maryland and Incorporated Areas Docket No.: FEMA–B–1322	
Town of Chesapeake Beach	Town Hall, 8200 Bayside Road, Chesapeake Beach, MD 20732.
Town of North Beach	Town Hall, 8916 Chesapeake Avenue, North Beach, MD 20714.
Unincorporated Areas of Calvert County	Calvert County Planning Department, 150 Main Street, Suite 300, Prince Frederick, MD 20678.
St. Mary's County, Maryland and Incorporated Areas Docket No.: FEMA–B–1322	
Town of Leonardtown	Town Hall, 41660 Courthouse Drive, Leonardtown, MD 20650.
Unincorporated Areas of St. Mary's County	St. Mary's County Planning Department, 23150 Leonard Hall Drive, Leonardtown, MD 20650.
Freeborn County, Minnesota, and Incorporated Areas Docket No.: FEMA–B–1310	
City of Albert Lea	City Hall, 221 East Clark Street, Albert Lea, MN 56007.
City of Emmons	City Hall, 219 Main Street, Emmons, MN 56029.
City of Glenville	City Hall, 221 West Main Street, Glenville, MN 56036.
City of Hollandale	Government Center, 110 Park Avenue West, Hollandale, MN 56045.
City of Twin Lakes	City Hall, 101 Main Street West, Twin Lakes, MN 56089.
Unincorporated Areas of Freeborn County	Freeborn County Government Center, 411 South Broadway, Albert Lea, MN 56007.
Erie County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1342	
City of Huron	Huron Township Station, 1820 Bogart Road, Huron, OH 44839.
City of Sandusky	City Hall, 222 Meigs Street, Sandusky, OH 44870.
Unincorporated Areas of Erie County	Erie Regional Planning Commission, 2900 Columbus Avenue, Sandusky, OH 44870.
Village of Berlin Heights	Village of Berlin Heights, 8 West Main Street, Berlin Heights, OH 44814.
Village of Milan	Adminstration Office, 11 South Main Street, Milan, OH 44846.
Gloucester County, Virginia (All Jurisdictions) Docket No.: FEMA–B–1332	
Unincorporated Areas of Gloucester County	Gloucester County Office of Community Development, 6489 Main Street, Building 2, Gloucester, VA 23061.

[FR Doc. 2014–25393 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1446]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of

new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 9, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
California: San Bernardino.	City of Yucaipa (14–09–0135P).	The Honorable Denise Hoyt, Mayor, City of Yucaipa, 34272 Yucaipa Boulevard, Yucaipa, CA 92399.	34272 Yucaipa Boulevard, Yucaipa, CA 92399.	*http://www.msc.fema.gov/lomc*	January 12, 2015	060739
Idaho: Ada	City of Boise (14–10–0845P).	The Honorable David Bieter, Mayor, City of Boise, 150 North Capitol Boulevard, Boise, ID 83701.	150 North Capitol Boulevard, Boise, ID 83701.	*http://www.msc.fema.gov/lomc*	December 24, 2014.	160002
Illinois:						
Will	City of Crest Hill (14–05–5077P).	The Honorable Ray Soliman, Mayor, City of Crest Hill, 1610 Plainfield Road, Crest Hill, IL 60403.	1610 Plainfield Road, Crest Hill, IL 60403.	*http://www.msc.fema.gov/lomc*	January 13, 2015	170699
Will	City of Joliet (14–05–5077P).	The Honorable Thomas C. Giarrante, Mayor, City of Joliet, 150 West Jefferson Street, Joliet, IL 60432.	150 West Jefferson Street, Joliet, IL 60432.	*http://www.msc.fema.gov/lomc*	January 13, 2015	170702
Kansas: Rice	City of Lyons (14–07–1730P).	The Honorbale Michael Young, Mayor, City of Lyons, 217 East Avenue South, Lyons, KS 67554.	217 East Avenue South, Lyons, KS 67554.	*http://www.msc.fema.gov/lomc*	December 22, 2014.	200295

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Maine: Androscoggin.	Town of Greene (14–01–2808P).	Mr. Ronald I. Grant, Chairman, Town of Greene, 220 Main Street, Greene, ME 04236.	220 Main Street, Greene, ME 04236.	*http://www.msc.fema.gov/lomc*	December 23, 2014.	230475
Massachusetts: Plymouth.	Town of Marion (14–01–0063P).	Mr. Paul F. Dawson, Town Administrator, Town of Marion, 2 Spring Street, Marion, MA 02738.	2 Spring Street, Marion, MA 02738.	*http://www.msc.fema.gov/lomc*	December 26, 2014.	255213
Michigan: Oakland	City of Troy (14–05–5494P).	The Honorable Dane Slater, Mayor, City of Troy, 500 West Big Beaver, Troy, MI 48084.	500 West Big Beaver, Troy, MI 48084.	*http://www.msc.fema.gov/lomc*	January 26, 2015	260180
Minnesota:						
Hennepin	City of Edina (14–05–2615P).	The Honorable James Hovland, Mayor, City of Edina, 4801 West 50th Street, Edina, MN 55424.	4801 West 50th Street, Edina, MN 55424.	*http://www.msc.fema.gov/lomc*	December 29, 2014.	270160
Hennepin	City of St. Louis Park (14–05–2615P).	The Honorable Jeff Jacobs, Mayor, City of St. Louis Park, 5005 Minnetonka Boulevard, St. Louis Park, MN 55416.	5005 Minnetonka Boulevard, St. Louis Park, MN 55416.	*http://www.msc.fema.gov/lomc*	December 29, 2014.	270184
Missouri: St. Charles.	City of O'Fallon (14–07–1935P).	The Honorable Bill Hennessy, Mayor, City of O'Fallon, 8 Shelby Crest Court, O'Fallon, MO 63366.	100 North Main Street, O'Fallon, MS 63366.	*http://www.msc.fema.gov/lomc*	January 22, 2015	290316
Oregon:						
Clackamas	City of Portland (14–10–1890P).	The Honorable Charlie Hales, Mayor, City of Portland, 1221 Southwest 4th Avenue, Room 340, Portland, OR 97204.	1221 Southwest 4th Avenue, Room 230, Portland, OR 97204.	*http://www.msc.fema.gov/lomc*	November 24, 2014.	410183
Washington	City of Hillsboro (14–10–1241P).	The Honorable Jerry Wiley, Mayor, City of Hillsboro, 150 East Main Street, Hillsboro, OR 97123.	123 West Main Street, Hillsboro, OR 97123.	*http://www.msc.fema.gov/lomc*	January 2, 2015	410243

[FR Doc. 2014–25396 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being

already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 9, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No.: B–1414).	Unincorporated Areas of Maricopa County (13–09–2729P).	Mr. Tom Manos, Maricopa County Manager, 301 West Jefferson Street, 10th floor, Phoenix, AZ 85003.	2801 West Durango Street, Phoenix, AZ 85009.	June 27, 2014	040037
Connecticut:					
Fairfield (FEMA Docket No.: B–1414).	City of Bridgeport (14–01–1231P).	The Honorable Bill Finch, Mayor, City of Bridgeport, 999 Broad Street, Bridgeport, CT 06604.	45 Lyon Terrace, Room 216, Bridgeport, CT 06604.	July 18, 2014	090002
Fairfield (FEMA Docket No.: B–1414).	Town of Darien (13–01–2598P).	The Honorable Jayme J. Stevenson, First Selectman, Town of Darien, 2 Renshaw Road, Darien, CT 06820.	2 Renshaw Road, Darien, CT 06820.	September 9, 2014	090005
Fairfield (FEMA Docket No.: B–1414).	Town of Darien (13–01–2599P).	The Honorable Jamie J. Stevenson, First Selectman, Town of Darien, 2 Renshaw Road, Darien, CT 06820.	2 Renshaw Road, Darien, CT 06820.	August 21, 2014	090005
Fairfield (FEMA Docket No.: B–1414).	Town of Wilton (14–01–0210P).	The Honorable William F. Brennan, First Selectman, Town of Wilton, 238 Danbury Road, Wilton, CT 06897.	238 Danbury Road, Wilton, CT 06897.	September 12, 2014	090020
Florida: Nassau (FEMA Docket No.: B–1414).	Unincorporated Areas of Nassau County (14–04–0416P).	The Honorable Barry V. Holloway, Nassau County Chairman, 96135 Nassau Place, Suite 1, Yulee, FL 32097.	96161 Nassau Place, Yulee Florida, 32097.	August 1, 2014	120170
Idaho:					
Ada (FEMA Docket No.: B–1414).	City of Boise (13–10–1536P).	The Honorable David Bieter, Mayor, City of Boise, P.O. Box 500, Boise, ID 83701.	150 North Capitol Boulevard, 2nd Floor, Boise, ID 83701.	September 5, 2014	160002
Bonneville (FEMA Docket No.: B–1414).	City of Ammon (14–10–0057P).	The Honorable Steve Fuhriman, Mayor, City of Ammon, 2135 South Ammon Road, Ammon, ID 83406.	Ammon City Hall, 2135 South Ammon Road, Ammon, ID 83406.	September 5, 2014	160028
Bonneville (FEMA Docket No.: B–1414).	Unincorporated Areas of Bonneville County (14–10–0057P).	The Honorable Roger Christensen, Commissioner, Bonneville County, 605 North Capital Avenue, Idaho Falls, ID 83402.	605 North Capitol Avenue, Idaho Falls, ID 83402.	September 5, 2014	160027
Illinois:					
Cook (FEMA Docket No.: B–1414).	Village of Hoffman Estates (12–05–7136P).	The Honorable William D. McLeod, Mayor, Village of Hoffman Estates, 1900 Hassell Road, Hoffman Estates, IL 60169.	Village Hall, 1900 Hassell Road, Hoffman Estates, IL 60169.	August 19, 2014	170107
Cook (FEMA Docket No.: B–1414).	Village of Schaumburg (12–05–7136P).	The Honorable Alan L. Larson, Mayor, Village of Schaumburg, 101 Schaumburg Court, Schaumburg, IL 60193.	Department of Engineering and Public Works, 101 Schaumburg Court, IL 60193.	August 19, 2014	170158
Douglas (FEMA Docket No.: B–1414).	Unincorporated Areas of Douglas County (14–05–0294P).	The Honorable Charles Knox, Douglas County Chairman, 401 South Center Street, Tuscola, IL 61953.	401 South Center Street, Tuscola, IL 61953.	August 21, 2014	170194
Douglas and Moultrie (FEMA Docket No.: B–1414).	Village of Arthur (14–05–0294P).	The Honorable Matt Bernius, Village Board President, Village of Arthur, 120 East Progress Street, Arthur, IL 61911.	120 East Progress Street, Arthur, IL 61911.	August 21, 2014	170520
DuPage (FEMA Docket No.: B–1414).	Unincorporated Areas of DuPage County (13–05–3690P).	The Honorable Dan Cronin, Chairman, DuPage County, 421 North County Farm Road, Wheaton, IL 60187.	DuPage County Courthouse, 421 North County Farm Road, Wheaton, IL 60187.	September 2, 2014	170197
DuPage (FEMA Docket No.: B–1414).	Village of Lisle (13–05–3690P).	The Honorable Joseph Broda, Mayor, Village of Lisle, 925 Burlington Avenue, Lisle, IL 60532.	Village Hall, 925 Burlington Avenue, Lisle, IL 60532.	September 2, 2014	170211
Kane (FEMA Docket No.: B–1414).	City of Elgin (13–05–7606P).	The Honorable David Kaptain, Mayor, City of Elgin, 150 Dexter Court, Elgin, IL 60120.	Department of Public Works, Engineering Department, 150 Dexter Court, Elgin, IL 60120.	July 22, 2014	170087
Kane (FEMA Docket No.: B–1414).	Unincorporated Areas of Kane County (13–05–7606P).	The Honorable Christopher Lauzen, Kane County Chairman, 719 Batavia Avenue, Building A, Geneva, IL 60134.	Water Resources Department, 719 Batavia Avenue, Building A, Geneva, IL 60134.	July 22, 2014	170896

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Lake (FEMA Docket No.: B–1414).	Village of Lake Zurich (14–05–3049P).	The Honorable Thomas Poynton, Mayor, Village of Lake Zurich, 70 East Main Street, Lake Zurich, IL 60047.	Village Hall, 70 East Main Street, Lake Zurich, IL 60047.	August 29, 2014	170376
Moultrie (FEMA Docket No.: B–1414).	Unincorporated Areas of Moultrie County (14–05–0294P).	The Honorable David McCabe, Moultrie County Chairman, 10 South Main Street, Sullivan, IL 61951.	Planning and Zoning Department, 10 South Main Street, Suite 1, Sullivan, IL 61951.	August 21, 2014	170998
Williamson (FEMA Docket No.: B–1414).	City of Herrin (13–05–6622P).	The Honorable Victor M. Ritter, Mayor, City of Herrin, 300 North Park Avenue, Herrin, IL 62948.	300 North Park Avenue, Herrin, IL 62948.	June 20, 2014	170717
Iowa:					
Black Hawk (FEMA Docket No.: B–1414).	City of Waterloo (13–07–1693P).	The Honorable Buck Clark, Mayor, City of Waterloo, 715 Mulberry Street, Waterloo, IA 50703.	715 Mulberry Street, Waterloo, IA 50703.	July 8, 2014	190025
Black Hawk (FEMA Docket No.: B–1414).	Unincorporated Areas of Black Hawk County (13–07–2313P).	The Honorable Craig White, Supervisor, Black Hawk County, 316 East 5th Street, Waterloo, IA 50703.	715 Mulberry Street, Waterloo, IA 50703.	June 26, 2014	190535
Kansas: Wyandotte (FEMA Docket No.: B–1414).	City of Kansas City (13–07–2023P).	The Honorable Mark Holland, Mayor, City of Kansas City, 701 North 7th Street, 9th Floor, Kansas City, KS 66101.	City Hall, 701 North 7th Street, 9th Floor, Kansas City, KS 66101.	June 27, 2014	200363
Maine:					
Androscoggin (FEMA Docket No.: B–1414).	City of Auburn (14–01–0761P).	The Honorable Jonathan P. Labonte, Mayor, City of Auburn, 60 Court Street, Auburn, ME 04210.	Auburn Hall, 60 Court Street, Auburn, ME 04210.	July 14, 2014	230001
Androscoggin (FEMA Docket No.: B–1414).	Town of Turner (14–01–0761P).	Mr. Angelo Terreri, Selectman, Town of Turner, 11 Turner Center Road, Turner, ME 04282.	Turner Town Office, 11 Turner Center Road, Turner, ME 04282.	July 14, 2014	230010
Massachusetts:					
Plymouth (FEMA Docket No.: B–1414).	Town of Marion (14–01–1304P).	The Honorable Jonathan E. Dickerson, Chairman, Board of Selectman, 2 Spring Street, Marion, MA 02738.	2 Spring Street, Marion, MA 02738.	June 6, 2014	255213
Worcester (FEMA Docket No.: B–1414).	Town of Berlin (14–01–1554P).	The Honorable Judith Booman, Chairman, Town of Berlin, 23 Linden Street, Berlin, MA 01503.	23 Linden Street, Berlin, MA 01503.	July 17, 2014	250294
Worcester (FEMA Docket No.: B–1414).	Town of Harvard (14–01–1553P).	Mr. Timothy P. Bragan, Town Administrator, Town of Harvard, 13 Ayer Road, Harvard, MA 01451.	Town Hall, 13 Ayer Road, Harvard, MA 01451.	July 17, 2014	250308
Nebraska:					
Lancaster (FEMA Docket No.: B–1414).	City of Lincoln (13–07–1915P).	The Honorable Chris Beutler, Mayor, City of Lincoln, 555 South 10th Street, Suite 301, Lincoln, NE 68508.	Building and Safety Department, 555 South 10th Street, Lincoln, NE 68508.	June 27, 2014	315273
Washington (FEMA Docket No.: B–1414).	City of Fort Calhoun (13–07–2187P).	The Honorable Mitch Robinson, Mayor, City of Fort Calhoun, 110 South 4th Street, Fort Calhoun, NE 68023.	110 South 4th Street, Fort Calhoun, NE 68023.	July 3, 2014	310368
Nevada: Clark (FEMA Docket No.: B–1414).	City of North Las Vegas (14–09–0513P).	The Honorable John J. Lee, Mayor, City of North Las Vegas, 2250 North Las Vegas Boulevard, North Las Vegas, NV 89030.	2250 North Las Vegas Boulevard, Suite 260, North Las Vegas, NV 89030.	August 12, 2014	320007
Ohio:					
Lorain (FEMA Docket No.: B–1414).	City of Avon Lake (13–05–6724).	The Honorable Greg Zika, Mayor, City of Avon Lake, 150 Avon Belden Lake, Avon Lake, OH 44012.	150 Avon Belden Lake, Avon Lake, OH 44012.	August 8, 2014	390602
Medina (FEMA Docket No.: B–1414).	City of Brunswick (14–05–2309P).	The Honorable Ron Falconi, Mayor, City of Brunswick, 4095 Center Road, Brunswick, OH 44212.	4095 Center Road, Brunswick, OH 44212.	July 18, 2014	390380
Oregon:					
Benton (FEMA Docket No.: B–1414).	City of Corvallis (14–10–0472P).	The Honorable Julie Manning, Mayor, City of Corvallis, 501 Southwest Madison Avenue, Corvallis, OR 97330.	501 Southwest Madison Avenue, Corvallis, OR 97330.	July 14, 2014	410009
Benton (FEMA Docket No.: B–1414).	Unincorporated Areas of Benton County (14–10–0472P).	The Honorable Linda Modrell, Chair, Benton County Board of Commissioners, 205 Northwest 5th Street, Corvallis, OR 97330.	360 Southwest Avery Avenue, Corvallis, OR 97333.	July 14, 2014	410008
Wisconsin: Ozaukee (FEMA Docket No.: B–1414).	Village of Thiensville (14–05–2223X).	The Honorable Karl Hertz, President, Village of Thiensville, 250 Elm Street, Thiensville, WI 53092.	250 Elm Street, Thiensville, WI 53092.	June 26, 2014	550318

[FR Doc. 2014–25394 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1444]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 9, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas: Sebastian.	City of Fort Smith (13–06–0554P).	Mr. Ray Gosack, Administrator, City of Fort Smith, P.O. Box 1908, Fort Smith, AR 72902.	623 Garrison Avenue, 3rd Floor, Room 315, Fort Smith, AR 72901.	*http://www.msc.fema.gov/lomc*	Jan. 23, 2015	055013
Kentucky: Boyd	Unincorporated areas of Boyd County (14–04–3344P).	The Honorable William ''Bud'' Stevens, Boyd County Judge Executive, P.O. Box 423, Catlettsburg, KY 41129.	Boyd County Courthouse, 2800 Louisa Street, Catlettsburg, KY 41129.	*http://www.msc.fema.gov/lomc*	Jan. 15, 2015	210016
Maryland: Worcester	Town of Ocean City (14–03–1372P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21842.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	*http://www.msc.fema.gov/lomc*	Dec. 26, 2014	245207

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Worcester	Town of Ocean City (14–03–1373P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21842.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	*http://www.msc.fema.gov/lomc*	Dec. 26, 2014	245207
Worcester	Town of Ocean City (14–03–1375P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21842.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	*http://www.msc.fema.gov/lomc*	Dec. 26, 2014	245207
New Mexico:						
Bernalillo	City of Albuquerque (14–06–0305P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Development and Review Services Division, 600 2nd Street Northwest, Suite 201, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	Jan. 2, 2015	350002
Bernalillo	Unincorporated areas of Bernalillo County (14–06–0097P).	The Honorable Debbie O'Malley, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	Dec. 26, 2014	350001
New York:						
Cattaraugus ...	Town of Ellicottville (14–02–1952P).	The Honorable John Burrell, Supervisor, Town of Ellicottville, P.O. Box 600, Ellicottville, NY 14731.	Building Department Office, 9 Mill Street, Ellicottville, NY 14731.	*http://www.msc.fema.gov/lomc*	Feb. 4, 2015	360069
Cattaraugus ...	Village of Ellicottville (14–02–1952P).	The Honorable Charles R. Coolidge, Mayor, Village of Ellicottville, P.O. Box 475, Ellicottville, NY 14731.	Building Department Office, 9 Mill Street, Ellicottville, NY 14731.	*http://www.msc.fema.gov/lomc*	Feb. 4, 2015	360070
Dutchess	Town of Beekman (14–02–0532P).	The Honorable Barbara Zulauf, Supervisor, Town of Beekman, 4 Main Street, Poughquag, NY 12570.	Beekman Town Hall, 4 Main Street, Poughquag, NY 12570.	*http://www.msc.fema.gov/lomc*	Mar. 2, 2015	361333
Rockland	Town of Clarkstown (14–02–1889P).	The Honorable Alexander J. Gromack, Supervisor, Town of Clarkstown, 10 Maple Avenue, New City, NY 10956.	Clarkstown Town Hall, 10 Maple Avenue, New City, NY 10956.	*http://www.msc.fema.gov/lomc*	Feb. 18, 2015	360679
Ohio: Tuscarawas	Unincorporated areas of Tuscarawas County (14–05–2619P).	The Honorable Chris Abbuhl, President, Tuscarawas County Board of Commissioners, 125 East High Avenue, New Philadelphia, OH 44663.	Tuscarawas County Administrative Office, 125 East High Avenue, New Philadelphia, OH 44663.	*http://www.msc.fema.gov/lomc*	Jan. 12, 2015	390782
Texas:						
Bastrop	Unincorporated areas of Bastrop County (14–06–0986P).	The Honorable Paul Pape, Bastrop County Judge, 804 Pecan Street, Bastrop, TX 78602.	Bastrop County, Tax Assessor and Development Services Building, 211 Jackson Street, Bastrop, TX 78602.	*http://www.msc.fema.gov/lomc*	Jan. 9, 2015	481193
Bexar	City of San Antonio (14–06–1774P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Stormwater Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Jan. 15, 2015	480045
Bexar	Unincorporated areas of Bexar County (13–06–4182P).	The Honorable Nelson W. Wolff, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc*	Jan. 8, 2015	480035
Burnet	Unincorporated areas of Burnet County (14–06–1364P).	The Honorable Donna Klaeger, Burnet County Judge, 220 South Pierce Street, Burnet, TX 78611.	Burnet County Courthouse, 220 South Pierce Street, Burnet, TX 78611.	*http://www.msc.fema.gov/lomc*	Dec. 8, 2014	481209
Dallas	City of Farmers Branch (14–06–0555P).	The Honorable Bob Phelps, Mayor, City of Farmers Branch, 13000 William Dodson Parkway, Farmers Branch, TX 75234.	City Hall, 13000 William Dodson Parkway, Farmers Branch, TX 75234.	*http://www.msc.fema.gov/lomc*	Jan. 2, 2015	480174

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Dallas	Town of Addison (14–06–0555P).	The Honorable Todd Meier, Mayor, Town of Addison, P.O. Box 9010, Addison, TX 75001.	Public Works Department, 16801 Westgrove Drive, Addison, TX 75001.	*http://www.msc.fema.gov/lomc*	Jan. 2, 2015	481089
Dallas and Denton.	City of Lewisville (14–06–1734P).	The Honorable Dean Ueckert, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, TX 75029.	City Hall, 151 West Church Street, Lewisville, TX 75057.	*http://www.msc.fema.gov/lomc*	Dec. 1, 2014	480195
Denton	City of The Colony (14–06–2342P).	The Honorable Joe McCourry, Mayor, City of The Colony, 6800 Main Street, The Colony, TX 75056.	6800 Main Street, The Colony, TX 75056.	*http://www.msc.fema.gov/lomc*	Dec. 15, 2014	481581
Denton	City of The Colony (14–06–2287P).	The Honorable Joe McCourry, Mayor, City of The Colony, 6800 Main Street, The Colony, TX 75056.	6800 Main Street, The Colony, TX 75056.	*http://www.msc.fema.gov/lomc*	Jan. 20, 2015	481581
Denton	Town of Flower Mound (14–06–0962P).	The Honorable Thomas Hayden, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Engineering Department, 1001 Cross Timbers Road, Suite 3220, Flower Mound, TX 75028.	*http://www.msc.fema.gov/lomc*	Dec. 11, 2014	480777
Denton	Unincorporated areas of Denton County (14–06–0224P).	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Government Center, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	*http://www.msc.fema.gov/lomc*	Dec. 12, 2014	480774
El Paso	City of El Paso (14–06–0855P).	The Honorable Oscar Leeser, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Engineering Department, 222 South Campbell Street, El Paso, TX 79901.	*http://www.msc.fema.gov/lomc*	Jan. 21, 2015	480214
Galveston	City of League City (13–06–3403P).	The Honorable Timothy Paulissen, Mayor, City of League City, 300 West Walker Street, League City, TX 77573.	Planning Department, 1535 Dickinson Avenue, League City, TX 77573.	*http://www.msc.fema.gov/lomc*	Dec. 26, 2014	485488
Harris	Unincorporated areas of Harris County (14–06–3038P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	Dec. 26, 2014	480287
Harris	Unincorporated areas of Harris County (14–06–2404P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	Jan. 12, 2015	480287
Tarrant	City of Fort Worth (14–06–1000P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.msc.fema.gov/lomc*	Dec. 17, 2014	480596
Tarrant	City of Hurst (14–06–1807P).	The Honorable Richard Ward, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, TX 76054.	Public Works Administration Office, 1505 Precinct Line Road, Hurst, TX 76054.	*http://www.msc.fema.gov/lomc*	Dec. 29, 2014	480601
Virginia: Loudoun	Town of Leesburg (14–03–1028P).	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	*http://www.msc.fema.gov/lomc*	Jan. 8, 2015	510091

[FR Doc. 2014–25392 Filed 10–24–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

[1651–0114]

Agency Information Collection Activities: Crewman's Landing Permit

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Crewman's Landing Permit (CBP Form I–95). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 26, 2014 to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Crewman's Landing Permit.

OMB Number: 1651–0114.

Form Number: Form I–95.

Abstract: CBP Form I–95, *Crewman's Landing Permit,* is prepared and presented to CBP by the master or agent of vessels and aircraft arriving in the United States for alien crewmen applying for landing privileges. This form is provided for by 8 CFR 251.1(c) which states that, with certain exceptions, the master, captain, or agent shall present this form to CBP for each nonimmigrant alien crewman on board. In addition, pursuant to 8 CFR 252.1(e), CBP Form I–95 serves as the physical evidence that an alien crewmember has been granted a conditional permit to land temporarily, and it is also a prescribed registration form under 8 CFR 264.1 for crewmen arriving by vessel or air. CBP Form I–95 is authorized by Section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) and is accessible at *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%20I-95.pdf.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to this collection of information.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 433,000.

Total Number of Estimated Annual Responses: 433,000.

Estimated time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 35,939.

Dated: October 22, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–25539 Filed 10–24–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–86]

30-Day Notice of Proposed Information Collection: Recordkeeping Requirements Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* November 26, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard* @hud.gov or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 21, 2014.

A. Overview of Information Collection

Title of Information Collection: Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

OMB Approval Number: 2506–0121.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: HUD

funded projects involving the acquisition of real property or the displacement of persons as a direct result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Agencies receiving HUD funding for such projects are required to document their compliance with applicable requirements of the URA and its implementing government-wide regulations at 49 CFR Part 24.

Respondents: State, local or tribal government.

Estimated Number of Respondents: 2,000.

Estimated Number of Responses: 80,000.

Frequency of Response: 40.

Average Hours per Response: 3.5.

Total Estimated Burdens: 280,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 21, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–25497 Filed 10–24–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N187; FXES11120000–145–FF08ECAR00]

Final Supplemental Environmental Impact Report/Environmental Impact Statement for a Proposed Amendment to the Coachella Valley Multiple Species Habitat Conservation Plan/ Natural Communities Conservation Plan, Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final Supplemental Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS) to the approved and certified September 2007 Final Recirculated EIR/ EIS for the Coachella Valley Multiple Species Habitat Conservation Plan/ Natural Communities Conservation Plan (CVMSHCP, or Plan), in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and its implementing regulations, as well as in compliance with the Endangered Species Act of 1973, as amended (Act). The final Supplemental EIR/EIS considers the environmental effects associated with adding Desert Hot Springs and Mission Springs Water District (MSWD) as Permittees to the CVMSHCP, and amending the existing incidental take permit.

DATES: A Record of Decision will be signed no sooner than 30 days after the publication date of the Environmental Protection Agency (EPA) notice announcing this final Supplemental Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS). We will accept comments received or postmarked on or before November 26, 2014.

ADDRESSES:

Obtaining Documents: You may download copies of the final Supplemental EIR/EIS to the approved and certified September 2007 Final Recirculated EIR/EIS for the CVMSHCP and amended Plan on the Internet at *http://www.cvmshcp.org.* Alternatively, you may use one of the methods below to request hard copies or a CD–ROM of the documents. Please send your requests or comments by any one of the following methods, and specify ''CVMSHCP'' in your request or comment.

Submitting Comments: You may submit comments or requests for copies or more information by one of the following methods.

- *Email: fw8cfwocomments@fws.gov.* Include CVMSHCP in the subject line of the message.
- *U.S. Mail:* U.S. Fish and Wildlife Service, Palm Springs Fish and Wildlife Office, Attn: Mr. Kennon A. Corey, Assistant Field Supervisor, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.
- *In-Person Drop-off, Viewing, or Pickup:* Telephone 760–322–2070, to make an appointment during regular business hours to drop off comments or view received comments at address identified above.
- *Fax to:* Mr. Kennon A. Corey, Assistant Field Supervisor, 760–322–4648, Attn: CVMSHCP.

FOR FURTHER INFORMATION CONTACT: Jenness McBride, Division Chief, Coachella and Imperial Valleys, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262, telephone 760–322–2070. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This notice announces the availability of the final Supplemental Environmental Impact Report/Environmental Impact Statement (Supplemental EIR/EIS) under NEPA (42 U.S.C. 4321 *et seq.*) for the proposed amendment to the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Communities Conservation Plan (CVMSHCP, or Plan). The amendment would add Desert Hot Springs and Mission Springs Water District (MSWD) as permittees to the Plan. This notice advises the public that we, the U.S. Fish and Wildlife Service (Service), have received applications for incidental take permits pursuant to the Act (16 U.S.C. 1531 *et seq.*) from the City of Desert Hot Springs and Mission Springs Water District (MSWD), Riverside County, California. The Service, in cooperation and coordination with the Coachella Valley Conservation Commission (CVCC), has prepared a final Supplemental EIR/EIS, which includes responses to public comments received on the September 2013 draft Supplemental EIR/EIS, and the proposed amendment to the CVMSHCP to include Desert Hot Springs and MSWD as permittees to the Plan. The final Supplemental EIR/EIS

supplements the approved and certified September 2007 Final Recirculated EIR/EIS for the CVMSHCP (72 FR 63922; November 13, 2007), and analyzes the environmental effects associated with the approval of an amendment to add Desert Hot Springs and MSWD as permittees to the existing incidental take permit under section 10(a)(1)(B) of the Act.

Background

Section 9 of the Act and Federal regulations at 50 CFR part 17 prohibit the ''take'' of fish and wildlife species listed as endangered or threatened. Take of listed fish and wildlife is defined under the Act as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1538). Harm includes significant habitat modification or degradation that results in death or injury to listed wildlife species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take of listed wildlife species, which the Act defines as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. In addition to meeting other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife or plants.

Previous Actions

In February 2006, the Final CVMSHCP and associated Final EIR/EIS were released for review and approval by the participating jurisdictions and agencies as part of the application process to support the issuance of take authorizations by the Service. However, Desert Hot Springs voted to not approve the Plan in June 2006. Subsequently, the Coachella Valley Association of Governments (CVAG) Executive Committee rescinded its approval of the Plan and directed that Desert Hot Springs be removed as a Permittee. A revised Plan and associated EIR/EIS were prepared and recirculated that removed Desert Hot Springs and made other modifications consistent with direction from the CVAG Executive Committee.

The revised and recirculated CVMSHCP was approved and the associated Final Recirculated EIR/EIS was certified by CVAG and the CVCC in September 2007 and subsequently by all local Permittees by the end of October 2007. The State Permittees (Caltrans, Coachella Valley Mountains Conservancy, and California State Parks) approved the Plan and signed the Implementing Agreement in March 2008. The Final Recirculated CVMSHCP, which did not include Desert Hot Springs, received final State and Federal permits on September 9 and October 1, 2008, respectively.

In a reversal of their June 2006 decision, Desert Hot Springs City Council reconsidered their decision and unanimously approved a Memorandum of Understanding (MOU) in October 2007, to enter into negotiations for Desert Hot Springs to join the CVMSHCP as a Permittee. The MOU was subsequently approved by the CVCC, CVAG, and the County of Riverside in February 2008. Subsequent to Desert Hot Springs' decision, the MSWD has also made the decision to join the CVMSHCP as a Permittee. The addition of both entities as Permittees has been evaluated in the Supplemental EIR/EIS.

Proposed Amendments

The amendment to reinstate Desert Hot Springs proposes that the Plan provisions and boundaries be revised according to the February 2006 CVMSHCP, with modifications as described in the September 2007 Final Recirculated CVMSHCP to provide for the Riverside County Flood Control and Water Conservation District's future flood control facility. Therefore, the current Conservation Area boundaries would be amended to include private lands within Desert Hot Springs' city limits and restore the original boundaries of the Upper Mission Creek/Big Morongo Canyon and Whitewater Canyon Conservation Areas within Desert Hot Springs' city limits. Adding Desert Hot Springs as a Permittee requires a Major Amendment to the CVMSHCP in accordance with the requirements outlined in Section 6.12.4 of the Plan. The procedures outlined in Section 6.12.4 state that major amendments require the same process to be followed as the original CVMSHCP approval, including California Environmental Quality Act and NEPA compliance.

In addition, MSWD, not previously a participating agency, has also applied to join the CVMSHCP as a Permittee. MSWD and Desert Hot Springs have proposed that a number of infrastructure projects be included as Covered Activities under the Plan. Covered Activities include certain activities carried out or conducted by Permittees, Participating Special Entities, Third Parties Granted Take Authorization, and others within the CVMSHCP Plan Area, as described in Section 7 of the CVMSHCP, that will receive Take Authorization under the Service's section 10(a)(1)(B) permit and the State NCCP Permit, provided these activities are otherwise lawful. Examples of Desert Hot Springs proposed Covered Activities include roadway improvement projects. Examples of MSWD proposed Covered Activities include construction of wells, water storage facilities, water transmission lines, recycled water lines, and sewer lines. Refer to Table 2–1 and 2–2 in the Supplemental EIR/EIS for Desert Hot Springs and MSWD Covered Activities list, respectively.

Covered activities will increase the existing permitted take by 34 acres, but inclusion of Desert Hot Springs and MSWD will expand conservation area boundaries in Desert Hot Springs to include 770 acres of land to be managed consistent with the CVMSHCP's conservation goals and objectives. Fifteen of the 27 Covered Species and 5 of the 27 Natural Communities will be affected by the Major Amendment. Additional amounts of take, in acres, for Covered Species and Natural Communities are listed in Table 4.1–1 and 4.1–2 in the Supplemental EIR/EIS, respectively.

National Environmental Policy Act Compliance

The Service issued a notice of intent (NOI) to prepare a draft Supplemental EIR/EIS in the **Federal Register** on Wednesday, March 30, 2011 (76 FR 17666) and a notice of availability of the Draft Supplemental Environmental Impact Report/Environmental Impact Statement for the Proposed Amendment to the CVMSHCP on September 6, 2013 (78 FR 54906), which included a 45-day review public review period. The Draft Supplemental EIR/EIS analyzed the potential environmental impacts that may result from the Federal action of authorizing 34 additional acres of incidental take anticipated to occur with the addition of Desert Hot Springs and MSWD as permittees to the CVMSHCP, and identified various alternatives. We received seven comment letters on the draft Supplemental EIR/EIS. A response to each comment received in these letters has been included in the final Supplemental EIR/EIS and revisions to the CVMSHCP have been made based on those comments. The analysis provided in the Final Supplemental EIR/EIS is intended to accomplish the following: Inform the public of the Service's proposed action and

alternatives, and address public comments received on the draft Supplemental EIR/EIS.

Public Review

The Service invites the public to comment on the permit applications, revised CVMSHCP, and final Supplemental EIR/EIS during the public comment period (see **DATES**). If you wish to comment, you may submit your comments to the address listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

We will evaluate the applications, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the Act. The Service will then prepare a Record of Decision. A permit decision will be made no sooner than 30 days after the publication of the Environmental Protection Agency's Final EIS notice in the **Federal Register** and completion of the Record of Decision.

Dated: October 20, 2014.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2014–25389 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX14BA030AD0100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of revision of a currently approved information collection, (1028–0078).

SUMMARY: We (the U.S. Geological Survey) will ask Office of Management and Budget (OMB) to approve the information collection request (ICR) described below. To comply with the Paperwork Reduction Act of 1995 (PRA) and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This collection is scheduled to expire on October 31, 2014.

DATES: To ensure that your comments on this ICR are considered, OMB must receive them on or before November 26, 2014.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, via email: (*OIRA_SUBMISSION@omb.eop.gov*); or by fax (202) 395–5806; and identify your submission with 'OMB Control Number 1028–0078 North American Amphibian Monitoring Program'. Please also forward a copy of your comments and suggestions on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7195 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'OMB Information Collection 1028–0078 North American Amphibian Monitoring Program' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Michael J. Adams, Forest and Rangeland Ecosystem Science Center, U.S. Geological Survey, 3200 SW Jefferson Way, Corvallis, OR 97331 (mail); (541) 750–1069 (fax); or *mjadams@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection pertains to volunteers who contribute their time to conduct frog call surveys at assigned survey routes for the North American Amphibian Monitoring Program. Volunteers use an on-line data entry system to submit data. This information is used by Agencies and organizations at the state, federal, and local levels. The information constitutes monitoring of amphibian populations, providing systematically collected information to enable managers in natural resource decision making. Responses are voluntary.

II. Data

OMB Control Number: 1028–0078.

Form Number: None.

Title: North American Amphibian Monitoring Program.

Type of Request: Revision of a currently approved information collection.

Respondent Obligation: None (participation is voluntary).

Frequency of Collection: 3 times per year.

Description of Respondents: General public; individual households.

Estimated Total Number of Annual Responses: 1600.

Estimated Time per Response: We estimate that it will take 3 hours per response.

Estimated Annual Burden Hours: 4800.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: The ''non-hour cost'' burden associated with this IC is primarily vehicle mileage, calculated at the federal standard rate of 56 cents per mile times the approximate distance of a survey route (15 miles). The total estimate is $8.40 per survey. Any new participants will also need to purchase a thermometer to record air temperature at $15 each.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. Until the OMB approves a collection of information, you are not obliged to respond.

Comments: On August 20, 2014, we published a **Federal Register** notice (79 FR 49335) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on October 20, 2014. We received two comments, both supported the renewal of this collection as helpful information for their state natural resources program.

III. Request for Comments

We again invite comments concerning this ICR as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including

your personally identifiable information, may be made publicly available at any time. While you can ask the OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

William Lellis,

Deputy Associate Director for Ecosystems.

[FR Doc. 2014–25479 Filed 10–24–14; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORP00000.L10200000.DF0000.15XL1109AF. HAG15–0024]

Notice of Public Meeting for the John Day—Snake Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the John Day—Snake Resource Advisory Council (RAC) will meet as indicated below:

DATES: The John Day—Snake RAC will hold a public meeting Thursday, November 13, and Friday, November 14, 2014. The meeting will run from 12:30 p.m. to 5:30 p.m. on November 13th, and from 8 a.m. to 12:45 p.m. on November 14th. The meeting will be held at the Kah-Nee-Ta Resort, 6823 Hwy 8, in Warm Springs, Oregon, 97761. A public comment period will be available each day of the session.

FOR FURTHER INFORMATION CONTACT: Lisa Clark, Public Affairs Specialist, BLM Prineville District Office, 3050 NE. 3rd Street, Prineville, Oregon 97754, (541) 416–6864, or email *lmclark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The John Day—Snake RAC consists of 15 members chartered and appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, conservation, and general interests. They provide advice to BLM and Forest Service resource managers regarding management plans and proposed resource actions on public land in central and eastern Oregon. Agenda items for the November 2014 meeting include: presentations on the release of the approved John Day Basin Resource Management Plan and the BLM's NEPA 2.0 Planning Strategy, an update on the Wallowa-Whitman National Forest Hells Canyon Recreation Program, an update on the Blue Mountain Forest Plan Revision, committee and member updates and any other matters that may reasonably come before the John Day—Snake RAC. This meeting is open to the public. Information to be distributed to the John Day—Snake RAC is requested prior to the start of each meeting. A public comment period will be available on November 14, 2014, at 9:00 a.m. Unless otherwise approved by the John Day—Snake RAC Chair, the public comment period will last no longer than 30 minutes. Each speaker may address the John Day—Snake RAC for a maximum of 5 minutes. A public call-in number is provided on the John Day—Snake RAC Web site at *http://www.blm.gov/or/rac/jdrac.php.* Meeting times and the duration scheduled for public comment periods may be extended or altered when the authorized representative considers it necessary to accommodate business and all who seek to be heard regarding matters before the John Day—Snake RAC.

Carol Benkosky,

Prineville District Manager.

[FR Doc. 2014–25391 Filed 10–24–14; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM950000 L13110000.BX0000 15XL1109PF]

Notice of Filing of Plats of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, thirty (30) calendar days from the date of this publication.

FOR FURTHER CONTACT INFORMATION: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico. Copies may be obtained from this office upon payment. Contact Marcella Montoya at 505–954–2097, or by email at *mmontoya@blm.gov,* for assistance. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours.

SUPPLEMENTARY INFORMATION: *New Mexico Principal Meridian, New Mexico (NM):*

The plat, in two sheets, representing the dependent resurvey and survey in Township 21 North, Range 6 East, of the New Mexico Principal Meridian, accepted June 19, 2014, for Group 1148 NM.

The plat, representing the dependent resurvey and survey in Township 19 South, Range 12 East, of the New Mexico Principal Meridian, accepted June 30, 2014, for Group 1158 NM.

The Supplemental plat, in Township 8 North, Range 4 East, of the New Mexico Principal Meridian, accepted July 29, 2014, NM.

The plat, representing the dependent resurvey and survey in Township 10 North, Range 4 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

The plat, representing the dependent resurvey and survey in Township 10 North, Range 3 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

The plat, in two sheets, representing the dependent resurvey and survey in Township 8 North, Range 4 and 5 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

The plat, representing the dependent resurvey and survey in Township 9 and 10 North, Range 4 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

The plat, representing the dependent resurvey and survey in Township 15 North, Range 10 and 11 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1153 NM.

The plat, representing the dependent resurvey and survey in Township 10 North, Range 3 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

The plat, representing the dependent resurvey and survey in Township 9 North, Range 3 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

The plat, representing the dependent resurvey and survey in Township 9

North, Range 4 East, of the New Mexico Principal Meridian, accepted October 16, 2014, for Group 1149 NM.

These plats are scheduled for official filing 30 days from the notice of publication in the **Federal Register**, as provided for in the BLM Manual Section 2097—Opening Orders. Notice from this office will be provided as to the date of said publication. If a protest against a survey, in accordance with 43 CFR 4.450–2, of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Bureau of Land Management New Mexico State Director stating that they wish to protest.

A statement of reasons for a protest may be filed with the Notice of Protest to the State Director or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

Timothy J. Moore,

Acting Branch Chief, Cadastral Survey.

[FR Doc. 2014–25498 Filed 10–24–14; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15XL1109AF LLUT912000 L13200000.PP0000 24–1A]

Second Call for Nominations to the Utah's Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations to fill three vacant positions on the Bureau of Land Management (BLM) Utah Resource Advisory Council (RAC), with two terms expiring January 6, 2015, and one term expiring April 11, 2015. The RAC provides advice and recommendations to the BLM on land-use planning and management of the National System of Public Lands within Utah. The BLM will accept public nominations for 30 days after the publication of this notice.

DATES: All nominations must be received no later than November 26, 2014.

ADDRESSES: Nominations and completed applications for the Utah RAC should be sent to Sherry Foot, Special Programs Coordinator, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101.

FOR FURTHER INFORMATION CONTACT: Sherry Foot at the address listed in the **ADDRESSES** section of this notice; by telephone 801–539–4195; or by email: *sfoot@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question with the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies will be received during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member, citizen-based councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands.

The three positions to be filled are in the following category:

Category Three—Representatives of state, county, or local elected office; representatives and employees of a state agency responsible for the management of natural resources; representatives of Indian Tribes with or adjacent to the area for which the RAC is organized; representatives and employees of academic institutions who are involved in the natural sciences; and the public-at-large.

Nominees must be residents of Utah. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision making. The Obama Administration prohibits individuals who are currently federally-registered lobbyists from being appointed or re-appointed to FACA and non-FACA boards, committees, or councils.

The following must accompany all nominations:

—Letters of reference from represented interests or organizations;

—A completed RAC application; and,

—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, BLM Utah will issue a press release providing additional information for submitting nominations. If you have already submitted your RAC nomination materials for 2014, you will not need to resubmit.

Authority: 43 CFR 1784.4–1.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–25463 Filed 10–24–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–SSB–17014; PPAKGAARR4, PPMRSNR1Z.AM0000]

Proposed Information Collection; Economic Assessment of the Ambler Mining District Road Access Through Gates of the Arctic National Park and Preserve on Subsistence Users

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) concerning economic impacts of a proposed road to the Ambler Mining District, which would bisect Gates of the Arctic National Park and Preserve. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other federal agencies to take this opportunity to comment on this IC. A federal agency 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.

DATE: To ensure that your comments on this IC are considered, we must receive them on or before December 26, 2014.

ADDRESSES: Direct all written comments on this IC to Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–GAAR in the subject line.

FOR FURTHER INFORMATION CONTACT: Kyle Joly, National Park Service, Fairbanks, AK 99709; *kyle_joly@nps.gov* (email); or: 907–455–0626 (phone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The State of Alaska is proposing to create an industrial mining road through the Preserve section of Gates of the

Arctic National Park and Preserve. The National Park Service, in collaboration with the University of Alaska, is interested in understanding how the proposed road may economically impact area village residents (i.e., Bettles, Evansville, Wiseman, Allakakeet, Kobuk, Shungnak, and Ambler). A survey will be used to collect information concerning: (1) Current economic characteristics, (2) levels of subsistence harvest, and (3) opinions on impacts from the proposed road. This collection proposes to provide data that will be used to develop a legally-required Environmental and Economic Analysis. Up-to-date and relevant information is needed concerning the estimation of economic impact from the proposed road.

II. Data

OMB Number: None. This is a new collection.

Title: Recreational Use Survey.

Type of Request: New.

Affected Public: General public and individual households.

Respondent Obligation: Voluntary.

Frequency of Collection: One-time.

Estimated Number of Annual Responses: 200.

Annual Burden Hours: 67 hours. We estimate the public reporting burden to be 20 minutes per completed survey response.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None.

III. Request for Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- 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 on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: October 22, 2014.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2014–25533 Filed 10–24–14; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–934]

Certain Dental Implants; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 25, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Nobel Biocare Services AG of Switzerland and Nobel Biocare USA, LLC of Yorba Linda, California. A letter supplementing the complaint was filed on October 17, 2014. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dental implants by reason of infringement of certain claims of U.S. Patent No. 8,714,977 (''the '977 patent'') and U.S. Patent No. 8,764,443 (''the '443 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2014).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 21, 2014, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dental implants by reason of infringement of one or more of claims 1–5 and 19 of the '977 patent and claims 15–19, 29, 30, and 32 of the '443 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Nobel Biocare Services AG, Balz Zimmermann-Strasse 7, Ch-8302, Kloten, Switzerland

Nobel Biocare USA, LLC, 22715 Savi Ranch Parkway, Yorba Linda, CA 92887

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Neodent USA, Inc., 60 Minuteman Road. Andover, MA 01810

JJGC Indústria e Comércio de Materiais Dentários S/A, Av. Juscelino Kubitschek de Oliveira, 3291, Curitiba, Paraná 81270–200 Brazil

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 21, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–25425 Filed 10–24–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0336]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Office for Victims of Crime Training and Technical Assistance Center—Trafficking Information Management System (TIMS)

AGENCY: Office for Victims of Crime, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Office for Victims of Crime, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until December 26, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Shelby Jones Crawford, Victim Justice Program Specialist, Office for Victims of Crime, Office of Justice Programs, Department of Justice, 810 7th Street NW., Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of currently approved collection.

2. *The Title of the Form/Collection:* Office for Victims of Crime Training and Technical Assistance Center-Trafficking Information Management System (TIMS).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* N/A. Office for Victims of Crime, Office of Justice Programs, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: OVC Grantees. Abstract: The current package for OMB approval is designed to simplify performance reporting for OVC grantees through the OVC Trafficking Information Management System (TIMS) Online system, a Web-based database and reporting system for the Victims of Human Trafficking Grant and the Enhanced Collaborative Model Grant initiatives. OVC will require OVC Grantees to use this electronic tool to submit grant performance data, including demographics about human trafficking victims. OVC intends to publish an annual analysis of these data to provide the crime victims' field with stronger evidence for practices and programs.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

There are approximately 35–45 OVC Services to Victims of Human Trafficking Grantees per six-month reporting period. On average, it should take each grantee one hour to seven hours, depending on client case load per reporting period, to enter information into TIMS Online. There are two reporting periods per year.

6. *An estimate of the total public burden (in hours) associated with the collection:* Their total annual public burden hours for this information collection are estimated to be 320 hours (average 40 OVC grantees * average 4 hours * 2 times per year).

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: October 21, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–25387 Filed 10–24–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Second Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act

On August 28, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Mexico in the lawsuit entitled *United States and State of New Mexico* v. *Chevron Mining Inc.,* Civil Action No. 14cv783 KBM–SCY.

The plaintiffs seek compensation for damage to natural resources in and about the former Molycorp Mining Site. The Site includes a molybdenum mine and mill, tailings ponds, and a slurry pipeline—all located near Questa, New Mexico. The plaintiffs allege that defendant is liable for injury to natural resources resulting from releases of hazardous substances at that Site. Under the Consent Decree that embodies the settlement proposed here, defendant will transfer certain property that will mitigate some of injury suffered and will pay the federal and state natural resource trustees about $4 million to be used to restore, replace, or acquire resources—all in compliance with the terms of the Consent Decree and other applicable law. Defendant also will pay specified past assessment costs incurred by the trustees. In return, defendant will receive from plaintiffs specified covenants not to sue for natural resource damages resulting from releases from the Site, subject to reservations specified in the proposed Decree.

By a prior notice published in the **Federal Register**, the Department invited public comment on this proposed Decree. Among the comments received were a number that requested a longer time for public comment. Accordingly, after considering the circumstances, by publication of this notice the Department extends the period for public comment on the proposed Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of New Mexico* v. *Chevron Mining Inc.,* D.J. Ref. No. 90–11–2–07579. All comments must be submitted no later than thirty (30) days after the publication date of this second notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $15.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–25420 Filed 10–24–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Oil Pollution Act

On October 21, 2014, the Department of Justice lodged a proposed settlement agreement (the ''Settlement Agreement'') with the United States Bankruptcy Court for the Southern District of New York in the bankruptcy case of Getty Petroleum Marketing Inc., and its affiliates (collectively, ''Getty''), *In re Getty Petroleum Marketing Inc., et al.,* Case No. 11–15606 (SCC). The Settlement Agreement relates to the Newtown Creek Superfund Site, located in Queens County and Kings County, New York (the ''Newtown Creek Site'').

The parties to the proposed Settlement Agreement are the United States and the Liquidating Trust established in the bankruptcy. The Settlement Agreement provides for a $14,844,800 allowed general unsecured claim for the United States on behalf of EPA and a $1,155,200 allowed general unsecured claim for the United States on behalf of the U.S. Department of the Interior and the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce (collectively, the ''NRD Trustees'').

The Settlement Agreement resolves EPA's claims against debtors Getty Petroleum Marketing Inc. (''GPMI'') and Getty Terminals Corp. (''Getty Terminals'') for costs under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C 9601–75 (''CERCLA''), and the Oil Pollution Act, 33 U.S.C. 2702(a) (''OPA''), in connection with the Newtown Creek Site. The proposed Settlement Agreement also resolves the NRD Trustees' claims against GPMI and Getty Terminals under CERCLA and OPA for natural resource damages and costs of assessment in connection with the Newtown Creek Site. As part of the Settlement Agreement, GPMI, Getty Terminals, and the Liquidating Trust on behalf of GPMI and Getty Terminals will receive from the United States on behalf of EPA and the NRD Trustees a covenant not to file a civil action or take administrative action pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, and section 1002(a) of OPA, 33 U.S.C. 2702(a), with respect to the Newtown Creek Site.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re Getty Petroleum Marketing Inc.,* D.J. Ref. No. 90–7–1–10503. All comments must be received no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*Pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Public comments timely received will be filed on the public court docket.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Department of Justice Web site: *http://www.justice.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library,

U.S. DOJ—ENRD,

P.O. Box 7611,

Washington, DC 20044–7611.

Please enclose a check or money order for $3.75 (25 cents per page reproduction costs) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–25426 Filed 10–24–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[Docket No. FBI]

FBI Criminal Justice Information Services Division User Fee Schedule

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Notice.

SUMMARY: Pursuant to Title 28, Code of Federal Regulations (CFR), 20.31(e)(3), this notice establishes revised rates for the user fee schedule for authorized users requesting fingerprint-based and name-based Criminal History Record Information (CHRI) checks for noncriminal justice purposes.

DATES: This fee is effective February 1, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Robin A. Stark, Section Chief, Resources Management Section, Criminal Justice Information Services (CJIS) Division, FBI, 1000 Custer Hollow Road, Module E–3, Clarksburg, WV 26306. Telephone number (304) 625–2910.

SUPPLEMENTARY INFORMATION: Pursuant to the authority in Public Law 101–515, as amended, the FBI has established user fees for authorized agencies requesting noncriminal fingerprint-based and name-based CHRI checks at 28 CFR 20.31(e). The FBI will periodically review the process of fingerprint-based CHRI checks to determine the proper fee amounts that should be collected, and the FBI will publish any resulting fee adjustments in the **Federal Register**.

In accordance with 28 CFR 20.31(e)(2), the fee study employed the same methodology as detailed in the Final Rule (FR) establishing the process for setting fees (75 FR 18751, April 13, 2010).

The fee study results recommended several adjustments to the current user fees, which have been in effect since March 19, 2012. The FBI independently reviewed the recommendations, compared them to current fee calculations and plans for future service, and determined that the revised fees were both objectively reasonable and consistent with the underlying legal authorities. Pursuant to the recommendations of the study, the fees for fingerprint-based CHRI checks will be decreased with no change in the fee for name-based CHRI checks for federal agencies specifically authorized by statute, e.g., pursuant to the Security Clearance Information Act, Title 5, United States Code (U.S.C.), 9101. As a general policy, as of April 15, 2012, the FBI ceased processing hard copy fingerprint cards, thus eliminating the need for the manual fee classes. As such, the manual fee classes are hereby removed from the rate schedule. Notice of this change was provided to the user community through a June 14, 2011, letter and a January 3, 2012, CJIS Information Letter.

The following tables detail the proposed fee amounts for authorized users requesting fingerprint-based and name-based CHRI checks for noncriminal justice purposes, including the difference, if any, from the fee schedule currently in effect.

FINGERPRINT-BASED CHRI CHECKS

Service	Fee currently in effect	Fee currently in effect for CBSPs [1]	Change in fee amount	Revised fee	Revised fee for CBSPs
Fingerprint-based Submission	$16.50	$14.50	($1.75)	$14.75	$12.75
Fingerprint-based Volunteer Submission (*see* 75 FR 18752)	15.00	13.00	(1.50)	13.50	11.50
Electronic In/Manual Out Submission	23.25	21.25	([2])	n/a	n/a
Manual Submission	27.50	25.50	([2])	n/a	n/a

[1] Centralized Billing Service Providers, *see* 75 FR 18753.
[2] Elimination of Fee Class.

NAME-BASED CHRI CHECKS

Service	Fee currently in effect	Change in fee amount	Revised fee
Name-based Submission	$2.25	$0	$2.25
Manual Submission	6.00	([1])	n/a

[1] Elimination of Fee Class.

Dated: October 22, 2014.

James B. Comey,

Director.

[FR Doc. 2014–25524 Filed 10–24–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Workforce Flexibility Program

ACTION: Notice.

SUMMARY: On October 31, 2014, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Workforce Flexibility Program,'' 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 December 1, 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=201407-1205-001* (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–ETA, 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 Workforce Flexibility (Work-Flex) Program information collection, which allows a Governor to request authority from the Secretary of Labor to waive certain provisions of Workforce Investment Act (WIA) Title I programs. An approved waiver is valid for five (5) years. A Governor has the authority to approve a request submitted by a local area to waive certain WIA statutory and regulatory provisions that would otherwise apply. The Act provides that the Secretary may only grant Work-Flex waiver authority in consideration of a Work-Flex Plan submitted by a State. A State granted Work-Flex authority is required to submit quarterly reports consisting of ten (10) items that summarize waiver activities in the State. WIA section 192 authorizes this information collection. *See* 29 U.S.C. 2942.

The DOL notes that Workforce Innovation and Opportunity Act (WIOA) section 190 includes similar provisions for a State to submit a Workforce Flexibility Plan; however, the existing WIA state and local plan provisions remain in effect until July 1, 2016. WIOA waiver provisions may be the subject of a future ICR.

The Work-Flex Program information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0432.

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 August 26, 2014 (79 FR 50951).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by December 1, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0432. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Workforce Flexibility Program.

OMB Control Number: 1205–0432.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 5.

Total Estimated Number of Responses: 21.

Total Estimated Annual Time Burden: 320 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 21, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–25451 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Renewal of the Bureau of Labor Statistics Technical Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Technical Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee presents advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures.

The Committee functions solely as an advisory body to the BLS, on technical topics selected by the BLS. Important aspects of the Committee's responsibilities include, but are not limited to:

a. Provide comments on papers and presentations developed by BLS research and program staff. The comments will advise BLS as to whether the academic community will regard the work as being technically sound and reflecting best practices in the relevant fields.

b. Conduct research on issues identified by BLS on which an objective technical opinion or recommendation from outside of BLS would be valuable.

c. Recommend BLS conduct internal research projects to address technical problems with BLS statistics that have been identified in the academic literature.

d. Participate in discussions of areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant.

e. Establish working relationships with professional associations with an interest in BLS statistics, such as the American Statistical Association and the American Economic Association.

The Committee will report to the Commissioner of Labor Statistics.

The Committee consists of approximately sixteen members who serve as Special Government Employees. Members are appointed by the BLS and are approved by the Secretary of Labor. Committee members are economists, statisticians, and behavioral scientists and are chosen to achieve a balanced membership across those disciplines. They are prominent experts in their fields and recognized for their professional achievements and objectivity.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Lisa Fieldhouse, Office of Productivity and Technology, Bureau of Labor Statistics, telephone: 202–691–5025, email: *fieldhouse.lisa@bls.gov.*

Signed at Washington, DC this 9th day of October 2014.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–25440 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the Jobs and Innovation Accelerator Challenge (JIAC) and Advanced Manufacturing JIAC (AM–JIAC) Grants, New Collection

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps ensure that respondents can provide requested data in the desired format with minimal reporting burden (time and financial resources), with collection instruments that are clearly understood, and that the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data for the evaluation of the JIAC and AM–JIAC grants and seeks approval for two rounds of in-person visits to a subset of grantee clusters and a survey of an estimated 330 respondents across all 30 grants. The site visits will involve nine purposefully selected clusters in round one and a return visit to three of those clusters in round two. The visits will consist of semi-structured interviews about implementation of the JIAC initiative to be conducted with cluster management staff, activity leaders, frontline staff, participants, the local workforce investment boards, employer groups, and local economic development agencies. The survey will involve at least 11 respondents in each of the 30 clusters. Respondents within each cluster will include one cluster manager, one ETA funding stream administrator (if this person is different from the cluster manager) and either nine or 10 additional partner organizations. The survey will focus on cluster organization, communication, funding sufficiency, the types and usefulness of Federal support, and program management and sustainability.

DATES: Submit written comments to the office listed in the addresses section below on or before December 26, 2014.

ADDRESSES: Send written comments to Gloria Salas-Kos, Office of Policy Development and Research, Room N5641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3596 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2766. Email: *salas-kos.gloria@dol.gov.* To obtain a copy of the proposed information collection request, please contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Gloria Salas-Kos, Office of Policy Development and Research, Room N5641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3596 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

As of May 2011, when the first round of JIAC grants was issued, the unemployment rate in the United States was nine percent. Almost 14 million people were looking for jobs. Although the rate of unemployment has since fallen by almost two percentage points, it remains higher than at any point over the decade leading up to the ''Great Recession'' that began in 2007. As the population has continued to grow, job growth has surfaced to the top of the nation's economic agenda. The economic downturn has led to greater attention to the role of regional innovation clusters as drivers for improving the economy, creating jobs and employment, and enhancing U.S. competitiveness.

ETA has been an active Federal partner in the funding and promotion of regional innovation clusters for the past decade. Specifically, it has sought to address one of the challenges that the clusters face as they pursue economic growth: Employers in some high-wage industries with the potential for creating jobs report trouble finding American workers with the skills to fill the vacancies. Under the authority of section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998, as amended (29 U.S.C. 2916a), ETA invests heavily in grants to build the skills and qualifications of domestic unemployed workers so that they can fill these positions and reduce the need for foreign workers under the H–1B visa program. In 2011 and 2012, ETA partnered with other Federal funding agencies to support the JIAC grants competitions; ETA has commissioned this study to evaluate and learn from these investments.

The evaluation will address the following five key research questions:

1. What is the role of multiagency collaboration in the planning and implementation of cluster activities?

2. How and in what ways do regional clusters, programs, and partnerships develop under the grant?

3. What workforce-related outcomes do the clusters report achieving through this initiative?

4. How is the initiative managed within each cluster? What practices are being implemented to promote sustainability of grant resources, partnerships, and activities?

5. What are key lessons learned through implementation? How and under what circumstances might these lessons be replicated?

II. Review Focus

The Department is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: New collection.

Title: Jobs and Innovation Accelerator Challenge grants evaluation.

OMB Number: 1205—0NEW.

Affected Public: Businesses or other for-profit, and not-for-profit institutions.

BURDEN AND COST ESTIMATES FOR JIAC COLLECTION

	Number of respondents	Burden per response (minutes)	Total respondent burden (hours)	Total burden cost
Site Visits Total	.....	.....	192.75	$3,867
Round 1 total	165	52	142.50	2,849
Cluster members	147	55	133.50	2,705
Program participants	18	30	9.00	144
Round 2 total	54	56	50.25	1018
Cluster members	54	56	50.25	1018
Survey Total	.....	.....	141.50	2,867
Cluster member contact information submission	30	30	15.00	304
Online survey completion	330	23	126.50	2,563
Total for Site Visits and Survey	.....	.....	334.25	6,734

Total Estimated Annual Other Costs Burden: $0.

We will summarize, and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–25421 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of SGS North America, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before November 12, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0040, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., E.T.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0040). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for

assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before November 12, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that SGS North America, Inc. (SGS), is applying for expansion of its current recognition as an NRTL. SGS requests the addition of nine test standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including SGS, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: SGS North America, Inc., 620 Old Peachtree Road, Suwanee, Georgia 30024. A complete list of SGS's scope of recognition is available at *http://www.osha.gov/dts/otpca/nrtl/sgs.html.*

II. General Background on the Application

SGS submitted three applications, dated March 13, 2014 (Exhibit 14–4—SGS Request for Expansion), May 15, 2014 (Exhibit 14–5—SGS Request for Expansion) and May 28, 2014 (Exhibit 14–6—SGS Request for Expansion), to expand its recognition to include a total of nine additional test standards. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in SGS's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 676	Underwater Luminaires and Submersible Junction Boxes.
UL 1088	Temporary Lighting Strings.
UL 1786	Direct Plug-In Nightlights.
AAMI ES60601–1	Medical electrical equipment-Part 1: General requirements for basic safety and essential performance.
FM 3600	Electrical Equipment for Use in Hazardous (Classified) Locations—General Requirements.
FM 3610	Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations.
FM 3611	Nonincendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations.
NFPA 496	Purged and Pressurized Enclosures for Electrical Equipment.
UL 783	Electric Flashlights and Lanterns for Use in Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

SGS submitted acceptable applications for expansion of its scope of recognition. OSHA's review of the application files, and pertinent documentation, indicate that SGS can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these nine test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of SGS's applications.

OSHA welcomes public comment as to whether SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified

in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0040.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant SGS's applications for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the applications. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on October 21, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–25377 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for SGS North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Acting Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of SGS North America, Inc. (SGS), as an NRTL. SGS's expansion covers the addition of eight test standards to its scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS submitted an application, dated June 26, 2013 (OSHA–2006–0040–0010, Exhibit 14–1—SGS Request for Expansion), to expand its recognition to include five additional test standards. SGS submitted an amendment to the application on July 17, 2013 (OSHA–2006–0040–0011, Exhibit 14–2—SGS Request for Additional Test Standards), requesting three additional test standards for inclusion in the expansion request, for a total of eight additional requested test standards. OSHA staff performed a detailed analysis of the application file and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing SGS's expansion application in the **Federal Register** on July 24, 2014 (79 FR 43097). The Agency requested comments by August 8, 2014, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of SGS's scope of recognition.

To obtain or review copies of all public documents pertaining to SGS's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2006–0040 contains all materials in the record concerning SGS's recognition.

II. Final Decision and Order

OSHA staff examined SGS's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant SGS's scope of recognition. OSHA limits the expansion of SGS's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 48	Electric Signs.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 65	Wired Cabinets.
UL 73	Motor-Operated Appliances.
UL 153	Portable Electric Luminaires.
UL 482	Portable Sun/Heat Lamps.
UL 507	Electric Fans.
UL 508A	Industrial Control Panels.
UL 60335–1	Safety of Household and Similar Electrical Appliances, Part 1: General Requirements.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, SGS must abide by the following conditions of the recognition:

1. SGS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. SGS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. SGS must continue to meet the requirements for recognition, including all previously published conditions on SGS's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of SGS, subject to the limitation and conditions specified above.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on October 21, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–25378 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

Underwriters Laboratories Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for Underwriters Laboratories Inc. as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Acting Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of Underwriters Laboratories Inc. (UL) as an NRTL. UL's expansion covers the addition of two test standards to its scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

UL submitted an application, dated April 3, 2014 (OSHA–2009–0025–0014, Exhibit 14–2—UL Application for Expansion of Test Standards), to expand its recognition to include two additional test standards. OSHA staff performed a comparability analysis and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing UL's expansion application in the **Federal Register** on July 30, 2014 (79 FR 44201). The Agency requested comments by August 14, 2014, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of UL's scope of recognition.

To obtain or review copies of all public documents pertaining to UL's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2009–0025 contains all materials in the record concerning UL's recognition.

II. Final Decision and Order

OSHA staff examined UL's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that UL meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant UL's scope of recognition. OSHA limits the expansion of UL's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
AAMI ES60601–1.	Medical electrical equipment—Part 1: General requirements for basic safety and essential performance.
UL 1004–1 ...	Rotating Electrical Machines.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, UL must abide by the following conditions of the recognition:

1. UL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. UL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. UL must continue to meet the requirements for recognition, including all previously published conditions on UL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of UL, subject to the limitation and conditions specified above.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on October 21, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–25375 Filed 10–24–14; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–100)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive, license in the United States to practice the invention described and claimed in U.S. Patent Application No. 14/150,502; NASA Case No. KSC–13265–CIP2 entitled ''Inductive Position Sensor,'' to Juntura Group Inc., having its principal place of business at 5326 Tattinger Lane, Oviedo, Florida 32765. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, Florida 32899. Telephone: 321–867–2076; Facsimile: 321–867–1817.

FOR FURTHER INFORMATION CONTACT: Shelley Ford, Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, Florida 32899. Telephone: 321–867–2076; Facsimile: 321–867–1817. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2014–25447 Filed 10–24–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–072)]

Notice of Intent To Grant an Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant an Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in USPN 7,290,737, Nonsurvivable Momentum Exchange System, NASA Case No. GSC–14845–1 to Millennium Space Systems, having its principal place of business in El Segundo, California. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. Bryan A. Geurts, Chief Patent Counsel/140.1, Goddard Space Flight Center, Greenbelt, MD 20771, (301) 286–7351.

FOR FURTHER INFORMATION CONTACT: Alfred T. Mecum, Innovative Partnerships Program Office/504, Goddard Space Flight Center, Greenbelt, MD 20771 (301) 286–5810. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2014–25446 Filed 10–24–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL TRANSPORTATION SAFETY BOARD

Public Availability of FY 2012 Service Contract Inventory Analysis, FY 2013 Service Contract Inventory, and FY 2013 Service Contract Inventory Planned Analysis for the National Transportation Safety Board

AGENCY: National Transportation Safety Board.

ACTION: Notice of Public Availability of FY 2012 Service Contract Inventory Analysis, FY 2013 Service Contract Inventory, and FY 2013 Service Contract Inventory Planned Analysis.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the National Transportation Safety Board is publishing this notice to advise the public of the availability of the FY 2012 Service Contract Inventory Analysis, the FY 2013 Service Contract Inventory, and the FY 2013 Service Contract Inventory Planned Analysis. The FY 2012 inventory analysis provides information on specific service contract actions that were analyzed as part of the FY 2012 inventory. The FY 2013 inventory provides information on service contract actions over $25,000 that were made in FY 2013. The inventory information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The FY 2013 inventory planned analysis provides information on which functional areas will be reviewed by the agency. The National Transportation Safety Board has posted its FY 2013 inventory, FY 2013 planned analysis, and FY 2012 inventory analysis at the following link: *http://www.ntsb.gov/about/open.html*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Christopher Blumberg, Deputy Director, Office of Administration, NTSB at 202–314–6102 or *christopher.blumbeg@ntsb.gov.*

Dated: October 21, 2014.

Candi R. Bing,

Federal Register Liaison.

[FR Doc. 2014–25407 Filed 10–24–14; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244; NRC–2014–0229]

Exelon Generation Company, LLC., R.E. Ginna Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR–18, issued to Exelon Generation Company, (the licensee) LLC., for operation of the R.E. Ginna Nuclear Power Plant (Ginna) located in Wayne County, New York.

DATES: Submit comments by November 26, 2014. Requests for a hearing or petition for leave to intervene must be filed by December 26, 2014. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by November 6, 2014.

ADDRESSES: You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0229. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN, 06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mohan C. Thadani, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1476; email: *Mohan.Thadani@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0229 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID: NRC–2014–0229.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Ginna ''Application for Preemption Authority Pursuant to Section 161A of the Atomic Energy Act and License Amendment Request'' dated August 13, 2013, and its supplement, ''Response to Request for Additional Information Concerning Preemption Authority,'' dated May 14, 2014, are available in ADAMS under Accession Nos. ML13228A265 and ML14139A342.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0229 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Facility Operating License No. DPR–18 issued to Exelon Generation Company, LLC., for operation of the R.E. Ginna Nuclear Power Plant located in Wayne County, New York. The proposed amendment would modify the R.E. Ginna Nuclear Power Plant facility operating license, in accordance with 10 CFR 50.90 and as required under Order EA–13–092. The amendment would also modify the license to reflect a grant of Section 161A of the Atomic Energy Act of 1954, as amended (the Act), to permit the licensee's security personnel to possess and use weapons, devices, ammunition, or other firearms, notwithstanding state, local, and certain federal firearms laws that may prohibit such use. The NRC refers to this authority as ''stand-alone preemption authority.'' The licensee is seeking stand-alone preemption authority for standard weapons presently in use at the Ginna facility in accordance with the Ginna security plans.

This amendment request contains SUNSI.

The NRC has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to the license will not result in any actual changes at the facility. The security personnel already use the subject weapons and the use of the weapons is already covered under their existing security plans.

The proposed change adds a sentence to the operating license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the probability or consequences of an accident previously evaluated. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any [accident] initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to the license will not result in any actual changes at the facility. The security personnel already use the subject weapons and the use of the weapons is already covered under their existing security plans.

The proposed change adds a sentence to the operating license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the possibility of a new or different kind of accident from any accident previously evaluated. Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. Therefore, the implementation of the proposed change does not involve a significant reduction in a margin of safety.

The proposed change to the license will not result in any actual changes at the facility. The security personnel already use the subject weapons and the use of the weapons is already covered under their existing security plans.

The proposed change to the license condition in the operating license adds a sentence to the existing license condition for physical protection to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and does not involve a significant reduction

in a margin of safety. Therefore, the proposed change to the license condition and the Commission granting the requested Section 161A preemption authority does not create a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves No Significant Hazards Consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves No Significant Hazards Consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this proceeding and who desires to participate as a party in the proceeding must file a written request for hearing or a petition for leave to intervene specifying the contentions which the person seeks to have litigated in the hearing with respect to the license amendment request. Requests for hearing and petitions for leave to intervene shall be filed in accordance with the NRC's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

As required by 10 CFR 2.309, a request for hearing or petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The hearing request or petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The hearing request or petition must also include the specific contentions that the requestor/petitioner seeks to have litigated at the proceeding.

For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The hearing request or petition must also include a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely at the hearing, together with references to those specific sources and documents. The hearing request or petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute. If the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the requestor/petitioner must identify each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who does not satisfy these requirements for at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with the NRC's regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Hearing requests or petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)-(iii).

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR Part 2.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating

under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated August 14, 2013, as supplemented on May 14, 2014. Publicly-available versions are available in ADAMS under Accession Nos. ML13228A265 and ML14139A342, respectively.

Attorney for licensee: Gautam Sen, Senior Counsel, Exelon Generation Company, LLC., 100 Constellation Way, Suite 200C, Baltimore, Maryland 21202.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC., Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this

proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland, 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within five days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 21st day of October, 2014.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Acting, Secretary of the Commission.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2014–25488 Filed 10–24–14; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220 and 50–410; NRC–2014–0228]

Exelon Generation Company, LLC., Nine Mile Point Nuclear Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License Nos. DPR–63 and DPF–69, issued to Exelon Generation Company, (the licensee) LLC., for operation of the Nine Mile Point Nuclear Station, Units 1 and 2, located in Oswego County, New York.

DATES: Submit comments by November 26, 2014. Requests for a hearing or petition for leave to intervene must be filed by December 26, 2014. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by November 6, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0228. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mohan C. Thadani, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1476; email: *Mohan.Thadani@nrc.gov.*

SUPPLEMENTAL INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0228 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0228.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select

''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Nine Mile Point Nuclear Station, Units 1 and 2, ''Application for Preemption Authority Pursuant to Section 161A of the Atomic Energy Act and License Amendment Request,'' dated August 13, 2013, and its supplement ''Response to Request for Additional Information Concerning Preemption Authority'' dated May 14, 2014, are available in ADAMS under Accession Nos. ML13228A265 and ML14139A342.

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

B. Submitting Comments

Please include Docket ID NRC–2014–0228 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Facility Operating License Nos. DPR–63 and DFR–69 issued to Exelon Generation Company, (the licensee) LLC., for operation of the Nine Mile Point Nuclear Station, Units 1 and 2, located in Oswego County, New York. The proposed amendment would modify the Nine Mile Point Nuclear Station, Units 1 and 2 (Nine Mile Point), facility operating licenses, in accordance with 10 CFR 50.90 and as required under Order EA–13–092. The amendment would also modify the licenses to reflect a grant of Section 161A of the Atomic Energy Act of 1954, as amended (the Act), to permit the licensee's security personnel to possess and use weapons, devices, ammunition, or other firearms, notwithstanding state, local, and certain federal firearms laws that may prohibit such use. The NRC refers to this authority as ''stand-alone preemption authority.'' The licensee is seeking stand-alone preemption authority for standard weapons presently in use at the Nine Mile Point facility in accordance with the Nine Mile Point security plans.

This amendment request contains SUNSI.

The NRC has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to the licenses will not result in any actual changes at the facilities. The security personnel already use the subject weapons and the use of the weapons is already covered under their existing security plans.

The proposed change adds a sentence to the operating licenses to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the probability or consequences of an accident previously evaluated. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any [accident] initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to the licenses will not result in any actual changes at the facilities. The security personnel already use the subject weapons and the use of the weapons is already covered under their existing security plans.

The proposed change adds a sentence to the operating licenses to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the possibility of a new or different kind of accident from any accident previously evaluated. Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. Therefore, the implementation of the proposed change does not involve a significant reduction in a margin of safety.

The proposed change to the licenses will not result in any actual changes at the facilities. The security personnel already use the subject weapons and the use of the weapons is already covered under their existing security plans.

The proposed change to the license condition in the operating licenses adds a sentence to the existing license condition for physical protection to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and does not involve a significant reduction in a margin of safety. Therefore, the proposed change to the license conditions and the Commission granting the requested Section 161A preemption authority does not create a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves No Significant Hazards Consideration.

The NRC is seeking public comments on this proposed determination that the

license amendment request involves No Significant Hazards Consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this proceeding and who desires to participate as a party in the proceeding must file a written request for hearing or a petition for leave to intervene specifying the contentions which the person seeks to have litigated in the hearing with respect to the license amendment request. Requests for hearing and petitions for leave to intervene shall be filed in accordance with the NRC's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

As required by 10 CFR 2.309, a request for hearing or petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The hearing request or petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The hearing request or petition must also include the specific contentions that the requestor/petitioner seeks to have litigated at the proceeding.

For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The hearing request or petition must also include a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely at the hearing, together with references to those specific sources and documents. The hearing request or petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute. If the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the requestor/petitioner must identify each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who does not satisfy these requirements for at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with the NRC's regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Hearing requests or petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the

participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated August 14, 2013, as supplemented on May 14, 2014. Publicly-available versions are available in ADAMS under Accession Nos. ML13228A265 and ML14139A342, respectively.

Attorney for licensee: Gautam Sen, Senior Counsel, Exelon Generation Company, LLC., 100 Constellation Way, Suite 200C, Baltimore, Maryland 21202.

Exelon Generation Company, LLC., Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2, Oswego County, New York

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why

the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within five days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within five days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 21st day of October, 2014.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Acting, Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2014–25485 Filed 10–24–14; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before November 26, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: Peace Corps uses the confidential reference form in order to learn from someone, who knows a volunteer applicant and his or her background, whether the applicant possesses the necessary characteristics and skills to serve as a Volunteer.

OMB Control Number: 0420–0548.

Title: Peace Corps Response Volunteer Reference Forms.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public:

a. Number of interviewed applicants:* 700.

b. Number of references required per interviewed applicant:** 2.25.

c. Estimated number of reference forms received: 1,575.

d. Frequency of response: One time.

e. Completion time: 10 minutes.

f. Annual burden hours: 263.

*Reference information is collected only if an applicant is contacted for an interview.

**Returned Peace Corps Volunteers (RPCVs) must submit two references; one staff and one professional reference. These applicants comprise of approximately 75% of the total applicants interviewed. Applicants who have not previously served with the Peace Corps must submit three references; one personal and two professional references. These applicants comprise of approximately 25% of the total applicants interviewed. Therefore, the number of references required per interviewed applicants is calculated at 2.25.

GENERAL DESCRIPTION OF COLLECTION: The information collected in the Peace Corps Response Reference Forms is an integral part of the screening and selection process and is used to determine whether an applicant would be a good candidate as a Peace Corps Response Volunteer. The information obtained from these forms is used by the recruitment and placement specialists within the Office of Peace Corps Response.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to

respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on October 21, 2014.

Dated: October 21, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–25423 Filed 10–24–14; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request, Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

DATES: Submit comments on or before November 26, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: The Peace Corps Response interview is necessary to assess applicants' qualifications and eligibility to serve in Peace Corps Response. The interview is a critical point in the recruitment process, as it is the point when the applicant and the recruitment and placement specialist verbally discuss the nature of the Volunteer assignment.

OMB Control Number: 0420–XXXX.

Title: Peace Corps Response Interview Form.

Type of Review: New.

Affected Public: Individuals.

Respondents' Obligation to Reply: Voluntary.

Burden to the Public

a. Number of Interviewed Applicants: 700.

b. Frequency of response: One time.

c. Completion time: 60 minutes.

d. Annual burden hours: 700.

General Description of Collection: The information collected in the Peace Corps Response Interview Form is used to determine whether an applicant would be a good candidate as a Peace Corps Response Volunteer. The information obtained from this form is used by the recruitment and placement specialists within the Office of Peace Corps Response.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC on October 21, 2014.

Dated: October 21, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–25424 Filed 10–24–14; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–1 and CP2015–3; Order No. 2220]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Parcel Select Contract 8 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 29, 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

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Parcel Select Contract 8 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, 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 Nos. MC2015–1 and CP2015–3 to consider the Request pertaining to the proposed Parcel Select Contract 8 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 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 29, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–1 and CP2015–3 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent

[1] Request of the United States Postal Service to Add Parcel Select Contract 8 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 21, 2014 (Request).

the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 29, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–25483 Filed 10–24–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2014–60; Order No. 2218]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning amending the existing Priority Mail Contract 85 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 28, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On October 20, 2014, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 85 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment.

The Postal Service also filed the unredacted Amendment under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.*

The Amendment changes the customized pricing structure of the agreement (in Table 2 of section I.F) and removes the price adjustment provision of the original contract (previously section I.H).

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. *Id.* at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *Id.*

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than October 28, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2014–60 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Lyudmila Y. Bzhilyanskaya to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than October 28, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–25373 Filed 10–24–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 21, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 16 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–2, CP2015–4.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–25525 Filed 10–24–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 21, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Parcel Select Contract 8 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2015–1, CP2015–3.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–25537 Filed 10–24–14; 8:45 am]

BILLING CODE 7710–12–P

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 85, with Portions Filed Under Seal, October 20, 2014 (Notice).

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb appendix, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held commencing 6:30 p.m. on Thursday, November 20, 2014, at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are to take action on the minutes of a previous Board meeting, to provide the Chairperson's report, to provide the Executive Director's report, to provide a report on the New Presidio Parklands Project, and to receive public comment in accordance with the Trust's Public Outreach Policy.

Individuals requiring special accommodation at this meeting, such as needing a sign language interpreter, should contact Laurie Fox at 415.561.5300 prior to November 10, 2014.

Time: The meeting will begin at 6:30 p.m. on Thursday, November 20, 2014.

ADDRESSES: The meeting will be held at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Karen Cook, General Counsel, the Presidio Trust, 103 Montgomery Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: 415.561.5300.

Dated: October 20, 2014.

Karen A. Cook,

General Counsel.

[FR Doc. 2014–25399 Filed 10–24–14; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31301; 812–13953]

Spruce ETF Trust, et al.; Notice of Application

October 21, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for exemptive relief.

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. If granted, the requested order would permit several registered open-end investment companies that are actively managed exchange traded funds (each, an ''ETF'') to list and trade without being subject to the current daily portfolio transparency condition in actively managed ETF orders.

APPLICANTS: Spruce ETF Trust (the ''Trust''), BlackRock Fund Advisors (the ''Adviser'') and BlackRock Investments, LLC (the ''Distributor'') (together, the ''Applicants'').

FILING DATE: The application was filed on September 1, 2011.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 17, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary. Absent a request for a hearing that is granted by the Commission, the Commission intends to issue an order under the Act denying the application.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: c/o BlackRock Fund Advisors, 400 Howard Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel; Kay-Mario Vobis, Senior Counsel; or Dalia Osman Blass, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

I. Introduction

1. Applicants seek to introduce a novel type of actively managed exchange-traded fund (''ETF'') that would not be required to disclose its portfolio holdings on a daily basis. Due to their characteristics, ETFs (including those proposed by Applicants) are only permitted to operate subject to Commission orders that provide exemptive relief from certain provisions of the Act and rules thereunder.[1] Accordingly, Applicants seek an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 thereunder; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. As discussed below, the Commission preliminarily believes that Applicants' proposed ETFs do not meet the standard for exemptive relief under section 6(c) of the Act. Section 6(c) allows the Commission to exempt any person, security, or transaction, or any class thereof, only ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' [2] Accordingly, the Commission preliminarily intends to deny the application.[3]

II. Background

A. Open-End Investment Companies and Net Asset Value

3. The Act defines an investment company as an ''issuer'' of ''any security'' which ''is or holds itself out as being engaged primarily . . . in the business of investing . . . in securities.'' [4] Shares in an investment company represent proportionate interests in its investment portfolio, and their value fluctuates in relation to the changes in the value of that portfolio.

4. The most common form of investment company, the ''open-end''

[1] The Commission first granted exemptive relief to operate ETFs in the early 1990s when the first index-based ETFs were developed. *See* SPDR Trust Series I, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order).

[2] 15 U.S.C. 80a–6(c).

[3] For this reason, the Commission finds it unnecessary to consider whether the application meets the section 17(b) and section 12(d)(1)(J) standards for exemptive relief.

[4] 15 U.S.C. 80a–3(a); 80a–3(a)(1).

investment company or mutual fund, is required by law to redeem its securities on demand at a price approximating their proportionate share of the fund's net asset value (''NAV'') at the time of redemption.[5] These funds also continuously issue and sell new shares, thereby replenishing their investment capital.

5. Because open-end investment companies are required by law to redeem their shares based on investors' demands, shares of the funds have historically not traded on exchanges or in other secondary markets.[6]

B. Exemptions Under the Act for Actively Managed ETFs

6. ETFs, including those proposed by Applicants, are a type of open-end fund. But unlike traditional open-end funds, ETFs are made available to investors primarily through secondary market transactions on exchanges.

7. In order for this to take place, ETFs require various exemptions from the provisions of the Act and the rules thereunder. Critically, in granting such exemptions to date, the Commission has required that a mechanism exist to ensure that ETF shares would trade at a price that is at or close to the NAV per share of the ETF.[7]

8. Such a mechanism is essential for ETFs to operate because ETFs do not sell or redeem their individual shares at NAV per share as required by the Act. Instead, large broker-dealers that have contractual arrangements with an ETF (each, an ''Authorized Participant'') purchase and redeem ETF shares directly from the ETF, but only in large blocks called ''creation units.'' An Authorized Participant that purchases a creation unit of ETF shares first deposits with the ETF a ''basket'' of securities and other assets (*e.g.,* cash) identified by the ETF that day, and then receives the creation unit of ETF shares in return for those assets. The basket is generally representative of the ETF's portfolio and is equal in value to the aggregate NAV of ETF shares in the creation unit. After purchasing a creation unit, the Authorized Participant may sell the component ETF shares in secondary market transactions. Investors then purchase individual shares in the secondary market. The redemption process is the reverse of the purchase process: the Authorized Participant acquires a creation unit of ETF shares and redeems it for a basket of securities and other assets.

9. The combination of the creation and redemption process with the secondary market trading in ETF shares provides arbitrage opportunities that, if effective, keep the market price of the ETF's shares at or close to the NAV per share of the ETF.[8] For example, if an ETF's shares begin trading on national securities exchanges at a ''discount'' (a price below the NAV per share of the ETF), an Authorized Participant can purchase ETF shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities in the ETF's redemption basket. In addition to purchasing ETF shares, Authorized Participants also are likely to hedge their intraday risk. Thus, for example, when ETF shares are trading at a discount to the NAV per share of the ETF, an Authorized Participant may also simultaneously short the securities in the redemption basket. At the end of the day, the Authorized Participant will return the creation unit of ETF shares to the ETF in exchange for the ETF's redemption basket of securities and other assets, which it will then use to cover its short positions. Those purchases reduce the supply of ETF shares in the market, and thus tend to drive up the market price of the shares to a level closer to the NAV per share of the ETF.[9]

10. Conversely, if the market price for ETF shares reflects a ''premium'' (a price above the NAV per share of the ETF), an Authorized Participant can deposit a basket of securities in exchange for the more valuable creation unit of ETF shares, and then sell the individual shares in the market to realize its profit. An Authorized Participant may also hedge its intraday risk when ETF shares are trading at a premium. Thus, for example, when the shares of an ETF are trading at a premium, an Authorized Participant may buy the securities in the purchase basket in the secondary market and sell short the ETF shares. At the end of the day, the Authorized Participant will deposit the purchase basket of securities and other assets in exchange for a creation unit of ETF shares, which it will then use to cover its short positions. The Authorized Participant will receive a profit from having paid less for the ETF shares than it received for the securities in the purchase basket. These transactions would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of ETF shares to a level closer to the NAV per share of the ETF.[10]

11. Market participants can also engage in arbitrage activity without using the creation or redemption processes described above. For example, if a market participant believes that an ETF is overvalued relative to its underlying or reference assets, the market participant may sell short ETF shares and buy the underlying or reference assets, wait for the trading prices to move toward parity, and then close out the positions in both the ETF shares and the underlying or reference assets to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy ETF shares and sell the underlying or reference assets in an attempt to profit when an ETF's shares are trading at a discount to the ETF's underlying or reference assets. As discussed above, the trading of an ETF's shares and the ETF's underlying or reference assets may bring the prices of the ETF's shares and its portfolio assets closer together through market pressure.

12. In assessing whether to grant exemptive relief to actively managed ETFs in the past, the Commission has required a mechanism that would keep the market prices of ETF shares at or close to the NAV per share of the ETF. To date, this mechanism has been dependent on daily portfolio transparency.[11] This transparency

[5] Section 22(d) of the Act prohibits a dealer from selling a redeemable security that is being offered to the public by or through an underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem. Together, these provisions are designed to require that fund shareholders be treated equitably when buying and selling their fund shares.

[6] This stems from section 22(d) of the Act, which in effect fixes the prices at which redeemable securities, including open-end shares, are sold. The result is a system that precludes dealers from making a secondary market in open-end shares.

[7] This has been a required representation in all ETF orders since the Commission issued the first order. *See supra* note 1.

[8] *See* Investment Company Institute, *2014 Investment Company Fact Book* (2014) (''ICI Fact Book''), at 60.

[9] The Authorized Participant's purchase of the ETF shares in the secondary market, combined with the sale of the redemption basket securities, may also create upward pressure on the price of ETF shares and/or downward pressure on the price of redemption basket securities, driving the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[10] The Authorized Participant's purchase of the purchase basket securities, combined with the sale of ETF shares, may also create downward pressure on the price of ETF shares and/or upward pressure on the price of purchase basket securities, bringing the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[11] The condition for daily portfolio transparency has consistently been one of the conditions to the exemptive relief issued to actively managed ETFs by the Commission. *See* PowerShares Capital Management LLC, et al., Investment Company Act

Continued

provides market makers and other market participants with an important tool to value the ETF portfolio on an intraday basis, which, in turn, enables them to assess whether an arbitrage opportunity exists. It is the exercise of such arbitrage opportunities that keeps the market price of ETF shares at or close to the NAV per share of the ETF. This close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. In granting relief from section 22(d) of the Act and rule 22c–1 under the Act, the Commission relies on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.[12] The Commission therefore has granted such exemptive relief to date only to those actively managed ETFs that have provided daily transparency of their portfolio holdings.

III. The Application

A. The Applicants

13. The Trust is a business trust organized under the laws of Delaware and will be registered under the Act as an open-end management investment company with multiple series (each, a ''proposed ETF''). Applicants propose to offer 13 initial proposed ETFs, each of which will use a variety of active management strategies to meet its investment objectives. The proposed ETFs include long/short funds, and may invest a portion of their assets (up to a third of the total assets) in derivatives and foreign securities.[13]

14. The Adviser, a corporation organized under the laws of California, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and would serve as the investment adviser to the initial proposed ETFs. The Distributor, a Delaware limited liability company, is a registered broker-dealer under the Securities Exchange Act of 1934, as amended.

B. Applicants' Proposal

15. Applicants seek exemptive relief under section 6(c) of the Act to allow them to introduce several actively managed ETFs that would not disclose their portfolio holdings on a daily basis. Applicants note that actively managed ETFs with transparent portfolios are susceptible to ''front running'' and ''free riding'' by other investors and/or managers which can harm, and result in substantial costs to, the actively managed ETFs.[14]

16. As explained below, the Applicants propose to operate actively managed ETFs that would not disclose their portfolio holdings on a daily basis. Applicants state that the relief requested in their application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the proposed ETFs to operate on a non-transparent basis. These material differences are highlighted below:

a. *Prospectus and Portfolio Disclosures:* Applicants would *not* provide the daily disclosure of a proposed ETF's portfolio holdings that is a condition in all exemptive orders issued to existing actively managed ETFs. Applicants would instead only provide the standard portfolio and other disclosures required for traditional mutual funds. Traditional mutual funds are required to disclose their portfolio holdings only on a quarterly basis, with a lag of not more than 60 days.[15]

b. *Indicative Intraday Value:* Investors and others acquiring the proposed ETFs' shares would primarily have to rely on the intraday indicative value (the ''IIV''), which would be disseminated by an exchange every 15 seconds during the trading day,[16] to assess the value of a proposed ETF due to the lack of portfolio transparency. The IIV would be calculated by a calculation agent who would receive the daily list of securities constituting the proposed ETF's portfolio from the ETF sponsor.[17] As acknowledged by the Applicants, the IIV is based on the value of the proposed ETF's portfolio and is calculated by the calculation agent using the last available market quotation or sale price of the proposed ETF's portfolio holdings.[18] As further acknowledged by the Applicants, the IIV is not the NAV; rather, it is a reference produced by a third party seeking to approximate the proposed ETF's underlying per share net asset value.[19] Applicants also concede that the IIV is not intended as a ''real-time NAV'' and (unlike the NAV) would not include extraordinary expenses or liabilities booked during the day.[20] As discussed below, an ETF's portfolio could contain securities and other assets all (or most) of which need to be fair valued in order for the IIV to be accurate.[21]

c. *Blind Trust Mechanism:* Applicants propose for creation unit purchases to be made in cash and for redemptions to be effected in-kind through a ''blind trust'' established for each Authorized Participant. Applicants assert that the delivery of redemption securities into the blind trust would allow the ETF to retain the benefits associated with in-kind redemptions,[22] while shielding the identity of the ETF's portfolio securities. Based on the standing instructions of the Authorized Participant, the blind trust would sell or otherwise manage the securities on behalf of the Authorized Participant without disclosing the contents of the underlying portfolio.

d. *Back-up Redemption Option:* Applicants have proposed a back-up mechanism that would allow retail investors to redeem individual shares directly from the proposed ETFs in the event of a persistent and significant

Release Nos. 28140 (Feb. 1, 2008) (notice) and 28171 (Feb. 27, 2008) (order).

[12] *See supra* note 5 and accompanying text.

[13] *See* Securities Exchange Act Release No. 34–72787 (Aug. 7, 2014), File No. SR–BATS–2014–018 (''19b–4 Notice''), at 14–15.

[14] Application at 40. *See also* Murray Coleman, *Could a Stock ETF Cloak its Portfolio* (May 7, 2012), *available at http://online.wsj.com/news/articles/SB10001424052702304432704577348261039833588* (noting that if traders can identify the shares in which a fund manager is building a position, they can start buying the shares ahead of the manager and drive up the price while the manager is still buying the stock).

[15] Shareholder reports, including a schedule of portfolio holdings, must be transmitted to shareholders semi-annually, within 60 days of the end of the second and fourth fiscal quarters. *See* Rule 30e-1. A complete schedule of portfolio holdings must be filed with the Commission on Form N–CSR within 10 days of the transmission of the shareholder report. *See* Rule 30d-1. Complete portfolio holdings also must be filed on Form N–Q within 60 days of the end of the first and third fiscal quarters. *See* Rule 30b1–5.

[16] We note that the IIV is not disseminated during early and late trading sessions when market participants would still be trading the proposed ETFs' shares. Therefore, there would be no pricing signal at all for these trades.

[17] *See infra* note 35.

[18] Application at 32. *See also* Matt Hougan, *The Flaws in iNAV,* 104 Exchange-Traded Funds Report (''Hougan ETF Report''), 5, 10 (2009).

[19] Application at 31.

[20] *Id.*

[21] *See infra* notes 38–45 and accompanying text.

[22] Because redemptions from ETFs are often made in-kind, ETFs may offer certain tax efficiencies compared to traditional mutual funds by avoiding the need to sell assets and potentially experience a taxable event. In addition, ETFs do not bear the brokerage costs associated with liquidating portfolio instruments to meet redemption requests. We note that it is unclear whether Applicants' proposed ETFs would experience the same in-kind benefits experienced by existing ETFs. The blind trust structure is likely to introduce additional costs because, among other things, the Authorized Participants would not be able to manage the sale of the securities to enhance arbitrage profits. *See* Comment Letter of Gary Gastineau, File No. SR–NYSEArca-2014–10 (Mar. 18, 2014) (''Gastineau March 2014 Letter''), at 3–5 for a discussion of the potential issues presented by this structure.

deviation of closing market price from NAV. Under the proposal, retail investors exercising the option would be subject to a redemption fee of up to 2% of the value of shares redeemed and would likely be charged additional brokerage commissions. Further, the redemption option would become available to retail investors only after the proposed ETF's shares have persistently been trading at a discount of at least 5% from NAV for 10 consecutive business days. The option would remain open for 15 days; if a discount persists, a new option would commence on the next business day.

IV. Analysis of the Application

17. As noted above, the Applicants have sought exemptive relief under several provisions of the Act—each of which the Applicants would need to obtain in order to operate their proposed ETFs.

18. Applicants state that the relief requested in their application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the proposed ETFs to operate on a non-transparent basis.

19. As discussed below, however, the Commission preliminarily believes that the specific features proposed by the Applicants that would cause the proposed ETFs to operate without transparency fall far short of providing a suitable alternative to the arbitrage activity in ETF shares that is crucial to helping keep the market price of current ETF shares at or close to the NAV per share of the ETF.[23] Accordingly, the Commission preliminarily believes that it is not in the public interest or consistent with the protection of investors or the purposes fairly intended by the policy and provisions of the Act to grant the exemptive relief under section 6(c) that the Applicants seek.

A. ETF Prospectus Disclosure and IIV Dissemination

20. Applicants assert that ETF prospectus disclosure and the dissemination of the IIV every 15 seconds during the trading day would be sufficient to allow the arbitrage mechanism to function effectively after a few days of trading.[24] Applicants further assert that market participants do not need any additional information about the proposed ETF's portfolio so long as they are able to create correlations against and, over time, evaluate how various market factors affect the disseminated IIV. According to Applicants, this process is referred to as ''reinforcement learning.''[25]

21. ETF prospectus disclosure will not assist the arbitrage mechanism because such disclosure does not contain any material real-time information necessary to creating or facilitating effective arbitrage. Actively managed funds generally include very broad investment objectives and strategies in order to provide investment advisers with the maximum flexibility possible in managing the portfolio, and do not include more specific, current information about a fund's portfolio holdings.[26] The Commission preliminarily believes that it would be difficult, if not impossible, for market participants to discern sufficient useful information from such broad disclosures. Therefore, the lack of more specific information with respect to the proposed ETF's investment objectives or principal investment strategies may not enable market makers to effectively assess whether real-time arbitrage opportunities in ETF shares exist and may discourage them from making markets in ETF shares that would keep the share prices at or close to the NAV per share of the ETF—a condition that may be exacerbated during times of market stress.

22. Dissemination of the IIV at 15 second intervals throughout the trading day does not fill this information void. Today, market makers calculate their own NAV per share of the ETF with proprietary algorithms that use an ETF's daily portfolio disclosure and available pricing information about the assets held in the ETF's portfolio.[27] They generally use the IIV, if at all, as a secondary or tertiary check on the values that their proprietary algorithms generate. If the daily portfolio holdings for the proposed ETFs are not available for market makers to calculate current values of a proposed ETF, they will be reliant principally on the IIV given the limitations of the prospectus and quarterly portfolio disclosures. Even though the IIV continues to be disseminated in conjunction with the full portfolio holdings and basket of existing ETFs, its reliability as a primary pricing signal for the proposed ETFs is questionable for the reasons discussed below.

23. *The IIV is stale data.* Unlike market maker proprietary algorithms, which rely on portfolio transparency and provide market makers with real-time data to effectively trade in today's fast moving markets, IIV dissemination frequency is inadequate for purposes of making efficient markets in ETFs.[28] Market makers operate at speeds calculated in fractions of a second.[29] In today's markets, 15 seconds is too long for purposes of efficient market making and could result in poor execution.[30]

[23] Staff in the Division of Economic and Risk Analysis provided advice and analyses relevant to the Commission's conclusions, discussed in more detail below.

[24] Application at 37–43.

[25] According to Applicants, reinforcement learning is dependent on statistical arbitrage. *See* text following *supra* note 10. Applicants assert that market makers would use the proposed ETF's market price, IIV and daily NAV to construct a hedging portfolio for the proposed ETF. The market makers would then engage in statistical arbitrage between their hedging portfolio and the shares of the proposed ETF—*i.e.,* buying and selling one against the other during the trading day and evaluating the effectiveness of their hedging portfolio at the day's end. Applicants further assert that after a few days of trading, there would be sufficient data for a market maker to run a statistical analysis that would result in the market maker's spreads being tightened substantially around the IIV. Application at 37–43.

[26] For example, Form N–1A requires mutual funds to disclose in the prospectus and statement of additional information their investment objectives or goals, principal investment strategies, and the portfolio turnover rate during the most recent fiscal year. *See, e.g.,* Form N–1A, Items 2 to 4, and 9. As discussed above, mutual funds are required to disclose their portfolio holdings quarterly. *See supra* note 15 and accompanying text.

[27] *See* David J. Abner, *The ETF Handbook: How to Value and Trade Exchange Traded Funds* (2010), at 90 (''[s]ince stock trading now takes place in microseconds, a lot can happen between two separate 15-second quotes. Professional traders are not using published IIVs as a basis for trading. Most, if not all, desks that are trading ETFs are calculating their own [NAV of the ETF] based on real time quotes . . . that they are generating within their own systems.''). *See also* Comment Letter of BGFA, File No. S7–07–08 (May 16, 2008) (''BGFA 2008 Letter''), at n.43; and ICI Fact Book, *supra* note 8, at 59.

[28] The Commission previously issued a proposing release on a proposed rule for certain ETFs. *See* Exchange-Traded Funds, Investment Company Act Release No. 28193 (Mar. 11, 2008) (''2008 ETF Rule Proposal''). Various industry members commenting on the 2008 ETF Rule Proposal noted that market makers did not rely on the IIV because of either its staleness or unreliability. *See, e.g.,* Comment Letter of NYSE Arca, Inc., File No. S7–07–08 (May 29, 2008) (the exchange noted that it ''is not convinced that the [IIV] is a meaningful pricing tool for investors in light of the availability of other pricing information. In fact, we believe that it is the transparency of the portfolios [sic] holdings which permit [sic] market makers and other professionals to arbitrage efficiently and not the regular dissemination of an [IIV]. Some market participants may choose to generate an [IIV] for their own use, using their own calculation methodology to include financing costs, capital costs, etc., in kind trading or arbitrage. Importantly, the [IIV] generated by professionals is in real-time and not delayed by 15 or 60 seconds.''); and BGFA 2008 Letter, *supra* note 27, at n. 43 and n. 92. *See also* Matt Hougan, *Ban iNAVs For ETFs* (June 24, 2013), *available at http://www.indexuniverse.com/sections/blog/19037-hougan-ban-inavs-for-etfs.html.*

[29] *See* Comment Letter of ICI, File No. SR–NASDAQ–2012–117 (Nov. 8, 2012), (''ICI 2012 Letter''), at 4. *See also* ICI Fact Book, *supra* note 8.

[30] *See, e.g., How To Minimize Your Cost Of Trading ETFs* (June 22, 2009), ETF.com, *available at http://www.etf.com/publications/journalofindexes/joi-articles/6042-how-to-*

Continued

Because an ETF is a derivative security, its current value changes every time the value of any underlying component of the ETF portfolio changes.[31] Therefore, the IIV for a more frequently traded component security might not effectively take into account the full trading activity for that security, despite being available every 15 seconds. For example, a large buy order for a component security held by the proposed ETF could temporarily spike the price of that security and, therefore, inflate the proposed ETF's contemporaneous IIV calculation.[32] The IIV for the proposed ETF cannot adjust for such variations, whereas the NAV would.[33] Therefore, relying on a stale IIV as a primary pricing signal for market making in Applicants' proposed ETFs would not result in an effective arbitrage mechanism.[34]

24. *The IIV is not subject to meaningful standards.* Because there are no uniform methodology requirements, the IIV can be calculated in different ways rendering it potentially arbitrary and inconsistent.[35] Also, Applicants acknowledge that no party has agreed to take responsibility for the accuracy of IIV calculation.[36] Therefore, the Commission's preliminary conclusion is that the IIV calculation methodology is not appropriate for the IIV to be used as a primary pricing signal because it is potentially unreliable and susceptible to errors.[37]

25. *The IIV would be inaccurate for certain securities and asset classes.* Because the IIV is constructed using last available market quotations or sale prices and not fair value prices for the underlying assets, it can be inaccurate.[38] For example, as some securities do not trade frequently, the IIV would reflect the last quoted or sale price which could be stale and no longer reflect their current value.[39] Other securities may not have yet opened for trading on a particular trading day or may be subject to an intraday interruption in trading.[40]

26. Applicants note that up to 15% of the proposed ETFs' total assets could be in illiquid securities.[41] Illiquid securities often fall within the category of securities for which there is no readily available market quotation and their fair value must be determined in good faith by the fund's directors.[42] Therefore, a significant amount of illiquid securities in a proposed ETF's portfolio could exacerbate the deviation between the IIV and the NAV per share of the ETF because the accurate value of illiquid securities is determined by current fair valuation (reflected in the NAV) rather than use of stale pricing data (reflected in the IIV).[43]

27. Additionally, the proposed ETFs may invest a portion of their assets (up to a third of the total assets) in derivatives and foreign securities.[44] Thinly traded derivatives contracts may lack readily observable market prices that could be used to update the IIV in real time. Similarly, because international securities are often traded outside the ETF's regular trading hours, their last available market prices could be up to a day old and no longer reflect their current value.[45] Therefore, to the extent pricing inputs are unavailable or become stale for these alternative asset classes, the IIV would no longer be an accurate reflection of the NAV per share of the ETF.

28. *IIV inaccuracies can increase ETF tracking errors.* Errors in the IIV will likely lead to errors in estimating the factors that a market maker must consider when valuing a proposed ETF and constructing a hedging portfolio.[46] Therefore, market makers may not be able to construct accurate hedging portfolios for the ETF shares.[47] This would increase the tracking error associated with the hedging portfolios described above. As a result, tracking

minimize-your-cost-of-trading-etfs.html, at Figure 2 and related discussion. *See also* ICI 2012 Letter, *supra* note 29 (''Professional equity traders operate at speeds calculated in fractions of a second. In such markets, 15 seconds can be an eternity, and establishing an order price based on data that is nearly 15 seconds old could result in poor execution.'').

[31] In particularly volatile markets, the dissemination lag of IIV values (*i.e.,* every 15 seconds) may misrepresent the actual value of the ETF. *See Understanding iNAV,* ETF.com, *available at http://www.etf.com/etf-education-center/21028-understanding-inav.html;* Gary L. Gastineau, *Exchange-Traded Funds Manual,* Second Edition (2010), at 200–202.

[32] *See, e.g.,* ICI 2012 Letter, *supra* note 29.

[33] *See, e.g.,* ICI 2012 Letter, *supra* note 29. *See also* Gastineau March 2014 Letter, *supra* note 22, at 10, for a more detailed discussion of why the IIV would at best be a ''lagging indicator of actual portfolio values'' during times of rapid market movement.

[34] An IIV that is disseminated at more frequent intervals could present a different set of problems, as it may enable third parties to reverse engineer the underlying portfolio using data analysis. Therefore, changing the frequency of dissemination would not appear to be a viable option to the extent Applicants' objective is to prevent disclosure of the proposed ETF's portfolio. *See also infra* note 37 and accompanying text.

[35] *See, e.g.,* ICI 2012 Letter, *supra* note 29 (''[M]any parties participate in the calculation, publication, and dissemination of [IIV]. The ETF sponsor provides an independent calculation agent with the daily list of securities constituting an ETF's creation basket (which for U.S. equity ETFs is typically, but not always, a pro rata slice of the ETF's portfolio). The calculation agent separately obtains market pricing information for each of the component securities from a third party source, such as the exchange or a pricing vendor, and calculates the estimated per-share value of an ETF share. *This process creates several opportunities for errors:* for example, an ETF may report a basket inaccurately; a calculation agent may receive faulty data from a pricing vendor; or an error may be made in the calculation process. *We understand that such errors are not infrequent.''* [*emphasis added*]).

[36] Applicants explicitly disclaim making any warranty by the ETFs as to the accuracy of the IIV. The Adviser would merely use ''commercially reasonable efforts to assure that the calculation agent has an accurate listing of all securities in each [f]und's portfolio as of the beginning of trading on each day the [f]und is traded.'' Similarly, ''[a]lthough the calculation agent will not guarantee the accuracy of the IIV, the contract with the calculation agent will require that it use commercially reasonable efforts to calculate the IIV correctly. . . .'' Application at 31.

[37] As is the case with more frequent dissemination, an IIV that is sufficiently accurate and precise may also enable third parties to reverse engineer the underlying portfolio using data analysis. Such an ETF would thus once again become vulnerable to front running if its portfolio can be reverse engineered by others. *See* Gastineau March 2014 Letter, *supra* note 22, at 15.

[38] *See* Hougan ETF Report, *supra* note 18. NAV includes fair value pricing, and with daily portfolio disclosure, market makers can estimate fair value on their own for the holdings of current ETFs.

[39] *See, e.g.,* ICI 2012 Letter, *supra* note 29.

[40] *See* Gastineau March 2014 Letter, *supra* note 22 (noting that an exchange may institute a trading halt in a stock to address a significant order imbalance or in connection with release of important company news).

[41] *See* 19b–4 Notice, *supra* note 13.

[42] 15 U.S.C. 80a–2(a)(41)(B). *See also* Independent Directors Council, *Fundamentals for Newer Directors* (Feb. 2014), *available at http://fundamentals.idc.org/specific/specific_pricing,* at 27.

[43] ETF sponsors seek to minimize exposure to assets that could impact this deviation because they can make arbitrage opportunities more difficult to evaluate. *See* Comment Letter of ICI, File No. S7–07–08 (May 19, 2008). *See also* Comment Letter of The American Stock Exchange LLC, File No. S7–20–01 (Mar. 5, 2002) (''Ultimately it is in the interest of the sponsor and investment adviser to provide for effective arbitrage opportunities. It is unlikely that an . . . ETF sponsor would be able to convince the critical market participants such as specialists, market makers, arbitragers and other Authorized Participants to support a product that contained illiquid securities to a degree that would affect the liquidity of the ETF, making it difficult to price, trade and hedge, ultimately leading to its failure in the marketplace.'').

[44] *See* 19b–4 Notice, *supra* note 13.

[45] *See, e.g.,* ICI 2012 Letter, *supra* note 29; Ari I. Weinberg, *An Extra Data Point on ETFs** (Aug. 4, 2013), *available at http://online.wsj.com/news/articles/SB10001424127887323993804578611773169627276* (further noting that ''[i]nternational markets also observe different holidays, meaning that a stock might not trade for several days even while an ETF that holds it is trading in the U.S.—leaving even more time for events that could result in a significantly different price when the stock starts trading again.'').

[46] Such factors would include the market, asset class, sector and other risk factors. Market makers would need to estimate these exposures for a proposed ETF in order to construct hedging portfolios.

[47] This calls into question the reinforcement learning process which may not perform adequately during periods of heightened market volatility. *See* Sanmay Das, *Intelligent Market-Making in Artificial Financial Markets,* Massachusetts Institute of Technology—Artificial Intelligence Laboratory, AI Technical Report 2003–005, at 37.

errors between intraday ETF prices and NAV per share of the proposed ETF would also likely increase because greater tracking errors in hedging portfolios would expose the market maker's position to greater risk.[48]

29. In addition, it may be more difficult for market makers to construct appropriate hedging portfolios from the IIV for proposed ETFs with higher portfolio turnover. In particular, changing portfolio allocations can cause the factors that a market maker must consider when valuing a proposed ETF and constructing a hedging portfolio to fluctuate more rapidly. This would in turn increase uncertainty around the market maker's estimates of these factors.[49] Therefore, proposed ETFs with more complex investment strategies involving dynamic factors will likely have higher tracking errors and bid-ask spreads if there is lack of sufficient information for market participants to construct tight hedges.[50]

30. *IIV inaccuracies can increase during periods of market stress or volatility.* Market stress can reduce liquidity in certain assets and consequently increase errors in IIV as the portfolio becomes increasingly illiquid and current market prices become more difficult to determine. In addition, volatility can increase errors around prices used in IIV calculations as volatility can increase the movement of prices.

31. In stressed markets, confidence in the pricing of (and in turn, the knowledge of) the ETF portfolio becomes increasingly important for market makers to continue to quote prices in ETF shares.[51] By itself, the IIV of a proposed ETF likely will not instill such confidence in a proposed ETF's pricing because, as discussed above, the IIV is potentially unreliable and susceptible to errors.[52] Nevertheless, a market maker that questions the current market price or IIV for an ETF can check those numbers against the NAV per share of the ETF output from its proprietary algorithm if the ETF has a fully transparent portfolio. That same market maker, however, would not be able to run a similar cross-check on those figures against a non-transparent ETF like the ones proposed by Applicants. Due to the inherent weaknesses of the IIV as a stand-alone metric, Applicants' proposal (which relies heavily upon the IIV as a substitute for full portfolio transparency) likely will not offer enough information about the underlying portfolio. As discussed below, this, in turn, likely would discourage market makers from making markets that would keep the market price for the proposed ETF's shares at or close to the NAV per share of the ETF, particularly under stressed market conditions when the need for real-time and verifiable pricing information becomes more acute.[53]

32. Accordingly, the Commission's preliminary conclusion is that use of the IIV as a primary pricing signal for market making in Applicants' proposed ETFs would not result in an effective arbitrage mechanism.

B. Quarterly Release of Portfolio Holdings

33. Applicants also propose providing their portfolio holdings disclosures on a quarterly basis, with a lag of not more than 60 days. But such disclosures would quickly lose their relevance for purposes of valuing or hedging the proposed ETFs because the content of their portfolios can change on a daily basis. This problem is heightened for ETFs with active management strategies that involve high portfolio turnover and alternative asset classes.[54] Again, this may discourage market makers from making markets that would keep the market price for the proposed ETF's shares at or close to the NAV per share of the ETF, particularly during times of market stress when the need for real-time pricing information becomes more acute.

C. Back-Up Redemption Option

34. In light of concerns about the effect on retail investors if the arbitrage mechanism failed to keep market prices at or close to the NAV of the proposed ETFs, Applicants proposed a redemption option that, in their view, would act as a ''fail-safe'' mechanism in the event of a persistent and significant deviation of closing market price from NAV. For the reasons discussed below, the Commission preliminarily believes that this redemption option does not remedy the defects with Applicants' proposal outlined above such that exemptive relief would be appropriate.

35. Under the proposal, retail investors exercising the redemption option would be subject to redemption and brokerage fees, which would likely discourage use of the option. Specifically, retail investors exercising the redemption option would be subject to a redemption fee of up to 2% of the value of shares redeemed. In addition, retail investors would likely be charged additional brokerage commissions to exercise the option. These fees and costs may dissuade retail investors from exercising a redemption option meant to provide retail investors with the ability to transact with the ETF on an equal footing with the Authorized Participants.[55]

---

[48] A commonly accepted assumption in economic models of market making is that market makers' bid-ask spreads compensate them for a number of costs including the risk they bear in their positions. *See* Maureen O'Hara, *Market Microstructure Theory,* First Edition (1998), at 35. Therefore, greater tracking errors in hedging portfolios for the proposed ETFs will likely result in higher bid-ask spreads and greater tracking errors between intraday ETF prices and the NAV of the ETF.

[49] In contrast, turnover would introduce no such uncertainty in ETFs with daily portfolio disclosure as the end-of-day NAV would be marked to the previously disclosed portfolio, which is known by market makers.

[50] Applicants are seeking relief to launch, among others, long/short equity proposed ETFs. These types of funds have a higher portfolio turnover on average than that of actively managed equity funds. *See* Jing-Zhi Huang and Ying Wang, *Should Investors Invest in Hedge Fund-Like Mutual Funds? Evidence from the 2007 Financial Crisis,* 22 J. of Financial Intermediation 482 (2013), *available at http://dx.doi.org/10.1016/j.jfi.2012.11.004,* at 486–487 (finding that average turnover across 130/30 equity mutual funds was 196% from June 2003 until December 2009 versus less than 70% across all actively managed mutual funds in a comparable time period). These proposed ETFs also could have more thinly traded securities that could be more susceptible to price volatility during stressed market conditions. Therefore, it may be difficult for market makers to construct appropriate hedging portfolios from the IIV, making the proposed ETFs also likely to have higher tracking errors and bid-ask spreads.

[51] *See, e.g., Report to the Joint Advisory Committee on Emerging Regulatory Issues,* Staffs of the CFTC and SEC (Sept. 20, 2010) (''Flash Crash Report''), at 4–6 (noting that buy-side and sell-side interest returned only after market makers were able to verify the integrity of their data and systems and that they had to assess the risks of continuing to trade during the events of May 6, 2010).

[52] *See supra* notes 28–37 and accompanying text.

[53] *See infra* Section V.

[54] Antti Petajisto, *Active Share and Mutual Fund Performance,* 69 Financial Analysts Journal 73 (2013), *available at http://www.cfapubs.org/doi/pdf/10.2469/faj.v69.n4.7,* at 83. The study found that annual turnover across U.S. all-equity mutual funds is 87%. As a result, approximately 14% of the portfolio changes over the 60 days following the portfolio disclosure (prorating annual turnover of 87% for 60 days) and an additional 22% of the portfolio changes over the course of the following quarter (prorating annual turnover of 87% for three months). Therefore, there may be significant tracking errors between an ETF's current portfolio holdings and its prior quarterly portfolio disclosure.

[55] An economically rational investor who seeks to exercise the option is likely not to redeem until a trading discount to IIV in the secondary market exceeds the costs to redeem (*i.e.,* the redemption fee plus the brokerage charges). Given that typical bid/ask spreads for ETFs with underlying diversified domestic equity holdings average 4 basis points, a redemption fee set at 2% will cost the investor 200 basis points (not including brokerage charges) to exit the proposed ETFs. *See* Antti Petajisto, *Inefficiencies in the Pricing of Exchange-Traded Funds* (Sept. 20, 2013), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000336* (''Petajisto ETF Study''), at Table III. This assumes that the investor has the information necessary (IIV, bid price for the shares, redemption fee, brokerage charges) to make the determination of whether to redeem directly from the proposed ETFs or sell on the market. *See generally,* Matt

Continued

36. Moreover, the proposed redemption option is also problematic because it would become available to investors *only* after ETF shares have persistently been trading at a discount of at least 5% from NAV for 10 consecutive business days. This would result in disparate treatment of investors compared to Authorized Participants and would further restrict investors' ability to transact at prices at or near NAV. The Commission is concerned that forcing investors to remain invested in a product that is trading at a significant discount to NAV per share for two weeks before the redemption option is available may lead to significant investor harm in the interim.[56] Investors would not be able to exit or would have to exit at a price substantially below the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that all shareholders be treated equitably when buying and selling their fund shares.[57] In the meantime, Authorized Participants would have the advantage of transacting directly with the ETF on a daily basis at NAV.

37. But even if Applicants were able to address the Commission's concerns about the retail redemption option, this would not address the Commission's more fundamental concerns about Applicants' proposal. As discussed above, Applicants are proposing an ETF model that the Commission preliminarily believes would not have a sufficiently effective arbitrage mechanism to consistently produce a secondary market price for investors that would approximate NAV per share of the ETF. The presence of a back-up retail redemption option does not cure the inherently flawed structure of the proposed ETFs here.[58]

V. The Commission's Preliminary View

38. As discussed above, the Commission preliminarily believes that Applicants have not provided an adequate substitute for portfolio transparency such that the proposed ETFs would consistently trade at or close to NAV. A close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. This close tie between the prices paid by retail investors and Authorized Participants is important because section 22(d) and rule 22c–1 under the Act are designed to require that all fund shareholders be treated equitably when buying and selling their fund shares.[59] In fact, in granting relief from section 22(d) and rule 22c–1 under the Act, the Commission has relied on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.

39. The lack of portfolio transparency or an adequate substitute for portfolio transparency coupled with a potentially deficient back-up mechanism presents a significant risk that the market prices of ETF shares may materially deviate from the NAV per share of the ETF—particularly in times of market stress when the need for verifiable pricing information becomes more acute. This would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act—that shareholders be treated equitably—and may, in turn, inflict substantial costs on investors, disrupt orderly trading and damage market confidence in secondary trading of ETFs.

A. Substantial Costs to Investors

40. One of the primary benefits of current ETFs is that investors are generally able to obtain a similar economic experience to investors in traditional open-end funds (*i.e.,* price at or close to NAV), but without certain of the costs associated with such funds (*e.g.,* transfer agency fees). The Commission preliminarily believes the proposed ETFs would not provide either element of this benefit if, as the Commission anticipates, the arbitrage mechanism does not function properly. A breakdown in the arbitrage mechanism could result in material deviations between market price and NAV per share of the ETF. Such deviations can hurt an investor. For example, if an investor places a buy order and the ETF is trading at a premium, this would result in a lower return for the investor as opposed to if the investor had bought the ETF when its prices were at or close to the NAV per share of the ETF or at a discount. As discussed above, the arbitrage mechanism inherent in the ETF structure keeps these differences small.

41. In this regard, the Commission finds it significant that market makers for Applicants expressed some skepticism during meetings with Commission staff that the IIV could be used as the primary pricing signal for ETFs with active management strategies that might involve high portfolio turnover or alternative asset classes.[60] They indicated that they would likely use the pieces of information provided by the Applicants (IIV, quarterly portfolio holdings disclosure and prospectus disclosure) to construct hedge portfolios using sophisticated algorithms.[61] Their ability to construct hedge portfolios that are generally predictive of the portfolio holdings of the ETF is critical to their management of their exposure to the ETF. If there is a break in the alignment between the market makers' hedge portfolios and the NAV per share of the ETF, the market makers' risk of loss increases. The greater the risk of loss, the more the market makers will seek to cover that risk by quoting wider price spreads of the proposed ETFs. This would result in market prices, at which investors would buy and sell the ETF shares, not being at or close to the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably.

42. The Commission preliminarily believes that, even under normal market conditions, market makers could be unable to deconstruct the portfolio holdings of a proposed ETF with sufficient accuracy in order to construct a hedge portfolio that is closely aligned to the NAV per share of the ETF. The proposed disclosures by the Applicants would likely be useful in narrowing down the pool of securities and other

Hougan, *The Flaws in the iNAV,* Exchange-Traded Funds Report (July 2009), at 5 (noting that investors would have to have deep quantitative experience to create models to see if they were getting fair prices on ETF trades today); and John Beshears, James Choi, David Laibson, and Brigitte C. Madrian, *How Does Simplified Disclosure Affect Individuals' Mutual Fund Choices?*, in *Explorations in the Economics of Aging*, edited by David A. Wise (2011) (noting that many retail investors lack the ability to perform even elementary calculations to compare investment options with differing sales fees).

[56] *See, e.g.,* Petajisto ETF Study, *supra* note 55, at 18 (generally discussing economic magnitude of mispricings).

[57] *See supra* note 5 and accompanying text.

[58] Applicants proposed the redemption option described above in response to the staff's suggestion. The Commission preliminarily believes that the inherent structural flaw of the proposed ETFs—*i.e.,* the potential lack of an effective arbitrage mechanism—cannot be solved by the proposed fail-safe mechanism.

[59] *See supra* note 5.

[60] Commission staff met with market makers invited by the Applicants on January 23, 2014.

[61] ETF market makers commonly use representative hedging portfolios instead of trading in basket securities because they may be easier to implement or more cost effective. They do this to offset market exposures as they build short or long positions in the ETFs intraday. The market maker will earn profits to the extent its hedge portfolio deviates from the NAV per share. *See* Gastineau March 2014 Letter, *supra* note 22, at 6.

assets that may be held by the ETF, but only to a limited extent. For example, prospectus disclosures of general risks and investment objectives provide little quantitative precision about an ETF's assets and risk exposures. The proposed quarterly portfolio disclosures would provide little additional quantitative precision as a result of portfolio turnover, as discussed previously. Consequently, variability would inevitably be introduced into the proposed model. The Commission believes that this may lead to a break in alignment between a market maker's hedge portfolio and the NAV per share of the ETF; this could diminish the market maker's ability to manage its risks, which, in turn, could increase its risk of loss.[62] This greater risk of loss would be reflected in wider bid/ask spreads and result in intraday market prices that deviate from the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably.

43. The Commission also preliminarily believes that this potential price disparity could be even worse under times of market stress or volatility. Market makers would likely be heavily reliant on sophisticated algorithms to deconstruct the portfolio holdings of the proposed ETF in order to construct the hedge portfolio. During times of market stress or volatility, the Commission believes that reliance on these algorithms would not be sufficient for market making purposes in the proposed ETFs and the correspondence between the hedge portfolio and the NAV per share of the ETF might be expected to lag. This is because the market makers' hedge portfolio may deviate significantly from the actual portfolio of the proposed ETF, resulting in greater intraday market risk to the market maker and a corresponding widening of the bid/ask spread.[63] This would result in market prices, at which investors would buy and sell the ETF shares, not being at or close to the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably. Accordingly, although some market makers supporting Applicants noted that they should be able to construct hedge portfolios that were closely aligned (and would remain aligned) to the NAV per share of the ETF for the domestic equity ETFs proposed by Applicants, the Commission cannot fully agree with that conclusion.

44. Finally, although Applicants proposed a retail redemption option to address a significant and persistent deviation of market price to NAV, as discussed in detail above, the Commission preliminarily believes that this option is not sufficient to protect investors as required by the Act.

B. Potential Disruption of Orderly Trading and Damage to Market Confidence

45. In the absence of sufficient information for market makers to accurately assess the value of the underlying portfolio securities and to make markets in ETF shares at levels that are closely aligned to the NAV per share of the ETF, market makers are likely to trade in proposed ETFs with wide bid/ask spreads and variable premiums/discounts to the NAV per share of the ETF. This would be particularly the case during times of market stress and for active management strategies that might involve high portfolio turnover when there is a greater need for confidence in pricing signals.[64] Under particularly stressful or volatile market conditions, the inability to independently and accurately value an ETF's portfolio assets may cause market makers to withdraw from providing meaningful liquidity, which in turn can lead to the disruption of orderly trading in the ETF.[65] The Commission preliminarily believes that a structure that may lead market makers to make markets in the proposed ETFs at prices that are not closely aligned to the NAV per share of the ETF is not necessary or appropriate in the public interest, nor is it consistent with the protection of investors or with the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably.

46. Further, any breakdown in the pricing or the ability to price the proposed ETF may result in damage to market confidence in secondary trading of ETFs—not just in the proposed product, but in ETFs generally. Investors may exit the ETF market because of a loss of trust, particularly in actively managed ETFs, should the proposed ETFs fail to function in a manner similar to current ETFs.[66] For this additional reason, the Commission preliminarily believes that it is not necessary or appropriate, nor in the public interest or consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, to grant the requested relief.

* * * * *

47. In light of the foregoing, the Commission remains unconvinced that Applicants' proposed ETFs meet the standard for relief under section 6(c) of the Act. Accordingly, absent a request for a hearing that is granted by the Commission, the Commission intends to deny Applicants' request for an exemption under section 6(c) of the Act as not necessary or appropriate in the public interest and as not consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25438 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[62] *See* Examining the Exchange-Traded Nature of Exchange-Traded Funds, Morningstar ETF Research (Feb. 11, 2013) (''Morningstar ETF Report''), at 21 (''To consider conducting an arbitrage transaction, arbitrageurs must be fairly confident that they will receive a return commensurate with the level of risk they are assuming. Therefore, it is likely that intraday changes to volatility (that is, risk) cause arbitrageurs to become more or less confident when transacting in the equity market for purposes of arbitrage and thus cause premiums or discounts to occur in the short term. . . . From the perspective of an arbitrageur, increased equity market volatility implies that the value of purchased equities relative to the value of the ETF's shares is at greater risk to fall and thus increases the potential that arbitrage trade will be less profitable, if at all. Therefore, when equity market volatility rises, it is likely that an arbitrageur would wait longer before acting to exploit an ETF premium. As a result, the ETF market price would outperform the NAV price on days when equity market volatility is increasing. . . . Arbitrageurs knowingly leave profits on the table for a short amount of time because the risk or cost to trade and profit is too high at that time.'').

[63] Ron Delegge, *ETF Bid/Ask Spreads* (Apr. 23, 2013), *available at http://investius.com/2013/04/23/etf-bidask-spreads/.*

[64] *See supra* note 50 and accompanying text.

[65] *See* Flash Crash Report, *supra* note 51, at 4–6. *See also* Morningstar ETF Report, *supra* note 62.

[66] *See* Tamar Frankel, *Regulation and Investors' Trust in the Securities Markets,* 68 Brook. L. Rev. 439 (2002), at 448 (arguing that once investors' trust is lost, they will flee the stock markets and turn to other types of investments that ''they can see, evaluate and guard for themselves.'').

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31300; 812–14116]

Precidian ETFs Trust, et al.; Notice of Application

October 21, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for exemptive relief.

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. If granted, the requested order would permit several registered open-end investment companies that are actively managed exchange traded funds (each, an ''ETF'') to list and trade without being subject to the current daily portfolio transparency condition in actively managed ETF orders.

APPLICANTS: Precidian ETFs Trust (the ''Trust''), Precidian Funds LLC (the ''Adviser'') and Foreside Fund Services, LLC (the ''Distributor'') (together, the ''Applicants'').

FILING DATES: The application was filed on January 25, 2013, and amended on February 12, 2013 and July 23, 2013.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 17, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary. Absent a request for a hearing that is granted by the Commission, the Commission intends to issue an order under the Act denying the application.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: c/o Precidian Funds LLC, 350 Main Street, Suite 9, Bedminster, New Jersey 07921–2689.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel; Kay-Mario Vobis, Senior Counsel; or Dalia Osman Blass, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

I. Introduction

1. Applicants seek to introduce a novel type of actively managed exchange-traded fund (''ETF'') that would not be required to disclose its portfolio holdings on a daily basis. Due to their characteristics, ETFs (including those proposed by Applicants) are only permitted to operate subject to Commission orders that provide exemptive relief from certain provisions of the Act and rules thereunder.[1] Accordingly, Applicants seek an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 thereunder; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. As discussed below, the Commission preliminarily believes that Applicants' proposed ETFs do not meet the standard for exemptive relief under section 6(c) of the Act. Section 6(c) allows the Commission to exempt any person, security, or transaction, or any class thereof, only ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act].'' [2] Accordingly, the Commission preliminarily intends to deny the application.[3]

II. Background

A. Open-End Investment Companies and Net Asset Value

3. The Act defines an investment company as an ''issuer'' of ''any security'' which ''is or holds itself out as being engaged primarily . . . in the business of investing . . . in securities.'' [4] Shares in an investment company represent proportionate interests in its investment portfolio, and their value fluctuates in relation to the changes in the value of that portfolio.

4. The most common form of investment company, the ''open-end'' investment company or mutual fund, is required by law to redeem its securities on demand at a price approximating their proportionate share of the fund's net asset value (''NAV'') at the time of redemption.[5] These funds also continuously issue and sell new shares, thereby replenishing their investment capital.

5. Because open-end investment companies are required by law to redeem their shares based on investors' demands, shares of the funds have historically not traded on exchanges or in other secondary markets.[6]

B. Exemptions Under the Act for Actively Managed ETFs

6. ETFs, including those proposed by Applicants, are a type of open-end fund. But unlike traditional open-end funds, ETFs are made available to investors primarily through secondary market transactions on exchanges.

7. In order for this to take place, ETFs require various exemptions from the provisions of the Act and the rules thereunder. Critically, in granting such exemptions to date, the Commission has required that a mechanism exist to ensure that ETF shares would trade at a price that is at or close to the NAV per share of the ETF.[7]

8. Such a mechanism is essential for ETFs to operate because ETFs do not sell or redeem their individual shares at NAV per share as required by the Act. Instead, large broker-dealers that have contractual arrangements with an ETF (each, an ''Authorized Participant'') purchase and redeem ETF shares directly from the ETF, but only in large blocks called ''creation units.'' An Authorized Participant that purchases a creation unit of ETF shares first deposits with the ETF a ''basket'' of securities

[1] The Commission first granted exemptive relief to operate ETFs in the early 1990s when the first index-based ETFs were developed. *See* SPDR Trust Series I, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order).

[2] 15 U.S.C. 80a–6(c).

[3] For this reason, the Commission finds it unnecessary to consider whether the application meets the section 17(b) and section 12(d)(1)(J) standards for exemptive relief.

[4] 15 U.S.C. 80a–3(a); 80a–3(a)(1).

[5] Section 22(d) of the Act prohibits a dealer from selling a redeemable security that is being offered to the public by or through an underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to buy or redeem. Together, these provisions are designed to require that fund shareholders be treated equitably when buying and selling their fund shares.

[6] This stems from section 22(d) of the Act, which in effect fixes the prices at which redeemable securities, including open-end shares, are sold. The result is a system that precludes dealers from making a secondary market in open-end shares.

[7] This has been a required representation in all ETF orders since the Commission issued the first order. *See supra* note 1.

and other assets (*e.g.,* cash) identified by the ETF that day, and then receives the creation unit of ETF shares in return for those assets. The basket is generally representative of the ETF's portfolio and is equal in value to the aggregate NAV of ETF shares in the creation unit. After purchasing a creation unit, the Authorized Participant may sell the component ETF shares in secondary market transactions. Investors then purchase individual shares in the secondary market. The redemption process is the reverse of the purchase process: the Authorized Participant acquires a creation unit of ETF shares and redeems it for a basket of securities and other assets.

9. The combination of the creation and redemption process with the secondary market trading in ETF shares provides arbitrage opportunities that, if effective, keep the market price of the ETF's shares at or close to the NAV per share of the ETF.[8] For example, if an ETF's shares begin trading on national securities exchanges at a ''discount'' (a price below the NAV per share of the ETF), an Authorized Participant can purchase ETF shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities in the ETF's redemption basket. In addition to purchasing ETF shares, Authorized Participants also are likely to hedge their intraday risk. Thus, for example, when ETF shares are trading at a discount to the NAV per share of the ETF, an Authorized Participant may also simultaneously short the securities in the redemption basket. At the end of the day, the Authorized Participant will return the creation unit of ETF shares to the ETF in exchange for the ETF's redemption basket of securities and other assets, which it will then use to cover its short positions. Those purchases reduce the supply of ETF shares in the market, and thus tend to drive up the market price of the shares to a level closer to the NAV per share of the ETF.[9]

10. Conversely, if the market price for ETF shares reflects a ''premium'' (a price above the NAV per share of the ETF), an Authorized Participant can deposit a basket of securities in exchange for the more valuable creation unit of ETF shares, and then sell the individual shares in the market to realize its profit. An Authorized Participant may also hedge its intraday risk when ETF shares are trading at a premium. Thus, for example, when the shares of an ETF are trading at a premium, an Authorized Participant may buy the securities in the purchase basket in the secondary market and sell short the ETF shares. At the end of the day, the Authorized Participant will deposit the purchase basket of securities and other assets in exchange for a creation unit of ETF shares, which it will then use to cover its short positions. The Authorized Participant will receive a profit from having paid less for the ETF shares than it received for the securities in the purchase basket. These transactions would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of ETF shares to a level closer to the NAV per share of the ETF.[10]

11. Market participants can also engage in arbitrage activity without using the creation or redemption processes described above. For example, if a market participant believes that an ETF is overvalued relative to its underlying or reference assets, the market participant may sell short ETF shares and buy the underlying or reference assets, wait for the trading prices to move toward parity, and then close out the positions in both the ETF shares and the underlying or reference assets to realize a profit from the relative movement of their trading prices. Similarly, a market participant could buy ETF shares and sell the underlying or reference assets in an attempt to profit when an ETF's shares are trading at a discount to the ETF's underlying or reference assets. As discussed above, the trading of an ETF's shares and the ETF's underlying or reference assets may bring the prices of the ETF's shares and its portfolio assets closer together through market pressure.

12. In assessing whether to grant exemptive relief to actively managed ETFs in the past, the Commission has required a mechanism that would keep the market prices of ETF shares at or close to the NAV per share of the ETF. To date, this mechanism has been dependent on daily portfolio transparency.[11] This transparency provides market makers and other market participants with an important tool to value the ETF portfolio on an intraday basis, which, in turn, enables them to assess whether an arbitrage opportunity exists. It is the exercise of such arbitrage opportunities that keeps the market price of ETF shares at or close to the NAV per share of the ETF. This close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. In granting relief from section 22(d) of the Act and rule 22c–1 under the Act, the Commission relies on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.[12] The Commission therefore has granted such exemptive relief to date only to those actively managed ETFs that have provided daily transparency of their portfolio holdings.

III. The Application

A. The Applicants

13. The Trust is a statutory trust organized under the laws of Delaware and registered under the Act as an open-end management investment company with multiple series (each, a ''proposed ETF''). Applicants propose to offer 15 initial proposed ETFs, each of which will use a variety of active management strategies to meet its investment objectives. The proposed ETFs include long/short funds.

14. The Adviser, a limited liability corporation organized under the laws of Delaware, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and would serve as the investment adviser to the initial proposed ETFs. The Distributor, a Delaware limited liability company, is a registered broker under the Securities Exchange Act of 1934, as amended.

B. Applicants' Proposal

15. Applicants seek exemptive relief under section 6(c) of the Act to allow them to introduce several actively managed ETFs that would not disclose their portfolio holdings on a daily basis.

[8] *See* Investment Company Institute, *2014 Investment Company Fact Book* (2014) (''ICI Fact Book''), at 60.

[9] The Authorized Participant's purchase of the ETF shares in the secondary market, combined with the sale of the redemption basket securities, may also create upward pressure on the price of ETF shares and/or downward pressure on the price of redemption basket securities, driving the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[10] The Authorized Participant's purchase of the purchase basket securities, combined with the sale of ETF shares, may also create downward pressure on the price of ETF shares and/or upward pressure on the price of purchase basket securities, bringing the market price of ETF shares and the value of the ETF's portfolio holdings closer together.

[11] The condition for daily portfolio transparency has consistently been one of the conditions to the exemptive relief issued to actively managed ETFs by the Commission. *See* PowerShares Capital Management LLC, et al., Investment Company Act Release Nos. 28140 (Feb. 1, 2008) (notice) and 28171 (Feb. 27, 2008) (order).

[12] *See supra* note 5 and accompanying text.

Applicants note that actively managed ETFs with transparent portfolios are susceptible to ''front running'' and ''free riding'' by other investors and/or managers which can harm, and result in substantial costs to, the actively managed ETFs.[13]

16. As explained below, the Applicants propose to operate actively managed ETFs that would not disclose their portfolio holdings on a daily basis. Applicants state that the relief requested in their application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the proposed ETFs to operate on a non-transparent basis. These material differences are highlighted below:

a. *Prospectus and Portfolio Disclosures:* Applicants would not provide the daily disclosure of a proposed ETF's portfolio holdings that is a condition in all exemptive orders issued to existing actively managed ETFs. Applicants would instead only provide the standard portfolio and other disclosures required for traditional mutual funds. Traditional mutual funds are required to disclose their portfolio holdings only on a quarterly basis, with a lag of not more than 60 days.[14]

b. *Indicative Intraday Value:* Investors and others acquiring the proposed ETFs' shares would primarily have to rely on the intraday indicative value (the ''IIV''), which would be disseminated by an exchange every 15 seconds during the trading day,[15] to assess the value of a proposed ETF due to the lack of portfolio transparency. The IIV would be calculated by a calculation agent who would receive the daily list of securities constituting the proposed ETF's portfolio from the ETF sponsor.[16] As acknowledged by the Applicants, the IIV is based on the value of the proposed ETF's portfolio and is calculated by the calculation agent using the last available market quotation or sale price of the proposed ETF's portfolio holdings.[17] As further acknowledged by the Applicants, the IIV is not the NAV; rather, it is a reference produced by a third party seeking to approximate the proposed ETF's underlying per share net asset value.[18] Applicants also concede that the IIV is not intended as a ''real-time NAV'' and (unlike the NAV) would not include extraordinary expenses or liabilities booked during the day.[19] As discussed below, an ETF's portfolio could contain securities and other assets all (or most) of which need to be fair valued in order for the IIV to be accurate.[20]

c. *Blind Trust Mechanism:* Applicants propose for creation unit purchases to be made in cash and for redemptions to be effected in-kind through a ''blind trust'' established for each Authorized Participant. Applicants assert that the delivery of redemption securities into the blind trust would allow the ETF to retain the benefits associated with in-kind redemptions,[21] while shielding the identity of the ETF's portfolio securities. Based on the standing instructions of the Authorized Participant, the blind trust would sell or otherwise manage the securities on behalf of the Authorized Participant without disclosing the contents of the underlying portfolio.

d. *Back-up Redemption Option:* Applicants have proposed a back-up mechanism that would allow retail investors to redeem individual shares directly from the proposed ETFs in the event of a significant deviation of closing market price from NAV. Under the proposal, retail investors exercising the option would be subject to a redemption fee of up to 2% of the value of shares redeemed and would likely be charged additional brokerage commissions.

IV. Analysis of the Application

17. As noted above, the Applicants have sought exemptive relief under several provisions of the Act—each of which the Applicants would need to obtain in order to operate their proposed ETFs.

18. Applicants state that the relief requested in their application is similar to the relief granted in exemptive orders issued to existing actively managed ETFs, except for certain differences permitting the proposed ETFs to operate on a non-transparent basis.

19. As discussed below, however, the Commission preliminarily believes that the specific features proposed by the Applicants that would cause the proposed ETFs to operate without transparency fall far short of providing a suitable alternative to the arbitrage activity in ETF shares that is crucial to helping keep the market price of current ETF shares at or close to the NAV per share of the ETF.[22] Accordingly, the Commission preliminarily believes that it is not in the public interest or consistent with the protection of investors or the purposes fairly intended by the policy and provisions of the Act to grant the exemptive relief under section 6(c) that the Applicants seek.

A. ETF Prospectus Disclosure and IIV Dissemination

20. Applicants assert that ETF prospectus disclosure and the dissemination of the IIV every 15 seconds during the trading day would be sufficient to allow the arbitrage mechanism to function effectively after a few days of trading.[23] Applicants further assert that market participants do not need any additional information about the proposed ETF's portfolio so long as they are able to create correlations against and, over time, evaluate how various market factors affect the disseminated IIV. According to Applicants, this process is referred to as ''reinforcement learning.'' [24]

[13] Application at 20. *See also* Murray Coleman, *Could a Stock ETF Cloak its Portfolio* (May 7, 2012), *available at http://online.wsj.com/news/articles/SB10001424052702304432704577348261039833588* (noting that if traders can identify the shares in which a fund manager is building a position, they can start buying the shares ahead of the manager and drive up the price while the manager is still buying the stock).

[14] Shareholder reports, including a schedule of portfolio holdings, must be transmitted to shareholders semi-annually, within 60 days of the end of the second and fourth fiscal quarters. *See* Rule 30e–1. A complete schedule of portfolio holdings must be filed with the Commission on Form N–CSR within 10 days of the transmission of the shareholder report. *See* Rule 30d–1. Complete portfolio holdings also must be filed on Form N–Q within 60 days of the end of the first and third fiscal quarters. *See* Rule 30b1–5.

[15] We note that the IIV is not disseminated during early and late trading sessions when market participants would still be trading the proposed ETFs' shares. Therefore, there would be no pricing signal at all for these trades.

[16] *See infra* note 34.

[17] Application at 15. *See also* Matt Hougan, *The Flaws in iNAV,* 104 Exchange-Traded Funds Report (''Hougan ETF Report''), 5, 10 (2009).

[18] Application at 15.

[19] *Id.*

[20] *See infra* notes 37–42 and accompanying text.

[21] Because redemptions from ETFs are often made in-kind, ETFs may offer certain tax efficiencies compared to traditional mutual funds by avoiding the need to sell assets and potentially experience a taxable event. In addition, ETFs do not bear the brokerage costs associated with liquidating portfolio instruments to meet redemption requests. We note that it is unclear whether Applicants' proposed ETFs would experience the same in-kind benefits experienced by existing ETFs. The blind trust structure is likely to introduce additional costs because, among other things, the Authorized Participants would not be able to manage the sale of the securities to enhance arbitrage profits. *See* Comment Letter of Gary Gastineau, File No. SR–NYSEArca-2014–10 (Mar. 18, 2014) (''Gastineau March 2014 Letter''), at 3–5 for a discussion of the potential issues presented by this structure.

[22] Staff in the Division of Economic and Risk Analysis provided advice and analyses relevant to the Commission's conclusions, discussed in more detail below.

[23] Application at 19–21.

[24] According to Applicants, reinforcement learning is dependent on statistical arbitrage. *See* text following *supra* note 10. Applicants assert that market makers would use the proposed ETF's market price, IIV and daily NAV to construct a hedging portfolio for the proposed ETF. The market makers would then engage in statistical arbitrage between their hedging portfolio and the shares of the proposed ETF—*i.e.,* buying and selling one

21. ETF prospectus disclosure will not assist the arbitrage mechanism because such disclosure does not contain any material real-time information necessary to creating or facilitating effective arbitrage. Actively managed funds generally include very broad investment objectives and strategies in order to provide investment advisers with the maximum flexibility possible in managing the portfolio, and do not include more specific, current information about a fund's portfolio holdings.[25] The Commission preliminarily believes that it would be difficult, if not impossible, for market participants to discern sufficient useful information from such broad disclosures. Therefore, the lack of more specific information with respect to the proposed ETF's investment objectives or principal investment strategies may not enable market makers to effectively assess whether real-time arbitrage opportunities in ETF shares exist and may discourage them from making markets in ETF shares that would keep the share prices at or close to the NAV per share of the ETF—a condition that may be exacerbated during times of market stress.

22. Dissemination of the IIV at 15 second intervals throughout the trading day does not fill this information void. Today, market makers calculate their own NAV per share of the ETF with proprietary algorithms that use an ETF's daily portfolio disclosure and available pricing information about the assets held in the ETF's portfolio.[26] They generally use the IIV, if at all, as a secondary or tertiary check on the values that their proprietary algorithms generate. If the daily portfolio holdings for the proposed ETFs are not available for market makers to calculate current values of a proposed ETF, they will be reliant principally on the IIV given the limitations of the prospectus and quarterly portfolio disclosures. Even though the IIV continues to be disseminated in conjunction with the full portfolio holdings and basket of existing ETFs, its reliability as a primary pricing signal for the proposed ETFs is questionable for the reasons discussed below.

23. *The IIV is stale data.* Unlike market maker proprietary algorithms, which rely on portfolio transparency and provide market makers with real-time data to effectively trade in today's fast moving markets, IIV dissemination frequency is inadequate for purposes of making efficient markets in ETFs.[27] Market makers operate at speeds calculated in fractions of a second.[28] In today's markets, 15 seconds is too long for purposes of efficient market making and could result in poor execution.[29] Because an ETF is a derivative security, its current value changes every time the value of any underlying component of the ETF portfolio changes.[30] Therefore, the IIV for a more frequently traded component security might not effectively take into account the full trading activity for that security, despite being available every 15 seconds. For example, a large buy order for a component security held by the proposed ETF could temporarily spike the price of that security and, therefore, inflate the proposed ETF's contemporaneous IIV calculation.[31] The IIV for the proposed ETF cannot adjust for such variations, whereas the NAV would.[32] Therefore, relying on a stale IIV as a primary pricing signal for market making in Applicants' proposed ETFs would not result in an effective arbitrage mechanism.[33]

24. *The IIV is not subject to meaningful standards.* Because there are no uniform methodology requirements, the IIV can be calculated in different ways rendering it potentially arbitrary and inconsistent.[34] Also, Applicants acknowledge that no party has agreed to take responsibility for the accuracy of IIV calculation.[35] Therefore, the

against the other during the trading day and evaluating the effectiveness of their hedging portfolio at the day's end. Applicants further assert that after a few days of trading, there would be sufficient data for a market maker to run a statistical analysis that would result in the market maker's spreads being tightened substantially around the IIV. Application at 19–21.

[25] For example, Form N–1A requires mutual funds to disclose in the prospectus and statement of additional information their investment objectives or goals, principal investment strategies, and the portfolio turnover rate during the most recent fiscal year. *See, e.g.,* Form N–1A, Items 2 to 4, and 9. As discussed above, mutual funds are required to disclose their portfolio holdings quarterly. *See supra* note 14 and accompanying text.

[26] *See* David J. Abner, *The ETF Handbook: How to Value and Trade Exchange Traded Funds* (2010), at 90 (''[s]ince stock trading now takes place in microseconds, a lot can happen between two separate 15-second quotes. Professional traders are not using published IIVs as a basis for trading. Most, if not all, desks that are trading ETFs are calculating their own [NAV of the ETF] based on real time quotes . . . that they are generating within their own systems.''). *See also* Comment Letter of BGFA, File No. S7–07–08 (May 16, 2008) (''BGFA 2008 Letter''), at n.43; and ICI Fact Book, *supra* note 8, at 59.

[27] The Commission previously issued a proposing release on a proposed rule for certain ETFs. *See* Exchange-Traded Funds, Investment Company Act Release No. 28193 (Mar. 11, 2008) (''2008 ETF Rule Proposal''). Various industry members commenting on the 2008 ETF Rule Proposal noted that market makers did not rely on the IIV because of either its staleness or unreliability. *See, e.g.,* Comment Letter of NYSE Arca, Inc., File No. S7–07–08 (May 29, 2008) (the exchange noted that it ''is not convinced that the [IIV] is a meaningful pricing tool for investors in light of the availability of other pricing information. In fact, we believe that it is the transparency of the portfolios [sic] holdings which permit [sic] market makers and other professionals to arbitrage efficiently and not the regular dissemination of an [IIV]. Some market participants may choose to generate an [IIV] for their own use, using their own calculation methodology to include financing costs, capital costs, etc., in kind trading or arbitrage. Importantly, the [IIV] generated by professionals is in real-time and not delayed by 15 or 60 seconds.''); and BGFA 2008 Letter, *supra* note 26, at n. 43 and n. 92. *See also* Matt Hougan, *Ban iNAVs For ETFs* (June 24, 2013), *available at http://www.indexuniverse.com/sections/blog/19037-hougan-ban-inavs-for-etfs.html.*

[28] *See* Comment Letter of ICI, File No. SR–NASDAQ–2012–117 (Nov. 8, 2012), (''ICI 2012 Letter''), at 4. *See also* ICI Fact Book, *supra* note 8.

[29] *See, e.g., How To Minimize Your Cost Of Trading ETFs* (June 22, 2009), ETF.com, *available at http://www.etf.com/publications/journalofindexes/joi-articles/6042-how-to-minimize-your-cost-of-trading-etfs.html,* at Figure 2 and related discussion. *See also* ICI 2012 Letter, *supra* note 28 (''Professional equity traders operate at speeds calculated in fractions of a second. In such markets, 15 seconds can be an eternity, and establishing an order price based on data that is nearly 15 seconds old could result in poor execution.'').

[30] In particularly volatile markets, the dissemination lag of IIV values (*i.e.,* every 15 seconds) may misrepresent the actual value of the ETF. *See Understanding iNAV,* ETF.com, *available at http://www.etf.com/etf-education-center/21028-understanding-inav.html;* Gary L. Gastineau, *Exchange-Traded Funds Manual,* Second Edition (2010), at 200–202.

[31] *See, e.g.,* ICI 2012 Letter, *supra* note 28.

[32] *See, e.g.,* ICI 2012 Letter, *supra* note 28. *See also* Gastineau March 2014 Letter, *supra* note 21, at 10, for a more detailed discussion of why the IIV would at best be a ''lagging indicator of actual portfolio values'' during times of rapid market movement.

[33] An IIV that is disseminated at more frequent intervals could present a different set of problems, as it may enable third parties to reverse engineer the underlying portfolio using data analysis. Therefore, changing the frequency of dissemination would not appear to be a viable option to the extent Applicants' objective is to prevent disclosure of the proposed ETF's portfolio. *See also infra* note 36 and accompanying text.

[34] *See, e.g.,* ICI 2012 Letter, *supra* note 28 (''[M]any parties participate in the calculation, publication, and dissemination of [IIV]. The ETF sponsor provides an independent calculation agent with the daily list of securities constituting an ETF's creation basket (which for U.S. equity ETFs is typically, but not always, a pro rata slice of the ETF's portfolio). The calculation agent separately obtains market pricing information for each of the component securities from a third party source, such as the exchange or a pricing vendor, and calculates the estimated per-share value of an ETF share. *This process creates several opportunities for errors:* For example, an ETF may report a basket inaccurately; a calculation agent may receive faulty data from a pricing vendor; or an error may be made in the calculation process. *We understand that such errors are not infrequent.''* [*emphasis added*]).

[35] Applicants explicitly disclaim making any warranty by the ETFs as to the accuracy of the IIV. The Adviser would merely use ''commercially reasonable efforts to assure that the calculation agent has an accurate listing of all securities in each [f]und's portfolio as of the beginning of trading on each day the [f]und is traded.'' Similarly, ''[a]lthough the calculation agent will not guarantee the accuracy of the IIV, the contract with the calculation agent will require that it use

Continued

Commission's preliminary conclusion is that the IIV calculation methodology is not appropriate for the IIV to be used as a primary pricing signal because it is potentially unreliable and susceptible to errors.[36]

25. *The IIV would be inaccurate for certain securities and asset classes.* Because the IIV is constructed using last available market quotations or sale prices and not fair value prices for the underlying assets, it can be inaccurate.[37] For example, as some securities do not trade frequently, the IIV would reflect the last quoted or sale price which could be stale and no longer reflect their current value.[38] Other securities may not have yet opened for trading on a particular trading day or may be subject to an intraday interruption in trading.[39]

26. Applicants note that up to 15% of the proposed ETFs' total assets could be in illiquid securities.[40] Illiquid securities often fall within the category of securities for which there is no readily available market quotation and their fair value must be determined in good faith by the fund's directors.[41] Therefore, a significant amount of illiquid securities in a proposed ETF's portfolio could exacerbate the deviation between the IIV and the NAV per share of the ETF because the accurate value of illiquid securities is determined by current fair valuation (reflected in the NAV) rather than use of stale pricing data (reflected in the IIV).[42]

27. *IIV inaccuracies can increase ETF tracking errors.* Errors in the IIV will likely lead to errors in estimating the factors that a market maker must consider when valuing a proposed ETF and constructing a hedging portfolio.[43] Therefore, market makers may not be able to construct accurate hedging portfolios for the ETF shares.[44] This would increase the tracking error associated with the hedging portfolios described above. As a result, tracking errors between intraday ETF prices and NAV per share of the proposed ETF would also likely increase because greater tracking errors in hedging portfolios would expose the market maker's position to greater risk.[45]

28. In addition, it may be more difficult for market makers to construct appropriate hedging portfolios from the IIV for proposed ETFs with higher portfolio turnover. In particular, changing portfolio allocations can cause the factors that a market maker must consider when valuing a proposed ETF and constructing a hedging portfolio to fluctuate more rapidly. This would in turn increase uncertainty around the market maker's estimates of these factors.[46] Therefore, proposed ETFs with more complex investment strategies involving dynamic factors will likely have higher tracking errors and bid-ask spreads if there is lack of sufficient information for market participants to construct tight hedges.[47]

29. *IIV inaccuracies can increase during periods of market stress or volatility.* Market stress can reduce liquidity in certain assets and consequently increase errors in IIV as the portfolio becomes increasingly illiquid and current market prices become more difficult to determine. In addition, volatility can increase errors around prices used in IIV calculations as volatility can increase the movement of prices.

30. In stressed markets, confidence in the pricing of (and in turn, the knowledge of) the ETF portfolio becomes increasingly important for market makers to continue to quote prices in ETF shares.[48] By itself, the IIV of a proposed ETF likely will not instill such confidence in a proposed ETF's pricing because, as discussed above, the IIV is potentially unreliable and susceptible to errors.[49] Nevertheless, a market maker that questions the current market price or IIV for an ETF can check those numbers against the NAV per share of the ETF output from its proprietary algorithm if the ETF has a fully transparent portfolio. That same market maker, however, would not be able to run a similar cross-check on those figures against a non-transparent ETF like the ones proposed by Applicants. Due to the inherent weaknesses of the IIV as a stand-alone metric, Applicants' proposal (which relies heavily upon the IIV as a substitute for full portfolio transparency) likely will not offer enough information about the underlying portfolio. As discussed below, this, in turn, likely would discourage market makers from making markets that would keep the market price for the proposed ETF's shares at or

commercially reasonable efforts to calculate the IIV correctly. . . .'' Application at 15.

[36] As is the case with more frequent dissemination, an IIV that is sufficiently accurate and precise may also enable third parties to reverse engineer the underlying portfolio using data analysis. Such an ETF would thus once again become vulnerable to front running if its portfolio can be reverse engineered by others. *See* Gastineau March 2014 Letter, *supra* note 21, at 15.

[37] *See* Hougan ETF Report, *supra* note 17. NAV includes fair value pricing, and with daily portfolio disclosure, market makers can estimate fair value on their own for the holdings of current ETFs.

[38] *See, e.g.,* ICI 2012 Letter, *supra* note 28.

[39] *See* Gastineau March 2014 Letter, *supra* note 21 (noting that an exchange may institute a trading halt in a stock to address a significant order imbalance or in connection with release of important company news).

[40] *See* Securities Exchange Act Release No. 34–71588 (Feb. 20, 2014), File No. SR–NYSEArca–2014–10.

[41] 15 U.S.C. 80a–2(a)(41)(B). *See also* Independent Directors Council, *Fundamentals for Newer Directors* (Feb. 2014), *available at http://fundamentals.idc.org/specific/specific_pricing,* at 27.

[42] ETF sponsors seek to minimize exposure to assets that could impact this deviation because they can make arbitrage opportunities more difficult to evaluate. *See* Comment Letter of ICI, File No. S7–07–08 (May 19, 2008). *See also* Comment Letter of The American Stock Exchange LLC, File No. S7–20–01 (Mar. 5, 2002) (''Ultimately it is in the interest of the sponsor and investment adviser to provide for effective arbitrage opportunities. It is unlikely that an . . . ETF sponsor would be able to convince the critical market participants such as specialists, market makers, arbitragers and other Authorized Participants to support a product that contained illiquid securities to a degree that would affect the liquidity of the ETF, making it difficult to price, trade and hedge, ultimately leading to its failure in the marketplace.'').

[43] Such factors would include the market, asset class, sector and other risk factors. Market makers would need to estimate these exposures for a proposed ETF in order to construct hedging portfolios.

[44] This calls into question the reinforcement learning process which may not perform adequately during periods of heightened market volatility. *See* Sanmay Das, *Intelligent Market-Making in Artificial Financial Markets,* Massachusetts Institute of Technology—Artificial Intelligence Laboratory, AI Technical Report 2003–005, at 37.

[45] A commonly accepted assumption in economic models of market making is that market makers' bid-ask spreads compensate them for a number of costs including the risk they bear in their positions. *See* Maureen O'Hara, *Market Microstructure Theory,* First Edition (1998), at 35. Therefore, greater tracking errors in hedging portfolios for the proposed ETFs will likely result in higher bid-ask spreads and greater tracking errors between intraday ETF prices and the NAV of the ETF.

[46] In contrast, turnover would introduce no such uncertainty in ETFs with daily portfolio disclosure as the end-of-day NAV would be marked to the previously disclosed portfolio, which is known by market makers.

[47] Applicants are seeking relief to launch, among others, long/short equity proposed ETFs. These types of funds have a higher portfolio turnover on average than that of actively managed equity funds. *See* Jing-Zhi Huang and Ying Wang, *Should Investors Invest in Hedge Fund-Like Mutual Funds? Evidence from the 2007 Financial Crisis,* 22 J. of Financial Intermediation 482 (2013), *available at http://dx.doi.org/10.1016/j.jfi.2012.11.004,* at 486–487 (finding that average turnover across 130/30 equity mutual funds was 196% from June 2003 until December 2009 versus less than 70% across all actively managed mutual funds in a comparable time period). These proposed ETFs also could have more thinly traded securities that could be more susceptible to price volatility during stressed market conditions. Therefore, it may be difficult for market makers to construct appropriate hedging portfolios from the IIV, making the proposed ETFs also likely to have higher tracking errors and bid-ask spreads.

[48] *See, e.g., Report to the Joint Advisory Committee on Emerging Regulatory Issues,* Staffs of the CFTC and SEC (Sept. 20, 2010) (''Flash Crash Report''), at 4–6 (noting that buy-side and sell-side interest returned only after market makers were able to verify the integrity of their data and systems and that they had to assess the risks of continuing to trade during the events of May 6, 2010).

[49] *See supra* notes 27–36 and accompanying text.

close to the NAV per share of the ETF, particularly under stressed market conditions when the need for real-time and verifiable pricing information becomes more acute.[50]

31. Accordingly, the Commission's preliminary conclusion is that use of the IIV as a primary pricing signal for market making in Applicants' proposed ETFs would not result in an effective arbitrage mechanism.

B. Quarterly Release of Portfolio Holdings

32. Applicants also propose providing their portfolio holdings disclosures on a quarterly basis, with a lag of not more than 60 days. But such disclosures would quickly lose their relevance for purposes of valuing or hedging the proposed ETFs because the content of their portfolios can change on a daily basis. This problem is heightened for ETFs with active management strategies that involve high portfolio turnover and alternative asset classes.[51] Again, this may discourage market makers from making markets that would keep the market price for the proposed ETF's shares at or close to the NAV per share of the ETF, particularly during times of market stress when the need for real-time pricing information becomes more acute.

C. Back-Up Redemption Option

33. In light of concerns about the effect on retail investors if the arbitrage mechanism failed to keep market prices at or close to the NAV of the proposed ETFs, Applicants proposed a redemption option that, in their view, would act as a ''fail-safe'' mechanism in the event of a significant deviation of closing market price from NAV. The redemption option would permit retail investors (but not institutional or other investors) to redeem their shares, in less than creation unit size, for cash directly from the proposed ETFs at NAV as of 4:00 p.m. (Eastern Time) each trading day.[52] For the reasons discussed below, the Commission preliminarily believes that this redemption option does not remedy the defects with Applicants' proposal outlined above such that exemptive relief would be appropriate.

34. Under the proposal, retail investors exercising the redemption option would be subject to redemption and brokerage fees, which would likely discourage use of the option. Specifically, retail investors exercising the redemption option would be subject to a redemption fee of up to 2% of the value of shares redeemed. In addition, retail investors would likely be charged additional brokerage commissions to exercise the option. These fees and costs may dissuade retail investors from exercising a redemption option meant to provide retail investors with the ability to transact with the ETF on an equal footing with the Authorized Participants.[53]

35. But even if Applicants were able to address the Commission's concerns about the retail redemption option, this would not address the Commission's more fundamental concerns about Applicants' proposal. As discussed above, Applicants are proposing an ETF model that the Commission preliminarily believes would not have a sufficiently effective arbitrage mechanism to consistently produce a secondary market price for investors that would approximate NAV per share of the ETF. The presence of a back-up retail redemption option does not cure the inherently flawed structure of the proposed ETFs here.[54]

V. The Commission's Preliminary View

36. As discussed above, the Commission preliminarily believes that Applicants have not provided an adequate substitute for portfolio transparency such that the proposed ETFs would consistently trade at or close to NAV. A close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. This close tie between the prices paid by retail investors and Authorized Participants is important because section 22(d) and rule 22c–1 under the Act are designed to require that all fund shareholders be treated equitably when buying and selling their fund shares.[55] In fact, in granting relief from section 22(d) and rule 22c–1 under the Act, the Commission has relied on this close tie between what retail investors pay and what Authorized Participants pay to make the finding that the ETF's shareholders are being treated equitably when buying and selling shares.

37. The lack of portfolio transparency or an adequate substitute for portfolio transparency coupled with a potentially deficient back-up mechanism presents a significant risk that the market prices of ETF shares may materially deviate from the NAV per share of the ETF—particularly in times of market stress when the need for verifiable pricing information becomes more acute. This would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act—that shareholders be treated equitably—and may, in turn, inflict substantial costs on investors, disrupt orderly trading and damage market confidence in secondary trading of ETFs.

A. Substantial Costs to Investors

38. One of the primary benefits of current ETFs is that investors are generally able to obtain a similar economic experience to investors in traditional open-end funds (*i.e.,* price at or close to NAV), but without certain of the costs associated with such funds (*e.g.,* transfer agency fees). The Commission preliminarily believes the proposed ETFs would not provide either element of this benefit if, as the Commission anticipates, the arbitrage mechanism does not function properly. A breakdown in the arbitrage mechanism could result in material deviations between market price and

[50] *See infra* Section V.

[51] Antti Petajisto, *Active Share and Mutual Fund Performance,* 69 Financial Analysts Journal 73 (2013), *available at http://www.cfapubs.org/doi/pdf/10.2469/faj.v69.n4.7,* at 83. The study found that annual turnover across U.S. all-equity mutual funds is 87%. As a result, approximately 14% of the portfolio changes over the 60 days following the portfolio disclosure (prorating annual turnover of 87% for 60 days) and an additional 22% of the portfolio changes over the course of the following quarter (prorating annual turnover of 87% for three months). Therefore, there may be significant tracking errors between an ETF's current portfolio holdings and its prior quarterly portfolio disclosure.

[52] Application at 12.

[53] An economically rational investor who seeks to exercise the option is likely not to redeem until a trading discount to IIV in the secondary market exceeds the costs to redeem (*i.e.,* the redemption fee plus the brokerage charges). Given that typical bid/ask spreads for ETFs with underlying diversified domestic equity holdings average 4 basis points, a redemption fee set at 2% will cost the investor 200 basis points (not including brokerage charges) to exit the proposed ETFs. *See* Antti Petajisto, *Inefficiencies in the Pricing of Exchange-Traded Funds* (Sept. 20, 2013), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2000336,* at Table III. This assumes that the investor has the information necessary (IIV, bid price for the shares, redemption fee, brokerage charges) to make the determination of whether to redeem directly from the proposed ETFs or sell on the market. *See generally,* Matt Hougan, *The Flaws in the iNAV,* Exchange-Traded Funds Report (July 2009), at 5 (noting that investors would have to have deep quantitative experience to create models to see if they were getting fair prices on ETF trades today); and John Beshears, James Choi, David Laibson, and Brigitte C. Madrian, How Does Simplified Disclosure Affect Individuals' Mutual Fund Choices?, in Explorations in the Economics of Aging, edited by David A. Wise (2011) (noting that many retail investors lack the ability to perform even elementary calculations to compare investment options with differing sales fees).

[54] Applicants proposed the redemption option described above in response to the staff's suggestion. The Commission preliminarily believes that the inherent structural flaw of the proposed ETFs—*i.e.,* the potential lack of an effective arbitrage mechanism—cannot be solved by the proposed fail-safe mechanism.

[55] See *supra* note 5.

NAV per share of the ETF. Such deviations can hurt an investor. For example, if an investor places a buy order and the ETF is trading at a premium, this would result in a lower return for the investor as opposed to if the investor had bought the ETF when its prices were at or close to the NAV per share of the ETF or at a discount. As discussed above, the arbitrage mechanism inherent in the ETF structure keeps these differences small.

39. In this regard, the Commission finds it significant that market makers for Applicants expressed some skepticism during meetings with Commission staff that the IIV could be used as the primary pricing signal for ETFs with active management strategies that might involve high portfolio turnover.[56] They indicated that they would likely use the pieces of information provided by the Applicants (IIV, quarterly portfolio holdings disclosure and prospectus disclosure) to construct hedge portfolios using sophisticated algorithms.[57] Their ability to construct hedge portfolios that are generally predictive of the portfolio holdings of the ETF is critical to their management of their exposure to the ETF. If there is a break in the alignment between the market makers' hedge portfolios and the NAV per share of the ETF, the market makers' risk of loss increases. The greater the risk of loss, the more the market makers will seek to cover that risk by quoting wider price spreads of the proposed ETFs. This would result in market prices, at which investors would buy and sell the ETF shares, not being at or close to the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably.

40. The Commission preliminarily believes that, even under normal market conditions, market makers could be unable to deconstruct the portfolio holdings of a proposed ETF with sufficient accuracy in order to construct a hedge portfolio that is closely aligned to the NAV per share of the ETF. The proposed disclosures by the Applicants would likely be useful in narrowing down the pool of securities and other assets that may be held by the ETF, but only to a limited extent. For example, prospectus disclosures of general risks and investment objectives provide little quantitative precision about an ETF's assets and risk exposures. The proposed quarterly portfolio disclosures would provide little additional quantitative precision as a result of portfolio turnover, as discussed previously. Consequently, variability would inevitably be introduced into the proposed model. The Commission believes that this may lead to a break in alignment between a market maker's hedge portfolio and the NAV per share of the ETF; this could diminish the market maker's ability to manage its risks, which, in turn, could increase its risk of loss.[58] This greater risk of loss would be reflected in wider bid/ask spreads and result in intraday market prices that deviate from the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably.

41. The Commission also preliminarily believes that this potential price disparity could be even worse under times of market stress or volatility. Market makers would likely be heavily reliant on sophisticated algorithms to deconstruct the portfolio holdings of the proposed ETF in order to construct the hedge portfolio. During times of market stress or volatility, the Commission believes that reliance on these algorithms would not be sufficient for market making purposes in the proposed ETFs and the correspondence between the hedge portfolio and the NAV per share of the ETF might be expected to lag. This is because the market makers' hedge portfolio may deviate significantly from the actual portfolio of the proposed ETF, resulting in greater intraday market risk to the market maker and a corresponding widening of the bid/ask spread.[59] This would result in market prices, at which investors would buy and sell the ETF shares, not being at or close to the NAV per share of the ETF, which would be contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably. Accordingly, although some market makers supporting Applicants noted that they should be able to construct hedge portfolios that were closely aligned (and would remain aligned) to the NAV per share of the ETF for the domestic equity ETFs proposed by Applicants, the Commission cannot fully agree with that conclusion.

42. Finally, although Applicants proposed a retail redemption option to address a significant deviation of market price to NAV, as discussed in detail above, the Commission preliminarily believes that this option is not sufficient to protect investors as required by the Act.

B. Potential Disruption of Orderly Trading and Damage to Market Confidence

43. In the absence of sufficient information for market makers to accurately assess the value of the underlying portfolio securities and to make markets in ETF shares at levels that are closely aligned to the NAV per share of the ETF, market makers are likely to trade in proposed ETFs with wide bid/ask spreads and variable premiums/discounts to the NAV per share of the ETF. This would be particularly the case during times of market stress and for active management strategies that might involve high portfolio turnover when there is a greater need for confidence in pricing signals.[60] Under particularly stressful or volatile market conditions, the inability to independently and accurately value an ETF's portfolio assets may cause market makers to withdraw from providing meaningful liquidity, which in turn can lead to the disruption of orderly trading in the ETF.[61] The Commission preliminarily believes that a structure that may lead market makers to make markets in the proposed ETFs at prices that are not closely aligned to the NAV per share of the ETF is not necessary or appropriate in the public interest, nor is it consistent with the protection of investors or with the

[56] Commission staff met with market makers invited by the Applicants on December 4, 2013.

[57] ETF market makers commonly use representative hedging portfolios instead of trading in basket securities because they may be easier to implement or more cost effective. They do this to offset market exposures as they build short or long positions in the ETFs intraday. The market maker will earn profits to the extent its hedge portfolio deviates from the NAV per share. *See* Gastineau March 2014 Letter, *supra* note 21, at 6.

[58] *See* Examining the Exchange-Traded Nature of Exchange-Traded Funds, Morningstar ETF Research (Feb. 11, 2013) (''Morningstar ETF Report''), at 21 (''To consider conducting an arbitrage transaction, arbitrageurs must be fairly confident that they will receive a return commensurate with the level of risk they are assuming. Therefore, it is likely that intraday changes to volatility (that is, risk) cause arbitrageurs to become more or less confident when transacting in the equity market for purposes of arbitrage and thus cause premiums or discounts to occur in the short term. . . . From the perspective of an arbitrageur, increased equity market volatility implies that the value of purchased equities relative to the value of the ETF's shares is at greater risk to fall and thus increases the potential that arbitrage trade will be less profitable, if at all. Therefore, when equity market volatility rises, it is likely that an arbitrageur would wait longer before acting to exploit an ETF premium. As a result, the ETF market price would outperform the NAV price on days when equity market volatility is increasing. . . . Arbitrageurs knowingly leave profits on the table for a short amount of time because the risk or cost to trade and profit is too high at that time.'').

[59] Ron Delegge, *ETF Bid/Ask Spreads* (Apr. 23, 2013), *available at http://investius.com/2013/04/23/etf-bidask-spreads/*.

[60] *See supra* note 47 and accompanying text.

[61] *See* Flash Crash Report, *supra* note 48, at 4–6. *See also* Morningstar ETF Report, *supra* note 58.

foundational principle underlying section 22(d) and rule 22c–1 under the Act that shareholders be treated equitably.

44. Further, any breakdown in the pricing or the ability to price the proposed ETF may result in damage to market confidence in secondary trading of ETFs—not just in the proposed product, but in ETFs generally. Investors may exit the ETF market because of a loss of trust, particularly in actively managed ETFs, should the proposed ETFs fail to function in a manner similar to current ETFs.[62] For this additional reason, the Commission preliminarily believes that it is not necessary or appropriate, nor in the public interest or consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, to grant the requested relief.

* * * * *

45. In light of the foregoing, the Commission remains unconvinced that Applicants' proposed ETFs meet the standard for relief under section 6(c) of the Act. Accordingly, absent a request for a hearing that is granted by the Commission, the Commission intends to deny Applicants' request for an exemption under section 6(c) of the Act as not necessary or appropriate in the public interest and as not consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25437 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73395; File No. SR–MIAX–2014–53]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Top of Market (''ToM'') and AIS Data Feeds

October 21, 2014.

Pursuant to the provisions of 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 October 6, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Top of Market (''ToM'') and AIS data feeds.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the MIAX Top of Market (''ToM'') market data feed, the MIAX Express Interface (''MEI'') connectivity service,[3] and Administrative Information Subscriber (''AIS'') market data feed. Specifically, the Exchange proposes removing messages related to administrative information and Liquidity Seeking Events (''LSE'') from ToM and the MEI Port connection, while also adding the information to the AIS data feed to the extent that it is not already included with AIS.

ToM provides market participants with a direct data feed that includes the Exchange's best bid and offer, with aggregate size, and last sale information, based on displayable order and quoting interest on the Exchange. The ToM data feed includes data that is identical to the data sent to the processor for the Options Price Regulatory Authority (''OPRA''). The ToM and OPRA data leave the MIAX system at the same time, as required under Section 5.2(c)(iii)(B) of the Limited Liability Company Agreement of the Options Price Reporting Authority LLC (the ''OPRA Plan''), which prohibits the dissemination of proprietary information on any more timely basis than the same information is furnished to the OPRA System for inclusion in OPRA's consolidated dissemination of options information. In addition to MIAX's best bid and offer, with aggregate size and last sale information, subscribers that currently subscribe to ToM also receive: opening imbalance condition information; opening routing information; Expanded

Quote Range[4] information, as provided in MIAX Rule 503(f)(5); Post-Halt Notification,[5] as provided in MIAX Rule 504(d), and Liquidity Refresh,[6] condition information, as provided in MIAX Rule 515(c)(2). This additional information (the ''administrative information'') is included in the ToM feed as secondary information. The administrative information is also currently available to non-Market Makers through the AIS data feed and MIAX Market Makers via connectivity with the MIAX Express Interface (''MEI''),[7] for which they are assessed connectivity fees.

The Exchange proposes to remove all the secondary administrative information including LSE related information from the ToM data feed and from the MEI Port connectivity service, with the exception of the Post-Halt Notification. The secondary administrative information and

[62] *See* Tamar Frankel, *Regulation and Investors' Trust in the Securities Markets,* 68 Brook. L. Rev. 439 (2002), at 448 (arguing that once investors' trust is lost, they will flee the stock markets and turn to other types of investments that ''they can see, evaluate and guard for themselves.'').

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] MIAX Express Interface is a connection to MIAX systems that enables Market Makers to submit electronic quotes to MIAX.

[4] Where there is an imbalance at the price at which the maximum number of contracts can trade that is also at or within the highest valid width quote bid and lowest valid width quote offer, the System will calculate an Expanded Quote Range (''EQR''). The EQR will be recalculated any time a Route Timer or Imbalance Timer expires if material conditions of the market (imbalance size, ABBO price or size, liquidity price or size, etc.) have changed during the timer. Once calculated, the EQR will represent the limits of the range in which transactions may occur during the opening process. *See* Exchange Rule 503(f)(5).

[5] After the Exchange has determined to end a trading system halt, the System will broadcast to subscribers of the Exchange's data feeds, a Post-Halt Notification. *See* Exchange Rule 504(d).

[6] If a Market Maker quote was all or part of the MIAX Best Bid or Offer (''MBBO'') and the Market Maker's quote was exhausted by the partial execution of the initiating order, the System will pause the market for a time period not to exceed one second to allow additional orders or quotes refreshing the liquidity at the MBBO to be received (''liquidity refresh pause''). *See* Exchange Rule 515(c)(2).

[7] MIAX Express Interface is a connection to MIAX systems that enables Market Makers to submit electronic quotes to MIAX.

Liquidity Seeking Event data being removed from ToM and the MEI Port includes: (i) Opening imbalance condition information; (ii) opening routing information; (iii) Expanded Quote Range information, as provided in MIAX Rule 503(f)(5); (iv) Liquidity Refresh messages, as provided in MIAX Rule 514(c)(2); (v) Route Timer information, as provided in MIAX Rule 529; (vi) PRIME related auction messages, as provided in MIAX Rule 515A; and (vii) any other similar timer or auction related messages. ToM subscribers will continue to receive the direct data that includes the Exchange's best bid and offer, with aggregate size, and last sale information based on displayable order and quoting interest on the Exchange, and the Post-Halt Notification. The ToM data feed includes data that is identical to the data sent to the processor for the Options Price Regulatory Authority (''OPRA''). Both Full Service and Limited Service MEI Ports will continue to provide Market Makers with the ability to send quotes and purge messages in the same manner as they do currently. The Exchange also proposes to amend the AIS data feed to specifically include all the secondary administrative information and LSE related information that is being removed from ToM and the MEI Port connection. The Exchange notes that most of this administrative information is already included in the AIS data feed, as described above. In order to receive the secondary administrative information and LSE related messages, the ToM subscribers and users of the MEI Port connectivity service will have to connect to the Exchange with an AIS data feed. The Exchange notes that ToM subscribers may receive the AIS data feed at no additional cost.[8]

Because of the technology changes associated with this rule proposal, the Exchange will announce the implementation date of the proposal in a Regulatory Circular to be published no later than 90 days after the publication of the approval order in the **Federal Register**. The implementation date will be no later than 90 days following publication of the Regulatory Circular announcing publication of the approval order in the **Federal Register**.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[9] of the Act in general, and furthers the objectives of Section 6(b)(5)[10] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed changes to the market data products are designed to increase the efficient use of connectivity bandwidth between market participants and the Exchange in a manner that promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, removes impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the changes will enhance the quality and usefulness of ToM, the MEI Ports, and AIS market data product to the benefit of all market participants that subscribe to such products.

The ToM market data product is designed to promote just and equitable principles of trade by providing all subscribers with top of market data that should enable them to make informed decisions on trading in MIAX options by using the ToM data to assess current market conditions that directly affect such decisions. The market data provided by ToM and AIS, and the connectivity of MEI, removes impediments to, and is designed to further perfect, the mechanisms of a free and open market and a national market system by making the MIAX market more transparent and accessible to market participants making routing decisions concerning their options orders. The ToM market data product is also designed to protect investors and the public interest by providing data to subscribers that is already currently available on other exchanges and will enable MIAX to compete with such other exchanges, thereby offering market participants with additional data in order to seek the market center with the best price and the most liquidity on which to execute their transactions, all to the benefit of investors and the public interest, and to the marketplace as a whole.

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. On the contrary, the Exchange believes that the changes to the market data products will enhance competition in the U.S. options markets by enhancing the quality and usefulness of a market data product that is similar to that which is currently provided on other options exchanges.[11]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6)[13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[8] *See* SR–MIAX–2014–51.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] The Exchange notes that the ToM market data product competes with similar products offered by other markets such as NASDAQ OMX PHLX, LLC (''PHLX'') and the International Stock Exchange LLC (''ISE''). For example, PHLX and ISE offer market data products that are similar to ToM: data feeds that show the top of the market entitled Top of PHLX Options (''TOPO'') and the ISE TOP Quote Feed. *See e.g.,* Securities Exchange Act Release No. 60459 (August 7, 2009), 74 FR 41466 (August 17, 2009) (SR–Phlx–2009–54) (Order Approving a Proposed Rule Change to Establish Fees for the Top of PHLX Options Direct Data Feed Product).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–MIAX–2014–53 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–MIAX–2014–53. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–53 and should be submitted on or before November 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25431 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73399; File No. SR–NASDAQ–2014–081]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change Related to Proposed Changes to NASDAQ Rule 4120(c) To Modify the Parameters for Releasing Securities for Trading Upon the Termination of a Trading Halt in a Security That Is the Subject of an Initial Public Offering

October 21, 2014.

I. Introduction

On August 20, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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 relating to its initial public offering (''IPO'') process. The proposed rule change was published for comment in the **Federal Register** on September 9, 2014.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend NASDAQ Rule 4120(c) to modify the parameters for releasing securities for trading upon the termination of a trading halt in a security that is the subject of an IPO (the ''IPO Halt Cross'' or the ''Cross'').[4] Currently, NASDAQ Rule 4120(c)(7)(B) governs the launch of trading of IPO securities approved for listing on the Exchange.[5] NASDAQ Rule 4120(c)(7)(B) provides a two-phase process in which there is a 15 minute Display Only Period in which market participants may enter quotes and orders in that IPO security in the NASDAQ systems, which is then followed by a ''Pre-Launch Period'' that is not of a fixed duration.[6] According to the Exchange, the Pre-Launch Period continues until: (1) NASDAQ receives notice from the underwriter of the IPO that the security is ready to trade and there is no ''order imbalance''[7] in the security, in which case the security is released for trading; or (2) the underwriter, with concurrence of NASDAQ, determines to postpone and reschedule the IPO. The Exchange states that it disseminates the ''Current Reference Price,'' which is an indication of the price at which the IPO Halt Cross would execute if it occurred at that time, every five seconds during the Display Only Period and the Pre-Launch Period.[8]

The Exchange proposes to replace its current process with a procedure under which the ''Expected Price''[9] of the IPO Halt Cross will be displayed to the underwriter, who will then select price bands to ensure that the actual calculated price at which the IPO Halt Cross would occur does not deviate from the Expected Price by more than the selected amounts.[10] According to the Exchange, price deviations between the Expected Price and the actual calculated price of the Cross can occur because market participants may continue to enter and cancel orders during the period between the display of the Expected Price to the underwriter and the commencement of the Cross calculation, a period of up to five seconds in duration.[11]

Under the proposal, the process for determining the end of the Pre-Launch Period and when the IPO security will be released for trading will be as follows: (1) NASDAQ receives notice from the underwriter of the IPO that the security is ready to trade; (2) the NASDAQ system will then calculate the Current Reference Price and display it to the underwriter (*i.e.,* the Expected Price); (3) the underwriter agrees to go forward; (4) the NASDAQ system determines that all market orders will be executed in the cross; and (5) the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72961 (September 3, 2014), 79 FR 53500 (''Notice'').

[4] *See id.*

[5] *See* Securities Exchange Act Release No. 69897 (July 1, 2013), 78 FR 40782, 40783 (July 8, 2013).

[6] *See* Notice, *supra* note 3, at 53501.

[7] *See id.*

[8] *See id.* According to the Exchange, under the current rule, an ''order imbalance'' in an IPO security exists if: (1) The Current Reference Price disseminated immediately prior to commencing the release of the IPO for trading during the Pre-Launch Period and any of the three preceding Current Reference Prices differ by more than the greater of 5 percent or 50 cents; (2) upon completion of the Cross calculation, the calculated price at which the security would be released for trading and any of the three preceding Current Reference Prices disseminated immediately prior to the initiation of the Cross calculation differ by more than the greater of 5 percent or 50 cents; or (3) all market orders will not be executed in the Cross. *See id.;* and NASDAQ Rule 4120(c)(7)(C).

[9] The ''Expected Price,'' according to the Exchange, is the Current Reference Price displayed to the underwriter after the Exchange receives notice from the underwriter that the security is ready to trade. *See* Notice, *supra* note 3, at 53501, and Proposed NASDAQ Rule 4120(c)(8)(A)(i).

[10] *See* Notice, *supra* note 3, at 53501. The Exchange is also proposing to reorganize certain provisions of NASDAQ Rule 4120 relating to the process for ending a trading halt of securities other than IPO securities, but is not making substantive modifications to these rules. *See id.*

[11] *See id.*

NASDAQ system determines that the security satisfies a ''price validation test,'' as described below.[12]

Under the proposal, prior to the conclusion of the Pre-Launch Period,[13] the underwriter will select price bands [14] and, as noted above, the system will then compare the Expected Price with the actual price calculated by the Cross.[15] If the actual price calculated by the Cross differs from the Expected Price by an amount in excess of the price band selected by the underwriter, the security will not be released for trading and the Pre-Launch Period will continue.[16] Under the proposal, if a security does not satisfy the price validation test, the underwriter may, but is not required to, select different price bands before recommencing the process to release the security for trading.[17]

According to the proposal, the available price bands the underwriter may select for the price validation test will include increments and price points established by the Exchange, which may be modified by the Exchange from time to time.[18] Under the proposal, the initial available price bands will range from $0 to $0.50, with increments of $0.01.[19] Under the proposal, the Exchange reserves the right to stipulate wider increments (such as $0.05) or price bands that include certain price points, but exclude others (for example, increments of $0.01 up to $0.10, and increments of $0.05 thereafter).[20]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] 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 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.

As noted above, the proposal is designed to offer an additional safeguard against an unexpected deviation between the Expected Price and the actual price of the Cross by providing the underwriter with the authority to set price bands based on the characteristics of and expectations for each IPO. The Exchange represents that such price deviations can occur because market participants may continue to enter and cancel orders during the period of up to five seconds between the display of the Expected Price to the underwriter and the commencement of the Cross calculation.[23] The Commission notes that, if the actual price calculated by the Cross differs from the Expected Price by an amount in excess of the price band selected by the underwriter, the security will not be released for trading and the Pre-Launch Period will continue.[24] The Commission believes that the proposed rule change is designed to protect investors and the public interest by limiting unexpected volatility in the pricing of an IPO security at the conclusion of the Pre-Launch Period.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NASDAQ–2014–081) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25435 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[12] *See id.*

[13] The underwriter can select the price bands at any time during the Display Only Period or the Pre-Launch Period, and may modify them at any time prior to the Pre-Launch Period. *See id.* at n.6.

[14] Specifically, the underwriter will select an upper price band (*i.e.,* an amount by which the actual price may not exceed the Expected Price) and a lower price band (*i.e.,* an amount by which the actual price may not be lower than the Expected Price). The Exchange notes that the underwriter may select different price bands above and below the Expected Price. *See id.*

[15] *See* Notice, *supra* note 3, at 53501.

[16] *See id.*

[17] *See id.* at 53502.

[18] *See id.*

[19] *See id.* Under the proposal, an underwriter may select a price band of $0.00 (*i.e.,* no change from the Expected Price would be permitted). *See id.*

[20] *See* Notice, *supra* note 3, at 53502. The Exchange states that it will notify member organizations and the public of changes in available price band or increments through a notice that is widely disseminated at least one week in advance of the change. *See id.*

[21] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] *See supra* note 11 and accompanying text.

[24] *See supra* note 16 and accompanying text.

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73397; File No. SR–BOX–2014–24]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC (''BOX'') Options Facility

October 21, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 9, 2014, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make a number of changes to the BOX Fee Schedule.

Select Symbols

First, the Exchange proposes to amend Section I (Exchange Fees) to establish a subsection entitled ''Select Symbols.'' The following symbols will be considered Select Symbol for purposes of the Fee Schedule:

Penny classes	Non-penny classes				
SPY	GPRO	RAD	VHC	PANW	HRB
AAPL	GTAT	MBLY	MPEL	NUGT	QEP
IWM	PCLN	CBS	SVXY	JD	OREX
YHOO	FEYE	SPLS	INVN	DG	SWKS
QQQ	GOOGL	RSX	ABBV	ESV	GLNG
EEM	HYG	QIHU	UA	RAX	IRM
BAC	SDRL	AVNR	LOCO	YELP	KERX
VXX	VNET	OIH	CMG	ACHN	SNSS
FB	GOOG	EPI	AZN	NPSP	KNDI
TWTR	HTZ	END	KORS	SPLK	GDP

Non-Auction Transactions in Select Symbols

The Exchange then proposes to establish a separate exchange fee structure for Non-Auction Transactions [5] in these Select Symbols that are different from the fees for non-auction transactions in all other symbols. Currently, non-auction transactions in all securities are subject to the fee structure outlined in Section I of the BOX Fee Schedule. For every non-auction transaction Public Customers are assessed a $0.07 fee per contract, and Professional Customers and Broker Dealers $0.42 per contract. Market Makers are assessed a per contract fee based upon the Market Maker's Monthly ADV in all transactions executed on BOX, as calculated at the end of each month. All non-auction executions for that month are charged the same per contract fee according to the ADV achieved by the Market Maker, which ranges from $0.13 to $0.35.

In proposed Section I.C.1, (Non-Auction Transactions in Select Symbols), the Exchange proposes to adopt a pricing model where the Exchange will assess transaction fees and credits dependent upon two factors: (i) The account type of the Participant submitting the order and if the Participant is a liquidity provider or liquidity taker; and (ii) the account type of the contra party and if the contra party is a liquidity provider or liquidity taker. Transactions in Penny Pilot Classes will also be assessed different fees or credits than transactions in Non-Penny Pilot Classes.

The Exchange also proposes to specify that these transactions will now be exempt from the Liquidity Fees and Credits outlined in Section II of the BOX Fee Schedule. The proposed fee structure is as follows:

Account type	Contra party	Penny pilot classes		Non-penny pilot classes	
		Maker fee/ credit	Taker fee/ credit	Maker fee/ credit	Taker fee/ credit
Public Customer	Public Customer	$0.00	$0.00	$0.00	$0.00
	Professional Customer/Broker Dealer	(0.22)	(0.22)	(0.57)	(0.57)
	Market Maker	(0.22)	(0.22)	(0.57)	(0.57)
Professional Customer or Broker Dealer.	Public Customer	0.55	0.59	0.90	0.94
	Professional Customer/Broker Dealer	0.20	0.35	0.30	0.35
	Market Maker	0.20	0.39	0.30	0.39
Market Maker	Public Customer	0.51	0.55	0.85	0.90
	Professional Customer/Broker Dealer	0.00	0.05	0.00	0.10
	Market Maker	0.10	0.29	0.10	0.29

For example, if a Public Customer submitted an order to the BOX Book in a Penny Pilot Select Symbol (making liquidity) the Public Customer would be credited $0.22 if the order interacted with a Market Maker's order, and the Market Maker (taking liquidity) would be charged $0.55. To expand on this example, if the Market Maker instead submitted an order to the BOX Book in a Penny Pilot Select Symbol (making liquidity) the Market Maker would be charged $0.51 if the order interacted with a Public Customer's order and the Public Customer (taking liquidity) would again be credited $0.22.

Tiered Volume Rebate for Non-Auction Transactions in Select Symbols

Finally, the Exchange proposes to introduce a tiered volume-based rebate for Market Makers and Public Customers in Non-Auction Transactions in Select Symbols. Specifically, Market Makers and Public Customers will receive a per contract rebate based on ADV considering all transactions executed on BOX by the Market Maker or Public Customer, respectively, as calculated at the end of each month. All Non-Auction Transactions in Select Symbols for that month will receive the same per contract rebate according to the ADV achieved by the Market Maker or Public Customer. The new per contract rebate for Market Makers and Public Customers in Non-Auction Transactions in Select Symbols as set forth in Section I.C.2. of the BOX Fee Schedule will be as follows:

[5] Non-Auction Transactions are those transactions executed on the BOX Book.

Market maker monthly ADV	Per contract rebate
100,001 contracts and greater	($0.15)
60,001 contracts to 100,000 contracts	(0.10)
35,001 contracts to 60,000 contracts	(0.07)
10,001 contracts to 35,000 contracts	(0.03)
1 contract to 10,000 contracts	0.00

Public customer monthly ADV	Per contract rebate
35,001 contracts and greater	($0.10)
15,001 contracts to 35,000 contracts	(0.06)
5,001 contracts to 15,000 contracts	(0.03)
1 contract to 5,000 contracts	0.00

Liquidity Fees and Credits

BOX proposes to simplify the categories for Liquidity Fees and Credits in PIP and COPIP Transactions. Currently the Exchange separates these into two categories: Symbols with a Minimum Price Variation of 1 cent (Penny Pilot classes where trade price is less than $3.00, and all series in QQQ, SPY & IWM), and symbols with a Minimum Price Variation of greater than 1 cent (All Non-Penny Pilot classes and Penny Pilot classes where trade price is equal to or greater than $3.00, excluding QQQ, SPY & IWM). The Exchange proposes to remove these and simply separate these fees and credits into Penny Pilot Classes and Non-Penny Pilot Classes:

PIP and COPIP transactions	Fee for adding liquidity (all account types)	Credit for removing liquidity (all account types)
Penny Pilot Classes	$0.35	($0.35)
Non-Penny Pilot Classes	0.75	(0.75)

This proposed change will mean that the liquidity fees and credits for auction transactions in Penny Pilot classes where the trade price is equal to or greater than $3.00 will now be charged a $0.35 fee for adding liquidity (instead of $0.75) or receive a $0.35 credit for removing liquidity (instead of a $0.75 credit). These are the only classes impacted by this proposed change.

Additionally, the Exchange proposes to specify in Section II.C. (Exempt Transactions) that Non-Auction Transactions in Select Symbols will be considered exempt from all liquidity fees and credits.

Jumbo SPY Options

The Exchange also proposes to remove all references to Jumbo SPY from the Fee Schedule. Jumbo SPY Options were moved to closing only in June 2014 and any future transactions in Jumbo SPY Options before the final expiration in January 2015 will be assessed the applicable standard contract fee for purposes of the Fee Schedule.

Finally, the Exchange is proposing to make additional non-substantive changes to the Fee Schedule. Specifically, the Exchange is renumbering certain footnotes to accommodate the proposed changes above to the Fee Schedule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed changes will allow the Exchange to be competitive with other exchanges and to apply fees and credits in a manner that is equitable among all BOX Participants. Further, the Exchange operates within a highly competitive market in which market participants can readily direct order flow to any other competing exchange if they determine fees at a particular exchange to be excessive.

Select Symbols

The Exchange believes establishing separate fee and credits for the Select Symbols is reasonable. The symbols chosen were the top ten most active Penny Pilot Symbols and top fifty most active Non-Penny Pilot Symbols (excluding flex options) based on OCC volume across all exchanges for the previous month. Further, at least one other exchange currently uses a fee structure with Select Symbols based on the volume of the symbols.[7] The Exchange chose these high volume symbols to encourage Participants to direct greater non-auction trade volume to the Exchange. Increased volume will provide greater liquidity, which will benefit all market participants on the Exchange. Further, the Exchange believes it is equitable and not unfairly discriminatory to establish these Select Symbols, as all Participants have the ability to submit orders in Select Symbols to the Exchange.

Non-Auction Transactions in Select Symbols

The Exchange believes establishing a different fee structure for Non-Auction transactions in Select Symbols is reasonable, equitable and not unfairly discriminatory. The proposed fee structure is intended to attract order flow to the Exchange by offering all market participants incentives to submit their orders in these symbols to the Exchange. The practice of providing additional incentives to increase order flow in high volume symbols is, and has been, a common practice in the options markets.[8] Further, the Exchange believes it is appropriate to provide incentives for market participants, which will result in greater liquidity and ultimately benefit all Participants trading on the Exchange.

The Exchange also believes it is equitable, reasonable and not unfairly discriminatory to assess fees and credits according to the account type of the Participant originating the order and the contra party. This proposed fee structure is similar to the model adopted by the Exchange for Complex Orders Fees [9] and has been accepted by both the Commission and the

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* the Miami International Securities Exchange, LLC (''MIAX'') Fee Schedule, specifically the Priority Customer Rebate Program.

[8] *See* International Securities Exchange LLC (''ISE'') Schedule of Fees, page 6 (providing reduced fee rates for making liquidity in Select Symbols); NASDAQ OMX PHLX, (''PHLX''), Pricing Schedule Section I (providing a rebate for adding liquidity in SPY); NYSE Arca, Inc (''Arca'') Fees Schedule, page 4 (section titled ''Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues.''

[9] *See* Securities Exchange Act Release No. 71312 (January 15, 2014), 79 FR 3649 (January 22, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Establish Fees for Complex Order Price Improvement Period (''COPIP'') Transactions).

industry.[10] The result of this structure is that a Participant does not know the fee it will be charged when submitting a Complex Order. Therefore, the Participant must recognize that it could be charged the highest applicable fee on the Exchange's schedule, which may, instead, be lowered or changed to a credit depending upon how its Complex Order interacts. This structure has been favorably received by the industry and the Exchange is proposing to apply a similar structure to Non-Auction transactions in Select Symbols. After adopting this type of structure for non-auction transactions in Select Symbols a Public Customer submitting an order in a Select Symbol on the BOX Book will recognize that it will not pay a fee for these transactions, and that depending on with whom the order executes, the Public Customer may receive an additional benefit for submitting the order. Likewise, a Professional Customer or Broker Dealer submitting an order in a Select Symbol will recognize that it will not be charged more than $0.59 in penny pilot issues and $0.94 in non-penny pilot issues. The same is true for Market Makers, who will recognize that their maximum charge when submitting an order in a Select Symbol will be $0.55 in penny pilot issues and $0.90 in non-penny pilot issues.

The Exchange believes that the proposed fees and credits for Public Customers in non-auction transactions in Select Symbols are reasonable. Under the proposed fee structure Public Customers will either pay a Make fee of $0.00 or receive a Make/Take credit of $0.22 for penny pilot classes and $0.57 for non-penny pilot classes. These potential fees and credits are reasonable and will at all times be less than the current $0.07 Exchange Fee that Public Customers pay in non-auction transactions.

The Exchange believes providing a credit or charging no fee to Public Customers for all Non-Auction Transactions in Select Symbols is equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for public customer benefit. Accordingly, the Exchange believes that charging no fee or providing a credit for Public Customers is appropriate and not unfairly discriminatory. Public Customers are less sophisticated than other Participants and the credit will help to attract a high level of Public Customer order flow to the BOX Book and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX.

Finally, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to give Public Customers a credit when their orders in Select Symbols execute against a non-Public Customer and, accordingly, charge non-Public Customers a higher fee when their orders in Select Symbols execute against a Public Customer. As stated above, the Exchange aims to improve markets by developing features for the benefit of its public customers. Similar to the payment for order flow and other pricing models that have been adopted by the Exchange and other exchanges to attract Public Customer order flow, the Exchange increases fees to non-Public Customers in order to provide incentives for Public Customers. The Exchange believes that providing incentives for non-auction select symbol transactions by Public Customers is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer order flow.

The Exchange believes that charging Professional Customers and Broker Dealers higher fees than Public Customers for non-auction transactions in Select Symbols is equitable and non-unfairly discriminatory. Professional Customers, while Public Customers by virtue of not being Broker Dealers, generally engage in trading activity more similar to Broker Dealer proprietary trading accounts (submitting more than 390 standard orders per day on average). The Exchange believes the higher level of trading activity from these Participants will draw a greater amount of BOX system resources than that of non-professional, Public Customers. Because this higher level of trading activity will result in greater ongoing operational costs, the Exchange aims to recover its costs by assessing Professional Customers and Broker Dealers higher fees for transactions.

The Exchange also believes it is equitable and not unfairly discriminatory for BOX Market Makers to be assessed lower fees than Professional Customers and Broker Dealers for non-auction transactions in Select Symbols because of the significant contributions to overall market quality that Market Makers provide. Specifically, Market Makers can provide higher volumes of liquidity, and lowering their fees will help attract a higher level of Market Maker order flow to the BOX Book and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX. As such, the Exchange believes it is appropriate that Market Makers be charged lower transaction fees than Professional Customers and Broker Dealers for non-auction transactions in Select Symbols.

The Exchange believes that the proposed fees and credits for all other Participants in non-auction transactions in Select Symbols are reasonable. Under the proposed fee structure a Professional Customer or Broker Dealer making liquidity and interacting with a non-Public Customer will either be charged a fee of $0.20 for Penny Pilot Classes, or $0.30 for Non-Penny Pilot Classes. If the Professional Customer or Broker Dealer is instead taking liquidity in either Penny Pilot or Non-Penny Pilot Classes, it will be charged $0.35 if it interacts with a Professional Customer or Broker Dealer, and $0.39 if it interacts with a Market Maker. The Exchange believes the fees listed above are reasonable as they are lower than the current $0.42 Exchange Fee charged to Broker Dealers and Professional Customers in non-auction transactions.

Similarly, in the proposed fee structure a Market Maker making liquidity in both Penny Pilot and Non-Penny Pilot Classes will either be charged a fee of $0.00 for interacting with a Professional Customer or Broker Dealer, or $0.10 for interacting with another Market Maker. If the Market Maker is instead taking liquidity, it will be charged $0.05 (for Penny Pilot Classes) and $0.10 (for Non-Penny Pilot Classes) if it interacts with a Professional Customer or Broker Dealer. If a Market Maker is taking liquidity and interacts with another Market Maker will be charged $0.29 in all situations. The Exchange believes the fees listed above are reasonable as they are in most situations lower than the current $0.13 to $0.35 Exchange Fee range for Market Makers under the BOX Fee Schedule, and are in line with what is currently charged by the industry.[11]

[10] This type of structure was also adopted by NYSE Arca in 2012. *See* Securities Release No. 68405 (December 11, 2012), 77 FR 74719 (December 17, 2012) (SR–NYSEArca–2012–137).

[11] Many U.S. Options Exchanges do not differentiate their fees between auction and non-auction transactions. However, the general range for Market Maker fees is between $0.10 and $0.89. *See* NASDAQ OMX BX (''BX'') Options Pricing, Chapter XV, Sec. 2; BX charges both BX Options Market Makers and Non-Customer/Non-BX Options Market Makers a fee of $0.46 to remove liquidity in Penny Pilot Options and a fee of $0.89 to remove liquidity in Non-Penny Pilot Options, a fee to add liquidity in Penny Pilot Options of $0.40 to BX Options Market Makers and $0.45 to Non-Customer/Non-BX Options Market Makers, and a fee to add liquidity in Non-Penny Pilot Options of $0.50 to BX Options Market Makers (or $0.85 when interacting with Customer) and $0.88 for Non-Customer/Non-BX

Continued

The Exchange believes it is reasonable, equitable and not unfairly discriminatory for Professional Customers, Broker Dealers and Market Makers to be charged higher fees for both making and taking liquidity when interacting with Public Customers. In the proposed fee structure a Professional Customer or Broker Dealer interacting with a Public Customer will be charged a $0.55 maker fee or $0.59 taker fee for Penny Pilot Classes and a $0.90 maker fee or $0.94 taker fee for non-Penny Pilot Classes. Similarly a Market Marker interacting with a Public Customer will be charged a $0.51 maker fee or $0.55 taker fee for Penny Pilot Classes and a $0.85 maker fee or $0.90 taker fee for non-Penny Pilot Classes. While these fees are higher than what these Participants are currently charged for non-auction transactions, the Exchange believes they are reasonable as they are in line when compared [sic] similar fees in the options industry.[12] Further, as stated above the Exchange believes charging a higher fee for interactions with a Public Customer is equitable and not unfairly discriminatory because it allows the Exchange to incentivize Public Customer order flow by offering credits to Public Customers transacting in Select Symbols. The Exchange believes that providing incentives for non-auction select symbol transactions by Public Customers will benefit all Participants trading on the Exchange by attracting this Public Customer order flow.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory for Professional Customers, Broker Dealers and Market Makers to be charged a higher fee for orders removing liquidity when compared to the fee they receive for orders that add liquidity. Charging a lower fee for orders that add liquidity will promote liquidity on the Exchange and ultimately benefit all participants on BOX. Further, the concept of incentivizing orders that add liquidity over orders that remove liquidity is commonly accepted within the industry as part of the ''Make/Take'' liquidity model.[13]

Further, the Exchange believes it is equitable and not unfairly discriminatory to charge the Professional Customer or Broker Dealer more for taking liquidity against a Market Maker than they are charged for taking liquidity against other Professional Customers or Broker Dealers. As stated above, the Exchange proposes to provide certain incentives to Market Makers because of the high volumes of liquidity they can provide, and increasing fees for Professional Customers and Broker Dealers taking liquidity will allow the Exchange to offer these incentives, ultimately benefiting all Participants trading on BOX.

Finally, the Exchange also believes it is reasonable to charge Professional Customers, Broker Dealers, and Market Makers less for certain executions in penny pilot issues compared to non-penny pilot issues because these classes are typically more actively traded; assessing lower fees will further incentivize order flow in Penny Pilot issues on the Exchange, ultimately benefiting all Participants trading on BOX. Additionally, the Exchange believes it is reasonable to give a greater credit to Public Customers for non-auction Select Symbol executions in non-penny pilot issues as compared to penny pilot issues. These classes have wider spreads and are less actively traded; and giving a larger credit will further incentivize Public Customers to trade in these classes, ultimately benefitting all Participants trading on BOX.

The Exchange believes that the proposed Select Symbol non-auction transactions fee structure will keep the Exchange competitive with other exchanges and will be applied in an equitable manner among all BOX Participants. The Exchange believes the proposed fee structure is reasonable and competitive with fee structures in place on other exchanges. Further, the Exchange believes that the competitive marketplace impacts the fees proposed for BOX.

Tiered Volume Rebate for Non-Auction Transactions in Select Symbols

BOX believes it is reasonable, equitable and not unfairly discriminatory to introduce tiered volume based rebates for Market Makers and Public Customers in non-auction transactions in Select Symbols. Other exchanges employ similar incentive programs,[14] and the Exchange believes that its proposed volume thresholds and rebates are reasonable and competitive when compared to incentive structures at other exchanges.

Additionally, the Exchange believes that the proposed volume thresholds are reasonable because they will incentivize Public Customers and Market Makers to direct order flow to the Exchange to obtain the benefit of the rebate, which will in turn benefit all market participants by increasing liquidity on the Exchange. The Exchange believes that its proposed volume threshold and rebate is competitive when compared to rebate structures at other exchanges.

The Exchange also believes it is equitable and not unfairly discriminatory to only adopt these structures for Public Customers and Market Makers. The proposed volume credits are intended to further encourage Public Customer and Market Maker order flow to the Exchange in these high volume symbols. Increased Public Customer and Market Maker volume will provide greater liquidity, which benefits all market participants on the Exchange. The practice of incentivizing increased Public Customer order flow is common in the options markets. Further, Market Makers also provide significant contributions to overall market quality. Specifically, Market Makers can provide high volumes of liquidity, and potentially lowering their transaction fees in Select Symbols will help attract a higher level of Market Maker order flow and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX.

Liquidity Fees and Credits

The Exchange believes it reasonable, equitable and non-discriminatory to simplify the Liquidity Fees and Credits for Auction Transactions by removing the Minimum Price Variation distinction to separate the applicable fees and credits by Penny Pilot Classes and Non-Penny Pilot Classes. The current categories separate the fees and credits into transactions where (1) the Minimum Price Variation of $0.01 (Penny Pilot Classes where the trade

Options Market Makers. S*ee* NYSE Arca Options (''Arca'') Fees and Charges page 3; Arca charges NYSE Arca Market Makers $0.16 for manual executions, $0.49 to take liquidity in Penny Pilot Issues, and $0.87 to take liquidity in Non Penny Pilot Issues. *See* International Securities Exchange (''ISE'') Schedule of Fees, Section I; ISE charges Market Makers $0.10 for making liquidity in select symbols and $0.42 for taking liquidity in select symbols.

[12] *Id.* Professional Customer and Broker Dealers are also charged anywhere from $0.10 to $0.89 within the option exchange fee schedules referenced above.

[13] The ''Make/Take'' model is currently used by the International Securities Exchange LLC. [sic] (''ISE') and NASDAQ OMX PHLX LLC. [sic] (''PHLX'').

[14] *See* Section B of the Phlx Pricing Schedule entitled ''Customer Rebate Program'' and CBOE's Volume Incentive Program (VIP). CBOE's Volume Incentive Program (''VIP'') pays certain tiered rebates to Trading Permit Holders for electronically executed multiply-listed option orders which include AIM orders. Note that these exchanges base these rebate programs on the percentage of total national Public Customer volume traded on their respective exchanges, which the Exchange is not proposing to do.

price is less than $3.00, and all series in QQQ, SPY, and IWM); and (2) the Minimum Price Variation is greater than $0.01 (i.e., all non-Penny Pilot Classes, and Penny Pilot Classes where the trade price is equal to or greater than $3.00, excluding QQQ, SPY, and IWM). The Exchange believes that changing these to Penny Pilot Classes and Non-Penny Pilot Classes is reasonable as it will reduce investor confusion as to what fee or credit is applicable. While delineating between classes within pricing structures is common at most other options exchanges, BOX is the only exchange that makes a Minimum Price Variation distinction and changing this to Penny Pilot vs. Non-Penny Pilot will allow investors to more quickly determine the applicable fees and credits. Further, while the Exchange recognizes this proposal will result in certain classes being charged or credited different liquidity fees and credits (Penny Pilot classes where the trade price is equal to or greater than $3.00), the Exchange believes it is reasonable to make this adjustment because within these classes there is a fundamental difference in the liquidity and quoted spreads between options that are quoted in penny increments and those that are not. Additionally, these classes will in actuality receive a lower charge or rebate than under the current structure. Finally, the Exchange believes that the proposed change to the liquidity fees and credits for auction transactions is equitable and not unfairly discriminatory because it is applicable to all Participants on an equal basis.

The Exchange believes that exempting Non-Auction Transactions in Select Symbols from Section II (Liquidity Fees and Credits) is reasonable, equitable and not unfairly discriminatory. The Exchange's Liquidity Fees and Credits are intended to attract order flow to the Exchange by offering incentives to all market participants to submit orders to the Exchange and the Exchange believes that the proposed fee structure will provide appropriate incentives to encourage Participants to submit Non-Auction Transactions in Select Symbols to the Exchange. The Exchange believes that exempting Non-Auction Transactions in Select Symbols from liquidity fees and credits is reasonable compared to the similar fees and credits offered by the other exchanges. The Exchange believes exempting Non-Auction Transactions in Select Symbols from liquidity fees and credits is not unfairly discriminatory as the exemption from the liquidity fees and credits applies equally to all Participants on the Exchange.

Jumbo SPY Options

The Exchange believes it is reasonable to remove all references of Jumbo SPY Options from the Fee Schedule and treat any future Jumbo SPY Option transactions before the final expiration in January 2015 as standard contracts for purposes of the Fee Schedule. On June 20, 2014 the Exchange delisted all Jumbo SPY series with no open interest and canceled all resting Jumbo SPY orders on the BOX Book. No further Jumbo SPY Options series will be added and the five remaining Jumbo SPY Options series with open interest were moved to closing only transactions. The Exchange believes it is reasonable to remove these references from the Fee Schedule because doing so will reduce investor confusion by clarifying that the product will no longer be listed and traded on BOX. The Exchange also believes it is equitable and not unfairly discriminatory to remove all references to Jumbo SPY Options as this applies equally to all Participants on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed new fee structure for Select Symbols will neither impose burdens on competition among various Exchange Participants nor impose any burden on competition among exchanges in the listed options marketplace, not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that adopting a different fee structure for Select Symbols will not impose a burden on competition among various Exchange Participants. BOX currently assesses distinct standard contract Exchange Fees for different account and transaction types. The Exchange believes that applying a fee structure that is determined by whether the order removes or adds liquidity, and according to the account type of the Participant submitting the order and the contra party will result in Participants being charged appropriately for these transactions. Submitting an order is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange.

Further, the Exchange believes that this proposal will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for order flow.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. 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 reflects this 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [15] and Rule 19b–4(f)(2) thereunder,[16] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2014–24 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–BOX–2014–24. This file number should be included on the subject line if email is used. To help the Commission process and review your

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2014–24, and should be submitted on or beforeNovember 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25433 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73396; File No. PCAOB–2014–01]

Public Company Accounting Oversight Board; Order Granting Approval of Proposed Rules on Auditing Standard No. 18, Related Parties, Amendments to Certain PCAOB Auditing Standards Regarding Significant Unusual Transactions, and Other Amendments to PCAOB Auditing Standards

October 21, 2014.

I. Introduction

On July 10, 2014, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 107(b)[1] of the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act'') and Section 19(b)[2] of the Securities Exchange Act of 1934 (the ''Exchange Act''), proposed rules to adopt Auditing Standard No. 18, *Related Parties,* amendments to certain PCAOB auditing standards regarding significant unusual transactions, and other amendments to PCAOB auditing standards, including required procedures to obtain an understanding of a company's financial relationships and transactions with its executive officers (collectively, the ''Proposed Rules'').[3] The Proposed Rules were published for comment in the **Federal Register** on July 24, 2014.[4] At the time the notice was issued, the Commission designated a longer period to act on the Proposed Rules, until October 22, 2014.[5] The Commission received three comment letters in response to the notice.[6] This order approves the Proposed Rules.

II. Description of the Proposed Rules

Related party transactions, significant unusual transactions, and a company's financial relationships and transactions with its executive officers are included together in the Proposed Rules because the PCAOB believes the auditor's efforts in these areas are, in many ways, complementary. For example, the auditor's efforts to identify and evaluate a company's significant unusual transactions could identify information that indicates that a related party or relationship or transaction with a related party previously undisclosed to the auditor might exist. Likewise, obtaining an understanding of a company's financial relationships and transactions with its executive officers also could identify information that indicates that a related party or relationship or transaction with a related party previously undisclosed to the auditor might exist.

1. Related Parties

Auditing Standard No. 18 will supersede AU section 334, *Related Parties* (''AU sec. 334''), which primarily contains the existing requirements for auditing relationships and transactions with related parties. AU sec. 334 provides guidance and examples of procedures for the auditor's consideration in identifying and evaluating related party transactions. Auditing Standard No. 18 includes some auditing concepts and procedures from AU sec. 334, but is intended to strengthen auditor performance requirements for identifying, assessing, and responding to the risks of material misstatement associated with a company's relationships and transactions with its related parties by, among other things, requiring the auditor to:

- Perform specific procedures to obtain an understanding of the company's relationships and transactions with its related parties, including obtaining an understanding of the nature of the relationships between the company and its related parties and of the terms and business purposes (or the lack thereof) of transactions involving related parties. The new procedures are required to be performed in conjunction with the auditor's risk assessment procedures pursuant to Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement.*
- Evaluate whether the company has properly identified its related parties and relationships and transactions with its related parties. In making that evaluation, the auditor performs procedures to test the accuracy and completeness of management's identification, taking into account information gathered during the audit. If the auditor identifies information that indicates that undisclosed relationships and transactions with a related party might exist, the auditor is required to perform procedures necessary to determine whether undisclosed relationships or transactions with related parties in fact exist.
- Perform specific procedures if the auditor determines that a related party or relationship or transaction with a related party previously undisclosed to the auditor exists.
- Perform specific procedures regarding each related party transaction that is either required to be disclosed in the financial statements or determined to be a significant risk.[7]
- Communicate to the audit committee the auditor's evaluation of the company's identification of, accounting for, and disclosure of its relationships and transactions with related parties, and other significant matters arising from the audit regarding

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 7217(b).

[2] 15 U.S.C. 78s(b).

[3] The Board originally proposed in February 2012 (''Original Proposal'') and reproposed in May 2013 (''Reproposal'') what became the Proposed Rules.

[4] *See* Release No. 34–72643 (July 18, 2014), 79 FR 43163 (July 24, 2014).

[5] Ibid.

[6] *See* letters to the Commission from Suzanne H. Shatto, dated July 23, 2014 (''Shatto Letter''); Tom Quaadman, Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce, dated July 28, 2014 (''Chamber Letter''); and Deloitte & Touche LLP, dated August 11, 2014 (''Deloitte Letter'').

[7] Auditing Standard No. 12 defines a significant risk as a ''risk of material misstatement that requires special audit consideration.''

the company's relationships and transactions with related parties.

2. Significant Unusual Transactions

Existing auditing requirements regarding significant unusual transactions are principally contained in AU section 316, *Consideration of Fraud in a Financial Statement Audit* (''AU sec. 316'').[8] Specifically, AU sec. 316 requires the auditor, if he or she becomes aware of significant unusual transactions during the course of the audit, to gain an understanding of the business rationale of such transactions and consider whether that rationale suggests the transactions may have been entered into to engage in, or conceal, fraud. The amendments regarding significant unusual transactions are intended to improve AU sec. 316 and other PCAOB auditing standards by, among other things:

- Requiring the auditor to perform procedures to identify significant unusual transactions;
- Requiring the auditor to perform procedures to obtain an understanding of, and evaluate, the business purpose (or the lack thereof) of identified significant unusual transactions; and
- Adding factors for the auditor to consider in evaluating whether significant unusual transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets.

In addition to targeted enhancements to AU sec. 316, the amendments regarding significant unusual transactions would revise Auditing Standard No. 12 and Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement.* These amendments include some changes intended to enhance the complementary linkages between the auditor's work relating to significant unusual transactions and related party transactions. The amendments regarding significant unusual transactions also include conforming changes to other PCAOB auditing standards to provide for consistency in the use of the term ''significant unusual transactions'' throughout the Board's standards.[9]

3. Other Amendments

Additional amendments are intended to provide for improved audit procedures in complementary areas, including requiring that the auditor perform procedures, as part of the auditor's risk assessment, to obtain an understanding of the company's financial relationships and transactions with its executive officers.[10] These new procedures are intended to heighten the auditor's attention to incentives or pressures for the company to achieve a particular financial position or operating result, recognizing the key role that a company's executive officers may play in the company's accounting decisions or in a company's financial reporting.

In response to requests for clarification received by the PCAOB as part of its comment process, the Proposed Rules explicitly provide that the auditor's work relating to a company's financial relationships and transactions with its executive officers does not include an assessment of the appropriateness or reasonableness of executive compensation arrangements. The Commission believes the PCAOB's clarification is responsive and appropriate since such assessments would have resulted in a significant unintended change to the current objectives of the audit, which are focused on risks of material misstatement of the financial statements.

In addition to the amendments relating to financial relationships and transactions with executive officers, the Board adopted amendments to revise other auditing standards to conform them to the Proposed Rules and, where appropriate, include new requirements that complement the Proposed Rules. For example, the Board adopted amendments to AU section 333, *Management Representations* (''AU sec. 333''), to require a representation that management has made available to the auditor the names of all related parties and relationships and transactions with related parties. Additionally, among others, the Board adopted amendments to AU sec. 333 to require a written representation from management that there are no side agreements or other arrangements (either written or oral) undisclosed to the auditor. Other new requirements complement the requirements in the Proposed Rules through improvements to the auditor's: (i) Communications with a predecessor auditor; (ii) procedures during the period subsequent to the balance-sheet date, but prior to the issuance of the financial statements; and (iii) procedures during reviews of interim financial information.

The PCAOB has proposed application of its Proposed Rules to audits of all issuers, including audits of emerging growth companies (''EGCs''),[11] as discussed in Section IV. below. The Proposed Rules also would apply to audits of SEC-registered brokers and dealers.[12] The Proposed Rules would be effective for audits of financial statements for fiscal years beginning on or after December 15, 2014, including reviews of interim financial information within these fiscal years.

III. Comment Letters

As noted above, the Commission received three comment letters concerning the Proposed Rules. Two commenters expressed support for the Proposed Rules.[13] One of these commenters also expressed a desire for an earlier effective date.[14] The final commenter raised concerns regarding the substance of the PCAOB's economic analysis and consideration of cost-benefit analysis upon EGCs.[15]

1. Effective Date

The PCAOB describes the rationale as to the effective date, which was established to allow for sufficient time for registered firms to incorporate the new requirements into methodologies, guidance, audit programs, and staff training. The Commission believes the Proposed Rules' effective date is not unreasonable in order to provide sufficient time for proper implementation by registered firms.

2. Economic Analysis

One commenter raised concerns regarding the substance of the PCAOB's economic analysis and its consideration

[8] *See* AU secs. 316.66–.67.

[9] The Proposed Rules describe ''significant unusual transactions'' as ''significant transactions that are outside the normal course of business for the company or that otherwise appear to be unusual due to their timing, size, or nature.''

[10] The PCAOB notes that the other amendments do not change the existing requirement in its risk assessment standards for the auditor to consider obtaining an understanding of compensation arrangements with senior management as part of obtaining an understanding of the company. Rather, the Board states that the population for the procedures required by the other amendments is the list of ''executive officers,'' as defined in Rule 3b–7 of the Exchange Act or included on Schedule A of Form BD, as applicable, while the existing requirement continues to apply to what may be a larger population of a company's management. 17 CFR 240.3b–7 and 17 CFR 249.501.

[11] The term ''emerging growth company'' is defined in Section 3(a)(80) of the Exchange Act. 15 U.S.C. 78c(a)(80).

[12] On July 30, 2013, the Commission adopted amendments to Rule 17a–5 under the Exchange Act to require, among other things, that audits of brokers' and dealers' financial statements be performed in accordance with the standards of the PCAOB for fiscal years ending on or after June 1, 2014. 17 CFR 240.17a–5. *See Broker–Dealer Reports,* Release No. 34–70073, (July 30, 2013), 78 FR 51910 (August 21, 2013), available at *http://www.sec.gov/rules/final/2013/34-70073.pdf.*

[13] *See* Shatto Letter and Deloitte Letter.

[14] *See* Shatto Letter, which also raised a number of other points with respect to brokers and dealers, but those points are outside the scope of the PCAOB's Proposed Rules.

[15] *See* Chamber Letter.

of EGCs. The commenter stated that it expressed these concerns in previous comment letters to the PCAOB, and in its opinion, those concerns have not been considered or addressed by the PCAOB. This commenter's principal concerns are addressed below.

• In its comment letter on the Original Proposal, the commenter stated that the proposal did not contain a cost-benefit analysis.

The Board presented, and sought comment on, an economic analysis in the Reproposal. Further, in response to comments on the economic analysis provided in the Reproposal, the Board revised its analysis as presented in its release accompanying the Proposed Rules (''Final Rule Release'').

• In its comment letter on the Reproposal, the commenter stated that the economic analysis was composed of a number of assertions that were generic and speculative in nature, and were not linked to the elements of the proposal.

In the economic analysis provided in the Final Rule Release, the Board refined the analysis included with the Reproposal, including by linking the elements of the analysis closer to the elements of the Proposed Rules. Specifically, the Board's refined analysis set forth: (1) A description of the need for the standard-setting, and how the Proposed Rules address the need; (2) the baseline to consider the economic impacts of the Proposed Rules; (3) the Board's approach and consideration of alternatives; (4) the economic impacts of the Proposed Rules including benefits, costs, effects on different categories of audit firms and smaller companies, and responses to comments received on the economic analysis included with the Reproposal; and (5) economic considerations pertaining to audits of EGCs, including efficiency, competition and capital formation. The Board also acknowledged challenges in considering the economic impacts, such as the challenges of quantifying the economic impact of changes to audit standards, and explained how the Board addressed those challenges.

• In its comment letter on the Reproposal, the commenter stated that the economic analysis fails to explicitly articulate any appropriate economic baseline against which to measure the proposed requirements' likely economic impact.

The Board presented an economic baseline within Appendix 5 of the Final Rule Release, which the Board used in its economic analysis as a benchmark for comparing against the Proposed Rules. The Board's discussion of the baseline includes both existing requirements and current audit practices, where the latter is determined based on information from the Board's oversight activities, including its inspection findings. The Board's analysis of the baseline shows that audit practices associated with the areas addressed by the Proposed Rules are inconsistent across firms.

• In its comment letter on the Reproposal, the commenter stated that the Reproposal contains no substantive analysis of the economic impact of the proposed requirements on EGCs, EGCs vis-à-vis other companies, or companies generally.

The economic analysis presented in the Final Rule Release presents the Board's economic considerations of the Proposed Rules both for companies generally and specifically for EGCs. Broadly, the Board believes that the areas addressed by the Proposed Rules are challenging areas warranting additional audit effort and focus. The Board notes that EGCs will incur some incremental costs because costs may be disproportionately higher for smaller companies, including EGCs.[16] However, the Board notes that EGCs may benefit more from the Proposed Rules because, as compared to non-EGCs, related party transactions are more common and there is a higher likelihood for control deficiencies, which may result in a higher risk of material misstatement associated with related party transactions.

The analysis includes the relevant views of those who commented on the Reproposal on the economic effects of the Proposed Rules on EGCs. Further, the Board notes that the Proposed Rules are designed to mitigate cost impacts by aligning the auditor's efforts with the risk assessment standards and providing opportunities for a scaled approach depending on the size and complexity of the company being audited. The Board states that this alignment with risk assessment allows auditors to integrate audit effort where appropriate and thereby avoid unnecessary audit effort. Finally, the Board's analysis takes into account the view from certain commenters on the Reproposal that it may be more costly not to apply the Proposed Rules to audits of EGCs because it would require firms to maintain two audit methodologies. The Commission believes that the Board's economic analysis reasonably addresses the comment raised, and as discussed further in Section IV, based on the analysis submitted, the Commission believes the information in the record is sufficient for the Commission to make the requested EGC determination in relation to the Proposed Rules.

• In its comment letter on the Reproposal, the commenter stated that the Reproposal does not adequately address potential alternatives.

The Final Rule Release discussed the Board's consideration of alternatives to the Proposed Rules. In response to the commenter's suggestion that the Reproposal did not discuss why PCAOB Staff Audit Practice Alert No. 5, *Auditor Considerations Regarding Significant Unusual Transactions* (''Practice Alert''),[17] was inadequate, the Board stated that the Practice Alert was issued to remind auditors of the risks associated with significant unusual transactions and to compile selected, relevant requirements from existing PCAOB auditing standards into one document. Given that the Practice Alert only highlights circumstances for auditor consideration, it did not alter audit requirements with respect to significant unusual transactions. The Board concluded, based in part on the results of its oversight activities following the issuance of the Practice Alert, that it was appropriate to develop standards with more specific requirements to promote heightened scrutiny in the areas addressed by the Proposed Rules. Further, the Board stated that the need to improve the existing standards in these areas, including alignment with the Board's risk assessment standards, cannot be adequately addressed through staff interpretations of existing standards.

In response to the commenter's statement that the Board did not analyze why it chose not to converge the Proposed Rules with similar standards of the International Auditing and Assurance Standards Board (''IAASB'') and the Auditing Standards Board of the American Institute of Certified Public Accountants (''ASB''), the Board states in its Final Rule Release that it considered the analogous standards of the IAASB and the ASB and incorporated a number of similar audit procedures and requirements that the Board believed were useful and appropriate.[18] The Board, however, determined that the areas addressed by the Proposed Rules require heightened scrutiny, and, thus, the Proposed Rules

[16] *See* Section IV below for further information regarding the PCAOB's EGC analysis.

[17] *See http://pcaobus.org/Standards/QandA/04-07-2010_APA_5.pdf*

[18] For examples of similar audit procedures and requirements, see footnote 86 on page A5–46 of the Final Rule Release. Additionally, Appendix 6 of the Final Rule Release compares certain significant differences between the objective and certain key requirements of the Proposed Rules and analogous standards of the IAASB and the ASB.

contain auditing requirements that are not reflected in the analogous standards of the IAASB and the ASB. Further, the Commission notes that the Board has received similar comments in the past and has thus previously addressed its consideration of the work of other standard-setters generally. [19] The Commission also addressed similar comments in connection with its consideration of other rules proposed by the PCAOB.[20] As it relates to the Proposed Rules, the Commission notes the PCAOB's efforts to consider the analogous standards of the IAASB and the ASB. Thus, while the Commission continues to encourage the PCAOB to consider the work of other standard-setters, there remain a variety of reasons why the Board's standards may differ from the standards of the IAASB and ASB, and we believe the Board has provided a reasonable explanation for the differences here.

• Finally, in its comment letter to the Commission, the commenter recommended ''that the SEC return the [Proposed Rules] to the PCAOB for a cost benefit analysis that complies with the [Jumpstart Our Business Startups] Act and allows stakeholders to understand the costs and benefits . . .'' Further, the commenter stated that the Proposed Rules add to audit complexity and raise doubt that the proposed requirements would be cost-benefit effective.

The Commission notes that the Board provided a detailed qualitative analysis that took into account the views of commenters. As the Board explained, there was limited research and data available regarding economic costs and benefits of the Proposed Rules, making reliable quantification difficult. Further, as part of the Board's process through its issuance of the Original Proposal and the Reproposal, the Board requested empirical data regarding costs and benefits specific to the Proposed Rules, and commenters did not provide any. The Commission observes that Section 103(a)(3)(C) of the Sarbanes-Oxley Act, the relevant statutory provision added by the Jumpstart our Business Startups (''JOBS'') Act, does not require a detailed, quantitative cost-benefit analysis.[21] Consistent with the responses to the commenter's specific concerns enumerated above, the Board states that it designed the Proposed Rules to minimize complexity by aligning the auditor's efforts with the risk assessment standards and providing opportunities for a scaled approach depending on the size and complexity of the company being audited.

IV. The PCAOB's EGC Request

Section 103(a)(3)(C) of the Sarbanes-Oxley Act provides that any additional rules adopted by the PCAOB subsequent to April 5, 2012 do not apply to the audits of EGCs, unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.[22] Having considered those factors, and as explained further herein, the Commission finds that applying the Proposed Rules to audits of EGCs is necessary or appropriate in the public interest.

In proposing application of the Proposed Rules to audits of all issuers, including EGCs, the PCAOB requested that the Commission make the determination required by Section 103(a)(3)(C). To assist the Commission in making its determination, the PCAOB prepared and submitted to the Commission its own EGC analysis. The PCAOB's EGC analysis includes discussions of characteristics of self-identified EGCs and economic considerations pertaining to audits of EGCs, including efficiency, competition, and capital formation. In its analysis, the Board states, among other things, that applying the Proposed Rules to the audits of EGCs may be particularly pertinent because of the characteristics of EGCs (e.g., potential for higher rates of material weaknesses in internal control, use of related party transactions, and substantial doubt about the company's ability to continue as a going concern). In fact, the Board's oversight activities have identified a significant number of findings regarding related party transactions in audits of financial statements of smaller public companies, which have characteristics that are similar to EGCs.

The PCAOB's EGC analysis was included in the Commission's public notice soliciting comment on the Proposed Rules.[23] Based on the analysis submitted, we believe the information in the record is sufficient for the Commission to make the requested EGC determination in relation to the Proposed Rules. The Commission also takes note, in particular, of the PCAOB's approach to the Proposed Rules, which are intended to build upon existing requirements in the areas addressed by them; align with the auditor's efforts in complying with the risk assessment standards; and provide opportunities for scaling based on the facts, circumstances, and risks of the particular company under audit.

V. Conclusion

The Commission has carefully reviewed and considered the Proposed Rules and the information submitted therewith by the PCAOB, including the PCAOB's EGC analysis, and the comment letters received. In connection with the PCAOB's filing and the Commission's review.

A. The Commission finds that the Proposed Rules are consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and are necessary or appropriate in the public interest or for the protection of investors; and

B. Separately, the Commission finds that the application of the Proposed Rules to EGC audits is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.

It is therefore ordered, pursuant to Section 107 of the Sarbanes-Oxley Act and Section 19(b)(2) of the Exchange Act, that the Proposed Rules (File No. PCAOB–2014–01) be and hereby are approved.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25432 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[19] For example, in the Board's adopting release for its risk assessment standards it stated the following:

''[B]ecause the Board's standards must be consistent with the Board's statutory mandate, differences will continue to exist between the Board's standards and the standards of the IAASB and ASB, e.g., when the Board decides to retain an existing requirement in PCAOB standards that is not included in IAASB or ASB standards. Also, certain differences are often necessary for the Board's standards to be consistent with relevant provisions of the federal securities laws or other existing standards or rules of the Board. Also, the Board's standards-setting activities are informed by and developed to some degree, in response to observations from its oversight activities.''

See PCAOB Release No. 2010–004, August 5, 2010, pp. A10–91—A10–92 (internal footnotes omitted).

[20] *See* Release No. 34–63606 (December 23, 2010), 75 FR 82417 (December 30, 2010) and Release No. 34–68453 (December 17, 2012), 77 FR 75689 (December 21, 2012).

[21] *See National Association of Manufacturers* v. *SEC,* 748 F.3d 359, 369 (D.C. Cir. 2014) (stating that ''[a]n agency. . . need not conduct a 'rigorous, quantitative economic analysis' unless the statute explicitly directs it to do so''), *partially overruled on other grounds by American Meat Institute* v. *U.S. Department of Agriculture,* 760 F.3d 18 (D.C. Cir. 2014) (en banc).

[22] Section 103(a)(3)(C) of the Sarbanes-Oxley Act, as amended by Section 104 of the JOBS Act.

[23] One comment letter, as discussed above in Section III, was received relating to the PCAOB's EGC analysis. *See* Chamber Letter.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73394; File No. SR–ISE–2014–50]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

October 21, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to increase the route-out fee applicable to Professional Customer orders in Non-Select Symbols, and adopt a route-out fee for Non-Customer orders routed to away markets. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to increase the route-out fee applicable to Professional Customer orders in Non-Select Symbols,[3] and adopt a route-out fee for Non-Customer orders [4] routed to away markets. The Exchange's Schedule of Fees has separate fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

The Exchange presently charges a route-out fee applicable to Priority Customer [5] and Professional Customer [6] orders routed to away markets pursuant to the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''). Specifically, the Exchange charges a route-out fee of $0.45 per contract for Priority Customer orders and $0.55 per contract for Professional Customer orders in all symbols. The Exchange now proposes to increase the route-out fee for Professional Customer orders in Non-Select Symbols to $0.95 per contract to reduce the negative economics associated with executing these orders on other options exchanges. Professional Customer orders in Select Symbols and Priority Customer orders will continue to pay route-out fees at their respective rates described above.

On July 31, 2014 the Exchange filed a proposed rule change that introduced linkage routing for Non-Customer orders, which became effective on September 1, 2014.[7] In connection with this new functionality, the Exchange now proposes to adopt a route-out fee for Non-Customer orders routed to other options exchanges. The proposed route-out fee will be $0.55 per contract in Select Symbols,[8] and $0.95 per contract in Non-Select Symbols, in line with the rates described above for Professional Customer orders, and will be applicable to all Market Maker,[9] Non-ISE Market Maker,[10] and Firm Proprietary [11]/Broker-Dealer [12] orders routed to away markets pursuant to the Plan.

In connection with the proposed fee changes described above, the Exchange also proposes to reformat its route-out fee table to include separate columns for Select Symbols and Non-Select Symbols, as well as for Standard Options and Mini Options, and to reduce the number of duplicative footnotes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and Section 6(b)(4) of the Act,[14] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

In particular, the Exchange believes the proposed route-out fees are reasonable and equitable as they offset costs incurred by the Exchange in connection with using unaffiliated broker-dealers to access other exchanges for linkage executions. Other options exchanges, such as the NASDAQ Options Market (''NOM'') and NYSE Arca Options (''Arca''), have fees for taking liquidity that are as high as $0.89 per contract for Professional Customer orders in Non-Select Symbols.[15] It has thus become necessary for the Exchange to raise the route-out fees applicable to these orders to recoup the higher costs associated with executing orders on these markets. Furthermore, as the Exchange recently expanded its linkage routing capabilities to include Non-Customer orders, the Exchange believes

[3] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[4] A Non-Customer Order is an order for the account of a person or entity that is a broker or dealer in securities. *See* ISE Rules 100(a)(27)–(28).

[5] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[6] A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[7] *See* Securities Exchange Act Release No. 72816 (August 12, 2014), 79 FR 48811 (August 18, 2014) (SR–ISE–2014–37).

[8] ''Select Symbols'' are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

[9] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[10] A Non-ISE Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.

[11] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[12] A Broker-Dealer order is an order submitted by a Member for a non-Member broker-dealer account.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

[15] *See* NOM Chapter XV Options Pricing, Sec. 2 NASDAQ Options Market—Fees and Rebates; Arca Options Fees and Charges, Trade-Related Charges for Standard Options.

that it is appropriate to adopt corresponding fees at this time. The route-out fees proposed herein for Non-Customer orders are lower than those charged by some of the Exchange's competitors, including, for example, NASDAQ OMX PHLX (''PHLX''), which charges a fee of $0.97 per contract for routing Non-Customer orders to away markets.[16]

Furthermore, the Exchange believes that the proposed fees are not unfairly discriminatory because these fees would be uniformly applied, as appropriate, to all Professional Customer and Non-Customer orders. As has historically been the case, Priority Customer orders will continue to pay lower route-out fees than orders from other market participants, including Professional Customer and, now, Non-Customer orders. The Exchange believes that it is equitable and not unfairly discriminatory to charge lower fees for Priority Customer orders than Professional Customer and Non-Customer orders as a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers and Non-Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. Moreover, the Exchange notes that Priority Customer orders are often charged lower taker fees than Professional Customer and Non-Customer orders on other options exchanges, meaning that the execution costs to the Exchange for routing these orders is correspondingly lower. As such, the Exchange believes that it is equitable and not unfairly discriminatory to pass on this cost savings to the firms entering these orders.

The Exchange has determined to charge fees for regular orders in Mini Options at a rate that is 1/10th the rate of fees the Exchange currently provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a Standard Option contract, and, as such, levying fees that are 1/10th of what market participants pay to trade Standard Options. As a result, routing fees for Mini Options will continue to be charged at 1/10th the rate of fees of Standard Options.

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 intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as it simply adjusts Professional Customer route-out fees to be consistent with the costs associated with routing orders to away markets, and adopts fees for routing Non-Customer orders to other options exchanges, in connection with the introduction of linkage routing for those orders. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[17] and subparagraph (f)(2) of Rule 19b–4 thereunder,[18] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–ISE–2014–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–50. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–50 and should be submitted by November 17, 2014.

[16] *See* PHLX Fee Schedule, Section V, Routing Fees.

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25430 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73393; File No. SR–ISEGemini–2014–27]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

October 21, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2014 ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini is proposing to amend its Schedule of Fees to adopt a route-out fee for Non-Customer orders routed to away markets. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to adopt a route-out fee for Non-Customer orders [3] routed to away markets. The Exchange's Schedule of Fees has separate fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

The Exchange presently charges a route-out fee applicable to Priority Customer [4] and Professional Customer [5] orders routed to away markets pursuant to the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''). Specifically, Priority Customer orders pay a route-out fee of $0.50 per contract in Penny Symbols (including SPY),[6] and $0.90 per contract in Non-Penny Symbols.[7] Professional Customer orders pay a fee of $0.55 per contract in Penny Symbols (including SPY), and $0.95 per contract in Non-Penny Symbols. On July 31, 2014 the Exchange's sister exchange, the International Securities Exchange, LLC (''ISE''), filed a proposed rule change that introduced linkage routing for Non-Customer orders, which became effective on September 1, 2014.[8] Thereafter, the Exchange filed its own proposed rule change, which noted that certain of the rules adopted in the ISE filing are incorporated by reference into ISE Gemini rules, and adopted other related rules in chapters that are not incorporated by reference, effective as of September 18, 2014.[9] In connection with this new functionality, the Exchange now proposes to adopt a route-out fee for Non-Customer orders routed to other options exchanges. The proposed route-out fee will be $0.55 per contract in Penny Symbols (including SPY), and $0.95 per contract in Non-Penny Symbols, in line with the rates described above for Professional Customer orders, and will be applicable to all Market Maker,[10] Non-ISE Gemini Market Maker,[11] and Firm Proprietary [12]/Broker-Dealer [13] orders routed to away markets pursuant to the Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[14] in general, and Section 6(b)(4) of the Act,[15] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

In particular, the Exchange believes the proposed route-out fee is reasonable and equitable as it offsets costs incurred by the Exchange in connection with using unaffiliated broker-dealers to access other exchanges for linkage executions. As the Exchange recently expanded its linkage routing capabilities to include Non-Customer orders, the Exchange believes that it is appropriate to adopt corresponding fees at this time. The fees proposed herein are lower than those charged by some of the Exchange's competitors, including, for example, NASDAQ OMX PHLX (''PHLX''), which charges a fee of $0.97 per contract for routing Non-Customer orders to away markets.[16]

Furthermore, the Exchange believes that the proposed fees are not unfairly discriminatory because these fees are equivalent to fees currently charged for Professional Customer orders routed by the Exchange to other options markets, and would therefore be uniformly applied to all Professional Customer and Non-Customer orders. As has historically been the case, Priority

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Non-Customer Order is an order for the account of a person or entity that is a broker or dealer in securities. *See* ISE Gemini Rules 100(a)(27)–(28).

[4] A Priority Customer is defined in ISE Gemini Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[5] A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[6] ''Penny Symbols'' are options overlying all symbols listed on ISE Gemini that are in the Penny Pilot Program

[7] ''Non- Penny Symbols'' are options overlying all symbols excluding Penny Symbols.

[8] *See* Securities Exchange Act Release No. 72816 (August 12, 2014), 79 FR 48811 (August 18, 2014) (SR–ISE–2014–37).

[9] *See* Securities Exchange Act Release No. 72919 (August 26, 2014) 79 FR 52096 (September 2, 2014) (SR–ISE Gemini-2014–22).

[10] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Gemini Rule 100(a)(25).

[11] A Non-ISE Gemini Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.

[12] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[13] A Broker-Dealer order is an order submitted by a Member for a non-Member broker-dealer account.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] *See* PHLX Fee Schedule, Section V, Routing Fees.

Customer orders will continue to pay lower route-out fees than orders from other market participants, including Professional Customer and, now, Non-Customer orders. The Exchange believes that it is equitable and not unfairly discriminatory to charge lower fees for Priority Customer orders than Professional Customer and Non-Customer orders as a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers and Non-Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. Moreover, the Exchange notes that Priority Customer orders are often charged lower taker fees than Professional Customer and Non-Customer orders on other options exchanges, meaning that the execution costs to the Exchange for routing these orders is correspondingly lower. As such, the Exchange believes that it is equitable and not unfairly discriminatory to pass on this cost savings to the firms entering these orders.

The Exchange has determined to charge fees for regular orders in Mini Options at a rate that is 1/10th the rate of fees the Exchange currently provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a Standard Option contract, and, as such, levying fees that are 1/10th of what market participants pay to trade Standard Options. As a result, routing fees for Mini Options will continue to be charged at 1/10th the rate of fees of Standard Options.

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 intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as it simply adopts fees for routing Non-Customer orders to other options exchanges, in connection with the introduction of linkage routing for these orders. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[17] and subparagraph (f)(2) of Rule 19b–4 thereunder,[18] because it establishes a due, fee, or other charge imposed by ISE Gemini.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–ISEGemini–2014–27 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–ISEGemini–2014–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISEGemini–2014–27 and should be submitted by November 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25429 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 73392; File No. SR–FINRA–2014–044]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise the Implementation Date for the Supplemental Inventory Schedule Approved Pursuant to SR–FINRA–2014–025

October 21, 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 October 10, 2014, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I and II, below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to revise the implementation date for the supplementary inventory schedule approved pursuant to SR–FINRA–2014–025.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at FINRA's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 II.A., II.B., and II.C. below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 23, 2014, the Commission approved FINRA's proposal to adopt the SIS pursuant to FINRA Rule 4524 (Supplemental FOCUS Information).[3] In SR–FINRA–2014–025, FINRA stated that the proposed rule change will be effective upon Commission approval. In addition, FINRA stated it would announce the implementation date of the SIS in a *Regulatory Notice* to be published no later than 60 days following Commission approval and that the due date for the first SIS would be no later than 90 days following Commission approval of the proposed rule change. FINRA understands that firms may need to make systems changes to map inventory positions to the line items on the SIS. In order to provide additional time for firms to make any necessary systems changes to comply with SR–FINRA–2014–025, FINRA is proposing to revise the implementation date for the SIS. The due date for the first SIS, disclosing inventory positions for the reporting period ending December 31, 2014, will be January 30, 2015.

As noted in Item II.A.2. of this filing, 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,[4] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the Act in that it provides firms with additional time to make any necessary systems changes to comply with SR–FINRA–2014–025, which will, among other things, provide FINRA with greater insights into the types of securities held in inventory by firms and the related market risk associated with such inventory positions.

[3] *See* Securities Exchange Act Release No. 73192 (September 23, 2014), 79 FR 58390 (September 29, 2014) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt a Supplementary Schedule for Inventory Positions Pursuant to FINRA Rule 4524 (Supplemental FOCUS Information)).

[4] 15 U.S.C. 78*o*–3(b)(6).

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 extending the implementation date of SR–FINRA–2014–025 will provide firms additional time to make necessary systems changes. The due date for the first SIS, disclosing inventory positions for the reporting period ending December 31, 2014, will be January 30, 2015.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Act [5] and paragraph (f)(6) of Rule 19b–4 thereunder,[6] because the proposed rule change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing or such shorter time as the Commission may designate. The proposed rule change solely modifies the implementation date for SR–FINRA–2014–025.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[7] Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[8] FINRA has requested that the Commission waive the 30-day operative delay so that FINRA can provide firms as much notice as possible regarding the reporting period and due date for the first SIS.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest

[5] 15 U.S.C. 78s(b)(3).

[6] 17 CFR 240.19b–4(f)(6).

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] *Id.*

because it provides firms with a reasonable amount of additional time to make necessary systems changes so they can accurately complete and file the SIS. Therefore, the Commission designates the proposal operative upon filing.[9]

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.[10] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–44 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–FINRA–2014–44. 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at FINRA's principal office. 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–2014–44 and should be submitted on or before November 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25428 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 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).

[10] 15 U.S.C. 78s(b)(3)(C).

[11] *Id.*

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73398; File No. TP 15–02]

Order Granting Limited Exemptions From Exchange Act Rule 10b–17 and Rules 101 and 102 of Regulation M to Global X JP Morgan Efficiente Index and Global X JP Morgan US Sector Rotator Index ETFs Pursuant to Exchange Act Rule 10b–17(b)(2) and Rules 101(d) and 102(e) of Regulation M

October 21, 2014.

By letter dated October 21, 2014 (the ''Letter''), as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for Global X Funds (the ''Trust''), on behalf of the Trust, Global X JP Morgan Efficiente Index and Global X JP Morgan US Sector Rotator Index ETFs (collectively the ''Funds''), any national securities exchange on or through which shares issued by the Funds (''Shares'') may subsequently trade, SEI Investment Distribution Company, and persons or entities engaging in transactions in Shares (collectively, the ''Requestors''), requested exemptions, or interpretive or no-action relief, from Rule 10b–17 of the Securities Exchange Act of 1934, as amended (''Exchange Act''), and Rules 101 and 102 of Regulation M, in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of at least 50,000 shares (''Creation Units'').

The Trust is registered with the Securities and Exchange Commission (''Commission'') under the Investment Company Act of 1940, as amended (''1940 Act''), as an open-end management investment company. The Funds seek to track the performance of underlying indexes, specifically the JP Morgan ETF Efficiente 10 TR Series X Index for the Global X JP Morgan Efficiente Index ETF and the JP Morgan US Sector Rotator TR Series X Index for the Global X JP Morgan US Sector Rotator Index ETF (collectively the ''Indexes''). The Funds intend to operate as ''ETF of ETFs'' by seeking to track the performance of their underlying Indexes through investing at least 80% of their net assets (plus the amount of any borrowings for investment purposes) in the ETFs and ETPs which comprise the Indexes. Except for the fact that the Funds will operate as an ETF of ETFs, the Funds will operate in a manner identical to the ETFs and ETPs that are included in the Indexes.

The Requestors represent, among other things, the following:

- Shares of the Funds will be issued by the Trust, an open-end management investment company that is registered with the Commission;
- The Trust will continuously redeem Creation Units at net asset value (''NAV'') and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;
- Shares of the Funds will be listed and traded on the NYSE Arca, Inc. or another exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act (the ''Exchange''); [1]
- All ETFs and ETPs in which the Funds are invested will meet all conditions set forth in a relevant class relief letter,[2] will have received

[1] Further, the Letter states that should the Shares also trade on a market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that have become effective pursuant to Section 19(b) of the Exchange Act.

[2] Exchange Act Rel. No. 67215 (June 19, 2012); 77 FR 37941 (June 25, 2012); Letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation, to the Securities Industry Association Derivative Products Committee (November 21, 2005); Letter from Racquel L. Russell, Branch Chief, Division of Market Regulation, to George T. Simon, Esq., Foley & Lardner LLP (June 21, 2006); Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Esq., Clifford Chance US LLP (October

Continued

individual relief from the Commission, or will be able to rely upon individual relief even though they are not named parties (for example, a no-action letter);

- At least 70% of the Funds are comprised of component securities that will meet the minimum public float and minimum average daily trading volume thresholds under the ''actively-traded securities'' definition found in Regulation M for excepted securities during each of the previous two months of trading prior to formation of the Funds; provided, however, that if the Funds have 200 or more component securities, then 50% of the component securities will meet the actively-traded securities thresholds;
- All the components of the Indexes will have publicly available last sale trade information;
- The intra-day proxy value of the Funds per share and the value of the Indexes will be publicly disseminated by a major market data vendor throughout the trading day;
- On each business day before the opening of business on the Exchange, the Funds' custodian, through the National Securities Clearing Corporation, will make available the list of the names and the numbers of securities and other assets of the Funds' portfolio that will be applicable that day to creation and redemption requests;
- The Exchange or other market information provider will disseminate (i) continuously every 15 seconds throughout the trading day, through the facilities of the consolidated tape, the market value of a Share and (ii) every 15 seconds throughout the trading day, a calculation of the intraday indicative value of a Share;
- The arbitrage mechanism will be facilitated by the transparency of the Funds' portfolio and the availability of the intra-day indicative value, the liquidity of securities held by the Funds and the ability to acquire such securities, as well as the arbitrageurs' ability to create workable hedges;
- The Funds will invest solely in liquid securities;
- The Funds will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;
- The Trust believes that arbitrageurs are expected to take advantage of price variations between the Funds' market price and its NAV; and
- A close alignment between the market price of Shares and the Funds' NAV is expected.

Regulation M

While redeemable securities issued by an open-end management investment company are excepted from the provisions of Rule 101 and 102 of Regulation M, the Requestors may not rely upon that exception for the Shares.[3] However, we find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rules 101 and 102 to persons who may be deemed to be participating in a distribution of Shares of the Funds as described in more detail below.

Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain exceptions, prohibits any ''distribution participant'' and its ''affiliated purchasers'' from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the rule. Rule 100 of Regulation M defines ''distribution'' to mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities. The Shares are in a continuous distribution and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will continuously redeem at the NAV Creation Unit size aggregations of the Shares of the Funds and that a close alignment between the market price of Shares and the Funds' NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust an exemption under paragraph (d) of Rule 101 of Regulation M with respect to the Funds, thus permitting persons participating in a distribution of Shares of the Funds to bid for or purchase such Shares during their participation in such distribution.[4]

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, and any affiliated purchaser of such person from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will redeem at the NAV Creation Unit size aggregations of Shares of the Funds and that a close alignment between the market price of Shares and the Funds' NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust an exemption under paragraph (e) of Rule 102 of Regulation M with respect to the Funds, thus permitting the Funds to redeem Shares of the Funds during the continuous offering of such Shares.

Rule 10b–17

Rule 10b–17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b–17(b). Based on the representations and facts in the Letter, and subject to the conditions below, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors, to grant the Trust a conditional exemption from Rule 10b–17 because market participants will receive timely notification of the existence and timing of a pending distribution, and thus the concerns that the Commission raised in

24, 2006); Letter from James A. Brigagliano, Associate Director, Division of Market Regulation, to Benjamin Haskin, Esq., Willkie. Farr & Gallagher LLP (April 9, 2007); or Letter from Josephine Tao, Assistant Director, Division of Trading and Markets, to Domenick Pugliese, Esq., Paul, Hastings, Janofsky and Walker LLP (June 27, 2007). *See also* Staff Legal Bulletin No. 9, ''Frequently Asked Questions About Regulation M'' (April 12, 2002) (regarding actively-managed ETFs).

[3] While ETFs operate under exemptions from the definitions of ''open-end company'' under Section 5(a)(1) of the 1940 Act and ''redeemable security'' under Section 2(a)(32) of the 1940 Act, the Funds and their securities do not meet those definitions.

[4] Additionally, we confirm the interpretation that a redemption of Creation Unit size aggregations of Shares of the Funds and the receipt of securities in exchange by a participant in a distribution of Shares of the Funds would not constitute an ''attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period'' within the meaning of Rule 101 of Regulation M and therefore would not violate that rule.

adopting Rule 10b–17 will not be implicated.[5]

Conclusion

It is hereby ordered, pursuant to Rule 101(d) of Regulation M, that the Trust, based on the representations and facts presented in the Letter, is exempt from the requirements of Rule 101 with respect to the Funds, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Funds to bid for or purchase such Shares during their participation in such distribution.

It is further ordered, pursuant to Rule 102(e) of Regulation M, that the Trust, based on the representations and the facts presented in the Letter, is exempt from the requirements of Rule 102 with respect to the Funds, thus permitting the Funds to redeem Shares of the Funds during the continuous offering of such Shares.

It is further ordered, pursuant to Rule 10b–17(b)(2), that the Trust, based on the representations and the facts presented in the Letter and subject to the conditions below, is exempt from the requirements of Rule 10b–17 with respect to transactions in the Shares of the Funds.

This exemptive relief is subject to the following conditions:

- The Trust will comply with Rule 10b–17 except for Rule 10b–17(b)(1)(v)(a) and (b); and
- The Trust will provide the information required by Rule 10b–17(b)(1)(v)(a) and (b) to the Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. This exemption is based on the facts presented and the representations made in the Letter. Any different facts or representations may require a different response. In the event that any material change occurs in the facts or representations in the Letter, transactions in Shares of the Funds must be discontinued, pending presentation of the facts for our consideration. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a), 10(b), and Rule 10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–25434 Filed 10–24–14; 8:45 am]

BILLING CODE 8011–01–P

[5] We also note that timely compliance with Rule 10b–17(b)(1)(v)(a) and (b) would be impractical in light of the nature of the Funds. This is because it is not possible for the Funds to accurately project ten days in advance what dividend, if any, would be paid on a particular record date.

[6] 17 CFR 200.30–3(a)(6) and (9).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14161 and #14162]

New Jersey Disaster #NJ–00038

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New Jersey: dated 10/16/2014.

Incident: Severe Storms and Flooding.

Incident Period: 08/12/2014.

Effective Date: 10/16/2014.

Physical Loan Application Deadline Date: 12/15/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 07/16/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road., Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cumberland.

Contiguous Counties:

New Jersey: Atlantic, Cape May, Gloucester, Salem.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14161 B and for economic injury is 14162 0.

The State which received an EIDL Declaration # is New Jersey.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–25478 Filed 10–24–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8932]

30-Day Notice of Proposed Information Collection: Passport Demand Forecasting Study

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to November 26, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory

Affairs at the Office of Management and Budget (OMB). You may submit comments by the following method:

• *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

• *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to the Office of Passport Services, who may be reached at *passportstudy@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Passport Demand Forecasting Study.
- *OMB Control Number:* 1405–0177.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Office of Passport Services (CA/PPT).
- *Form Number:* SV2012–0006.
- *Respondents:* A national representative sample of US citizens, nationals, and any other categories of individuals that are entitled to a US passport product.
- *Estimated Number of Respondents:* 4,000 survey respondents monthly.
- *Estimated Number of Responses:* 48,000 survey responses annually.
- *Average Time per Response:* Approximately 10 minutes per survey.
- *Total Estimated Burden Time:* 8,000 hours.
- *Frequency:* Monthly.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Secretary of State is authorized to issue U.S. passports under 22 U.S.C. 211a. The Department of State, Passport Services administers the U.S. passport issuance program and operates passport agencies and application adjudication centers throughout the United States. As part of the Intelligence Reform and Terrorism Prevention Act of 2004, the Western Hemisphere Travel Initiative required the Secretary of Homeland Security and the Secretary of State to implement a plan to require all U.S. citizen and non-citizen nationals to present a passport and/or other sufficient documentation when entering the U.S. from abroad. This resulted in an increase in demand for U.S. passports.

The Passport Demand Forecasting Study requests information from the public about the demand for U.S. passports, anticipated travel, and the demographic profile of the respondent. This voluntary survey is conducted on a monthly basis using responses from a randomly selected but nationally representative sample of U.S. nationals ages 18 and older. The information obtained from the survey is used to monitor and project the demand for U.S. passport books and U.S. passport cards. The Passport Demand Forecasting Survey aids the Department of State, Passport Services in making decisions about staffing, resource allocation, and budget.

Methodology

The Passport Demand Forecasting Study uses monthly surveys that will gather data from a national representative sample of U.S. citizens and nationals. Survey delivery methodologies can include mail, internet/web, telephone, and mix-mode surveys to ensure the CA/PPT reaches the appropriate audience and leverages the best research method to obtain valid responses. The survey data will cover an estimated 48,000 respondents annually.

Dated: October 8, 2014.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Department of State.

[FR Doc. 2014–25473 Filed 10–24–14; 8:45 am]

BILLING CODE 4710–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Paris Cox Field Airport at Paris, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Request to Release Airport Property

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Paris Cox Field Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before November 26, 2014.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address:

Mr. Ed Agnew, Manager Federal Aviation Administration Southwest Region, Airports Division, Texas Airports Development Office, ASW–650 Fort Worth, Texas 76137

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Mr. Shawn Napier, Director of Engineering, Planning, and Development, at the following address:

P.O. Box 9037
Paris, TX 75461

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Mekhail, Program Manager, Federal Aviation Administration, Texas Airports Development Office, ASW–650, 2601 Meacham Boulevard, Fort Worth, Texas 76137, Telephone: (817) 222–5663, email: *Anthony.Mekhail@faa.gov*, fax: (817) 222–5989. The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Paris Cox Field Airport under the provisions of the AIR 21.

The following is a brief overview of the request:

The City of Paris requests the release of 12.662 acres of property within the Paris Cox Field Airport. The land was acquired by a Deed of Release from the United States of America . The property to be released will be sold to the AgPro Inc. and revenues shall be used for the operation and maintenance at the airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents relevant to the application in person at the Paris Cox Field Airport, telephone number (903) 784–9292.

Issued in Fort Worth, Texas, on October 15, 2014.

Byron K. Huffman,

Acting Manager, Airports Division.

[FR Doc. 2014–25517 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0010]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 35 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted September 30, 2014. The exemptions expire on September 30, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

II. Background

On August 29, 2014, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (79 FR 51643). That notice listed 35 applicants' case histories. The 35 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 35 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 35 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including prosthetic eye, retinal detachment, corneal scar, aphakia, exotropia, amblyopia, complete loss of vision, cataract, retinal scar, esotropia, secondary amblyopia, refractive amblyopia, macular degeneration, retinal sclopeteria, myopic astigmatism, strabismic amblyopia, and macular scar. In most cases, their eye conditions were not recently developed. Twenty-five of the applicants were either born with their vision impairments or have had them since childhood.

The 10 individuals that sustained their vision conditions as adults have had it for a range of two to 43 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 35 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging from 2.5 to 42 years. In the past three years, two of the drivers were involved in crashes and two were convicted for moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 29, 2014 notice (79 FR 51643).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level

of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 35 applicants, two of the drivers were involved in crashes and two were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 35 applicants listed in the notice of August 29, 2014 (79 FR 51643).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 35 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 35 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Ronald A. Bolyard (WV)
Jackson C. Braithwaite (OH)
Howard T. Bubel (ND)
Raymond E. Burrus (CO)
Dionicio Carrera (TX)
Lee A. Clason (NE)
Jeff W. Claussen (IL)
David A. Coburn, Sr. (VT)
Edward Cunningham (MI)
Eric P. Demers (NH)
Martin H. Duncan (WA)
Ronald D. Holshouser (MO)
Oscar Juarez (ID)
Kelly R. Knopf, Sr. (SC)
Edward J. Kosior (NY)
Todd A. Krough (IA)
Lester E. Lathrop III (MN)

Mathew A. Lind (PA)
Frazier A. Luckerson (GA)
Carl M. Lude (ME)
Ross A. Miceli II (PA)
Timothy L. Miller (IA)
Donald L. Minney (OH)
Philip L. Neff (PA)
Brian S. Nelson (MN)
Peter S. Rosenkranse III (NY)
Antonio Sanchez (NJ)
Lawrence P. Siegler (MN)
Rick J. Smart (NH)
Clifford W. Smith (OR)
Robert L. Strange (NC)
David L. Von Hagen (IA)
Donald Wallace (IL)
Loran J. Weiler (IA)
Frederick J. Zuech (NY)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued On: October 16, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–25449 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0378]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 6 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before November 26, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0378 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 6 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If

the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0378'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0378'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Summary of Applications

James Connelly

Mr. Connelly is a 60 year-old class B CDL holder in New Jersey. He has a history of seizures and has remained seizure free since 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Connelly receiving an exemption.

Timothy C. Marrill

Mr. Marrill is a 48 year-old class A CDL holder in Missouri. He has a history of epilepsy and has remained seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same for over two years. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Marrill receiving an exemption.

Jason Wade McKenna Sr.

Mr. McKenna is a 49 year-old class A CDL holder in New Hampshire. He has a history of a seizure disorder and has remained seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2009. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. McKenna receiving an exemption.

Mario Restrepo

Mr. Restrepo is a 60 year-old driver in New York. He has a history of a seizure in 2004 which was likely caused by alcohol cessation, and has remained seizure free since that time. He does not take anti-seizure medication. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Restrepo receiving an exemption.

John Rinkema

Mr. Rinkema is a 64 year-old driver in Illinois. He has a history of seizures and has remained seizure free since 1968. He takes anti-seizure medication with the dosage and frequency remaining the same since that time since 2004. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Rinkema receiving an exemption.

Bobby Shane Walker

Mr. Walker is a 38 year-old class A CDL holder in North Carolina. He has a history of seizures and has remained seizure free since 1990. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Walker receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued On: October 16, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–25450 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0104]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces that 17 individuals have applied for a medical exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). In accordance with the statutory requirements concerning applications for exemptions, FMCSA requests public comments on these requests. The statute and implementing regulations concerning exemptions require that exemptions must provide an equivalent or greater level of safety than if they were not granted. If the Agency determines the exemptions would satisfy the statutory requirements and decides to grant theses requests after reviewing the public comments submitted in response to this notice, the exemptions would enable 17 individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 26, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–

2014–0104 using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Federal Motor Carrier Safety Administration has authority to grant exemptions from many of the Federal Motor Carrier Safety Regulations (FMCSRs) under 49 U.S.C. 31315 and 31136(e), as amended by Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, June 9, 1998, 112 Stat. 107, 401). FMCSA has published in 49 CFR part 381, subpart C final rules implementing the statutory changes in its exemption procedures made by section 4007, 69 FR 51589 (August 20, 2004).[1] Under the rules in part 381, subpart C, FMCSA must publish a notice of each exemption request in the **Federal Register**. 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 and any research reports, technical papers and other publications referenced in the application. The Agency must also provide an opportunity to submit public comment on the applications for exemption.

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 without the exemption. The decision of the Agency must be published in the **Federal Register**. 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 also 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.

The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA also issues instructions for completing the medical examination report and includes advisory criteria on the report itself to provide guidance for medical examiners in applying the hearing standard. See 49 CFR 391.43(f). The current advisory criteria for the hearing standard include a reference to a report entitled ''Hearing Disorders and Commercial Motor Vehicle Drivers'' prepared for the Federal Highway Administration, FMCSA's predecessor, in 1993.[2]

FMCSA Requests Comments on the Exemption Applications

FMCSA requests comments from all interested parties on whether a driver who cannot meet the hearing standard should be permitted to operate a CMV in interstate commerce. Further, the Agency asks for comments on whether a driver who cannot meet the hearing standard should be limited to operating only certain types of vehicles in interstate commerce, for example, vehicles without air brakes. The statute and implementing regulations concerning exemptions require that the Agency request public comments on all applications for exemptions. The Agency is also required to make a determination that an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption before granting any such requests.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0104'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to

[1] This action adopted as final rules the interim final rules issued by FMCSA's predecessor in 1998 (63 FR 67600 (Dec. 8, 2008)), and adopted by FMCSA in 2001 [66 FR 49867 (Oct. 1, 2001)].

[2] This report is available on the FMCSA Web site at *http://www.fmcsa.dot.gov/facts-research/research-technology/publications/medreport_archives.htm.*

which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0104'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Information on Individual Applicants

Martin Anthony Bystrycki

Mr. Bystrycki, 62, holds a Class A commercial driver's license (CDL) in Florida.

Ronald Craver, Sr.

Mr. Craver, 56, holds an operator's license in Texas.

Byron Davis

Mr. Davis, 36, holds an operator's license in Mississippi.

Stephen Digiovanna

Mr. Digiovanna, 52, holds a Class A commercial driver's license (CDL) in Pennsylvania.

Bruce Howard Dunn

Mr. Dunn, 51, holds a Class A commercial driver's license (CDL) in Louisiana.

Brandon Thomas Londo

Mr. Londo, 28, holds an operator's license in Texas.

George T. Moore

Mr. Moore, 46, holds an operator's license in Georgia.

Robert J. Pippin

Mr. Pippin, 45, holds an operator's license in South Dakota.

Scott A. Perdue

Mr. Perdue, 46, holds a Class A commercial driver's license (CDL) in Georgia.

Adalberto Rodriguez

Mr. Rodriguez, 48, holds a Class A commercial driver's license (CDL) in New York.

David Rodriguez

Mr. Rodriguez, 55, holds an operator's license in Texas.

Melvin Randall Ross

Mr. Ross, 60, holds a Class A commercial driver's license (CDL) in Ohio.

Abderrazek Merjoune

Mr. Merjoune, 41, holds a Class A commercial driver's license (CDL) in Maryland.

Seth Lee Shannon

Mr. Shannon, 35, holds an operator's license in Washington.

Thomas D. Sneer

Mr. Sneer, 57, holds a Class A commercial driver's license (CDL) in Minnesota.

Juan Sloan

Mr. Sloan, 51, holds an operator's license in California.

Charles F. Wirick, IV

Mr. Wirick, 30, holds an operator's license in Maryland.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business November 26, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: October 16, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–25453 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2014 Bus Ladders of Opportunity Initiative Grant Program Project Selections

AGENCY: Federal Transit Administration; FTA, DOT.

ACTION: Bus Ladders of Opportunity Initiative announcement of project selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects with prior year Section 5309 Bus and Bus Facilities funds authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59) and prior authorizations for the Bus and Bus Facilities Program (Ladders of Opportunity Initiative). The amount available to projects is $100 million. On August 4, 2014, FTA published a Notice of Funding Availability (NOFA) (79 FR 32358) announcing the availability of funding for this program. These program dollars will provide financial assistance to purchase, replace, or rehabilitate buses, bus facilities, and bus-related equipment, and other eligible capital project costs.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional Office for information regarding applying for the funds or program-specific information. A list of Regional Offices can be found at *www.fta.dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: In response to the NOFA, FTA received 282 proposals for 446 projects from 49 States plus the District of Columbia, Mariana Islands and Puerto Rico requesting $1.4 billion in Federal funds. FTA evaluated project proposals based on each applicant's responsiveness to the program evaluation criteria as detailed in the NOFA. FTA is funding 24 projects as shown in Table 1 for a total of $100 million.

Successful applicants selected for competitive discretionary funding should work with their FTA Regional Office to finalize the grant application in FTA's Transportation Electronic Awards Management System (TEAM) so that funds can be obligated expeditiously. Grant applications must only include eligible activities applied for in the original project application. Funds must be used consistent with the competitive proposal and for the eligible purposes established in the NOFA and

described in FTA Circulars 5010 and 9300.1B. In cases where the allocation amount is less than the proposer's requested amount, grantees should work with the Regional Office to reduce scope or scale the project such that a complete phase or project is accomplished. Grantees are reminded that program requirements such as cost sharing or local match can be found in the NOFA. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. Selected projects are eligible for pre-award authority no earlier than September 25, 2014. Pre-award authority is also contingent upon Federal requirements, such as planning and environmental requirements, having been met. For more about FTA's policy on pre-award authority, please see the FTA Fiscal Year 2014 Apportionments, Allocations, and Program notice found in 77 FR 13461 (March 10, 2014). Post-award reporting requirements include submission of the Federal Financial Report and Milestone reports in TEAM as appropriate (see FTA Circulars 5010.1D and 9030.1E). Grantees must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant.

FTA emphasizes that grantees must follow all third-party procurement guidance, as described in FTA Circular 4220.1F. Funds allocated in this announcement must be obligated in a grant by September 30, 2017.

Due to the volume of unfunded project proposals, FTA is unable to conduct individual debriefs with unsuccessful applicants. FTA can, however offer the following feedback to strengthen proposals when responding to other future discretionary opportunities:

- Submit new and carefully conceived proposals that directly reflect the requirements contained in the Notice of Funding Availability (NOFA).
- Contact FTA staff, regional and Headquarters, to discuss eligibility of your project before submitting the proposal.
- Address, clearly and thoroughly, all of the criteria outlined in the NOFA, to include why the investment it is needed and how it will meet the need, and accomplish or meet the intent of the program/opportunity to which you are applying.
- If a project is scalable, include both the scalable amount and an explanation of what can/will be funded with the scalable amount and how the benefits of the project may be scaled as a result of lesser funding.
- Ensure supporting documentation and attachments are clearly referenced in the application, and that they are relevant for the criteria.
- Ensure that qualitative and quantitative data provided in response to the criteria is project specific or specific to the targeted service area.
- Check numbers for the local match and ensure the budget shows the required match or accounts for the use of in-kind match that is equal to or more than the required local share.

Therese W. McMillan,

Acting Administrator.

TABLE I—FY 2014 BUS LADDERS OF OPPORTUNITY INITIATIVE PROJECT SELECTIONS

State	Recipient	Project ID	Project description	Allocation
AK	State of Alaska Department of Transportation and Public Facilities.	D2014–BUSP–00001	Bus Shelters	$82,318
CA	Los Angeles County Metropolitan Transportation Authority.	D2014–BUSP–00002	Bus Stop Improvements	1,668,557
CA	San Diego Metropolitan Transit System	D2014–BUSP–03001	Bus Replacements	18,054,003
CA	San Francisco Municipal Transportation Agency	D2014–BUSP–00003	Buses for Service Expansion	8,995,226
CO	Mesa County	D2014–BUSP–00004	Bus Replacements	432,000
CO	Regional Transportation District	D2014–BUSP–03002	Priority Signalization & Service Enhancement.	4,999,000
FL	Central Florida Regional Transportation Authority (LYNX).	D2014–BUSP–97001 D2014–BUSP–04001	Bus Transfer Center; Compressed Natural Gas Articulated Buses.	1,000,000; 8,390,860
IA	Ames Transit Agency	D2014–BUSP–04002	Buses for Expansion of Service	2,550,000
IL	Bloomington-Normal Public Transit System (Connect Transit).	D2014–BUSP–10001	Bus Replacements	2,040,000
IL	Springfield Mass Transit District (SMTD)	D2014–BUSP–06001	Expanded Bus Service (Bus Purchase).	762,400
KS	Sac and Fox Nation of Missouri	D2014–BUSP–06002	Vans for New Service	66,308
KY	Transit Authority of River City	D2014–BUSP–06003	Replacement Buses	8,700,000
MI	City of Detroit Department of Transportation	D2014–BUSP–05001 ($20,325,548); D2014–BUSP–01001 ($5,600,000)	Replacement Buses	25,925,548
MN	Metropolitan Council—Metro Transit	D2014–BUSP–07001	Bus Stop Improvements	3,260,000
MO	Kansas City Area Transportation Authority	D2014–BUSP–07002	Transit Access Improvements	1,200,000
NE	City of Lincoln, Nebraska	D2014–BUSP–02003	Replacement Buses	2,014,496
OK	Oklahoma Department of Transportation	D2014–BUSP–07003	Replacement Buses	4,082,400

TABLE I—FY 2014 BUS LADDERS OF OPPORTUNITY INITIATIVE PROJECT SELECTIONS—Continued

State	Recipient	Project ID	Project description	Allocation
OR	Douglas County—Oregon Department of Transportation.	D2014–BUSP–07004	Replacement Buses	576,000
OR	Lake County—Oregon Department of Transportation	D2014–BUSP–11001	ADA vans to expand service	105,400
OR	Lane Transit District (Eugene)	D2014–BUSP–98001	Paratransit Vehicle Replacement and Security Camera Expansion.	1,064,145
TX	Fort Worth Transportation Authority	D2014–BUSP–99001	Replacement Buses	1,162,078
TX	Texarkana Urban Transit District	D2014–BUSP–99002	Replacement Buses	1,200,000
WA	Muckleshoot Indian Tribe	D2014–BUSP–02001	Buses for New Service	194,262
WA	Washington State Department of Transportation	D2014–BUSP–02002	Transit Facility	1,474,999

[FR Doc. 2014–25518 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014–0136]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUNSEAMOON; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 26, 2014.

ADDRESSES: Comments should refer to Docket Number MARAD–2014–0136. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUNSEAMOON is:

Intended Commercial Use Of Vessel: ''Day Charters''.

Geographic Region: ''Florida''.

The complete application is given in DOT docket MARAD–2014–0136 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: October 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–25395 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014–0137]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ZENYATTA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 26, 2014.

ADDRESSES: Comments should refer to Docket Number MARAD–2014–0137. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this

docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ZENYATTA is:

Intended Commercial Use of Vessel: ''Occasional captained charters with up to six passengers for sightseeing and pleasure cruises of one week duration''.

Geographic Region: ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Florida''.

The complete application is given in DOT docket MARAD–2014–0137 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

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 (Volume 65, Number 70; Pages 19477–78).

Dated: October 20, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–25398 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014–0138]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PERSEVERANCE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0138. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PERSEVERANCE is:

Intended Commercial Use of Vessel: ''Luxury private charters for 12 passengers or less.''

Geographic Region: ''Florida.''

The complete application is given in DOT docket MARAD–2014–0138 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Date: October 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–25397 Filed 10–24–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. FD 35852]

Canaveral Port Authority—Petition for Exemption To Construct and Operate a Rail Line Extension to Port Canaveral, Florida

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement; Notice of Availability of the Draft Scope of Study for the Environmental Impact Statement; Notice of Scoping Meetings; and Request for Comments on Draft Scope.

SUMMARY: The Canaveral Port Authority (CPA) plans to file a request with the

Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority to construct and operate approximately 11 miles of new rail line to Port Canaveral (Port) in Brevard County, Florida. The proposed Port Canaveral Rail Extension (PCRE) would also utilize approximately 17 miles of existing rail line at the National Aeronautics and Space Administration's (NASA) John F. Kennedy Space Center (KSC) to make a connection with a main line of the Florida East Coast Railway (FEC). The proposed PCRE would provide the Port with direct access to freight rail service. The new rail line would begin near the Port's North Cargo Area, extend west across the Banana River, enter KSC on Merritt Island south of Kars Park, and then turn north through KSC grounds where it would connect with KSC's existing rail line.

The construction and operation of the proposed PCRE has the potential to result in significant environmental impacts; therefore, the Board's Office of Environmental Analysis (OEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate to satisfy the Board's obligations under the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.). The purpose of this Notice of Intent is to inform stakeholders—including members of the public; Tribes; federal, state, and local agencies; environmental groups; potential shippers and other parties—interested in or potentially affected by the proposed project of the decision to prepare an EIS and to issue a Draft Scope of Study for the EIS for review and comment. OEA will hold public scoping meetings as part of the NEPA process. Written comments submitted during scoping will assist OEA in issuing a Final Scope of Study that defines the range of actions, alternatives, and impacts to be considered in the EIS. Public meeting dates and locations, along with the Draft Scope of Study, are provided below. This Notice of Intent initiates the EIS process and scoping.

Dates and Locations: The public scoping meetings will be held at the following locations on the dates listed:

- November 18, 2014; 5:00–8:00 p.m.; John Henry Jones Gymnatorium, Titusville Campus of Eastern Florida State College, 1311 North U.S. Route 1, Titusville, Florida; and
- November 19, 2014; 5:00–8:00 p.m.; Convention Center, Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, Florida.

The scoping meetings will be held in an open house format for the first hour followed by a brief presentation by OEA. After the presentation, interested parties will be provided an opportunity for public comment at an open microphone for the balance of the three-hour scoping meeting, as needed. A court reporter will transcribe the public comments.

The meeting locations comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). Persons that need special accommodations should contact OEA's project manager listed below.

Interested parties are invited to submit written comments on the Draft Scope of Study, potential alternative routes for the proposed rail line, and other environmental issues and concerns by December 19, 2014 to assure full consideration during the scoping process. OEA will issue a Final Scope of Study after the close of the scoping comment period.

Summary of the Board's Environmental Review Process: The NEPA process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. OEA is responsible for ensuring that the Board complies with NEPA and related environmental statutes. The first stage of the EIS process is scoping. Scoping is an open process for determining the range of actions, alternatives and potential scope of environmental impacts or issues to be addressed in the EIS. As part of its scoping process, OEA has developed, and has made available for public comment in this notice, a Draft Scope of Study for the EIS. Scoping meetings will be held in the project area to provide further opportunities for public involvement and input during the scoping process. In addition to comments on the Draft Scope of Study, interested parties are encouraged to comment on potential alternative routes for the proposed rail line. At the conclusion of the scoping and comment period, OEA will issue a Final Scope of Study for the EIS. The Final Scope of Study will identify the alternative rail line routes to be carried forward for detailed analysis in the EIS.

After issuing the Final Scope of Study, OEA will prepare a Draft EIS for the project. The Draft EIS will address the environmental issues and concerns identified during the scoping process and assess and compare alternatives, including the no-action alternative. The Draft EIS will also contain OEA's preliminary recommendations for environmental mitigation measures. Upon its completion, the Draft EIS will be made available for review and comment by the public, government agencies, and other interested parties. OEA will prepare a Final EIS that considers comments on the Draft EIS. In reaching its decision on this case, the Board will consider the Draft EIS, the Final EIS, all environmental comments, and OEA's recommendations regarding the environmental preferred alternative and environmental mitigation measures.

OEA has invited several agencies to participate in this EIS process as cooperating agencies on the basis of their special expertise or jurisdiction by law. These agencies include but may not be limited to: NASA; U.S. Army Corps of Engineers; and U.S. Fish and Wildlife Service. OEA is also initiating government-to-government consultation with potentially affected tribes, including but not limited to: Seminole Tribe of Florida, Seminole Nation of Oklahoma, and Miccosukee Tribe of Indians of Florida.

Filing Environmental Comments: Scoping comments submitted by mail should be addressed to: Dave Navecky, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, Attention: Environmental Filing, Docket No. FD 35852.

Scoping comments may also be submitted electronically on the Board's Web site, *www.stb.dot.gov,* by clicking on the ''E–FILING'' link on the home page and then selecting ''Environmental Comments.'' Log-in accounts are not needed to file environmental comments electronically, and comments may be typed into the text box provided or attached as a file. If you have difficulties with the e-filing process, please call 202–245–0350.

Please refer to Docket No. FD 35852 in all correspondence, including e-filings, addressed to the Board.

Scoping Comments are due by December 19, 2014.

FOR FURTHER INFORMATION CONTACT: Dave Navecky by mail at Office of Environmental Analysis, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001 or by phone at 202–245–0294. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. The Web site for the Board is *www.stb.dot.gov.* Project specific information on the Board's Web site may be found by placing your cursor on the ''Environmental Matters'' button, then clicking on the ''Key Cases'' button in the drop down menu and then selecting ''Port Canaveral Rail Extension.'' For further information about the Board's environmental review

process and this EIS, you may also visit a Board-sponsored project Web site at *www.portcanaveralraileis.com.* The project Web site includes a map of the project area including CPA's proposed alignment. However, the final list of alternatives to be carried forward in the EIS for detailed study will be determined by the Board, in consultation with the cooperating agencies, following the scoping period and consideration of scoping comments.

Draft Scope of Study for the EIS

Purpose and Need

According to CPA, the principal purpose of the proposed rail extension is to provide it with the capability to transport primarily bulk, break bulk (i.e., packaged, non-containerized cargo), and containerized goods to and from Port Canaveral by rail.

The Port currently has no on-dock or near-dock freight rail service, and the only access to rail service is by truck. The Port's current access to the Interstate Highway System (I–95) requires traveling two miles on State Road 401 and a 14-mile stretch of heavily traveled State Road 528. The construction of a rail line would satisfy the need for an additional mode of transportation for the movement of bulk and break-bulk materials and containerized freight to and from the Port. Additionally, the PCRE would facilitate future cargo growth at the Port.

The proposed PCRE involves a request by CPA for Board approval to operate KSC's existing 17 miles of rail line and to construct and operate an approximately 11-mile rail line extension to the Port. The CPA-proposed alignment would also maintain rail support to NASA KSC government and commercial space operations. The proposed project is not a federal government-proposed or sponsored project. Thus, the project's purpose and need should be informed by both the applicant's goals and the agency's enabling statute, here, 49 U.S.C. 10901. Section 10901 provides that the Board must approve a construction request unless it finds that the construction is ''inconsistent with the public convenience and necessity.'' Thus, the statute creates a presumption that rail construction is in the public interest and will be approved.

Proposed Action and Alternatives

The proposed new rail line would extend from the Port's North Cargo Area, cross over the Banana River, enter KSC on Merritt Island south of Kars Park, continue north up the east side of KSC, connect with the KSC's existing rail facilities, continue on KSC's existing rail line, which crosses the Indian River via the Jay-Jay Bridge, and then connect with the FEC mainline near Titusville, Florida.

The new rail line would consist of a single track constructed of continuous welded rail and concrete ties. Other major elements of the proposed project would include a right-of-way of up to 100 feet in width and crossings of local roads and utility corridors.

CPA would operate its trains on both the new rail line and on KSC's existing rail line to the FEC connection. Initially, the trains would move approximately 170 roundtrip hopper and box cars per week. Within 2.5 years after the proposed rail operations begin, CPA estimates that an additional 50 roundtrip double-stacked container cars could also move on the proposed PCRE. CPA estimates that it would operate approximately three to four trains per week with the trains moving at approximately 10 miles per hour.

The EIS will analyze and compare the potential impacts of (1) construction and operation of a range of reasonable and feasible alternative routes for the proposed PCRE and (2) the no-action alternative (i.e., denial of the request).

Environmental Impact Analysis

Proposed New Construction and Operation

Analyses in the EIS will address the proposed activities associated with the construction and operation of the PCRE and their potential environmental impacts, as appropriate.

Impact Categories

The EIS will analyze potential direct, indirect, and cumulative impacts [1] of CPA's proposed construction and operation and a range of reasonable and feasible alternatives, or in the case of the no-action alternative, the lack of these activities.

Impact areas addressed will include the analysis of transportation systems, safety, land use, recreation, biological resources, water resources, including wetlands and other waters of the U.S., navigation, geology and soils, air quality and climate, noise and vibration, energy resources, socioeconomics as they relate to physical changes in the environment, cultural and historic resources, aesthetics and environmental justice. Other categories of potential impacts may also be included as a result of comments received during the scoping process or on the Draft EIS. The EIS will include a discussion of each of these categories as they currently exist in the project area and will address the potential direct, indirect, and cumulative impacts of each alternative being studied in detail on each category, as described below:

1. Transportation Systems

The EIS will:

a. Evaluate the potential impacts resulting from construction and operation of each alternative on the existing transportation network in the project area.

b. Propose mitigation measures to avoid, minimize or eliminate potential project impacts to transportation systems, as appropriate.

2. Safety

The EIS will:

a. Describe existing road/rail grade crossing safety and analyze the potential for an increase in accidents related to the proposed new rail operations, as appropriate.

b. Describe existing rail operations and analyze the potential for increased probability of train accidents, as appropriate.

c. Evaluate the potential for disruption and delays to the movement of emergency vehicles.

d. Propose mitigation measures to avoid, minimize or eliminate potential project impacts to safety, as appropriate.

3. Land Use

The EIS will:

a. Evaluate the potential impacts of each alternative on existing land use patterns within the project area and identify those land uses that would be potentially impacted by the proposed new rail line construction.

b. Analyze the potential impacts associated with each alternative to land uses identified within the project area. Such potential impacts could include incompatibility with existing land use and conversion of land to railroad use.

c. Evaluate consistency with Florida Coastal Management Program in compliance with the Coastal Zone Management Act.

d. Propose mitigation measures to avoid, minimize or eliminate potential impacts to land use, as appropriate.

4. Recreation

The EIS will:

a. Evaluate existing conditions and the potential impacts of each

[1] NEPA requires the Board to consider direct, indirect, and cumulative impacts. Direct and indirect impacts are both caused by the action. 40 CFR 1508.8(a)–(b). A cumulative impact is the ''incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions.'' 40 CFR 1508.7.

alternative, and their operation, on recreational areas and opportunities for recreational activities provided in the project area.

b. Propose mitigation measures to avoid, minimize or eliminate potential project impacts on recreational areas and opportunities for recreational activities, as appropriate.

5. Biological Resources

The EIS will:

a. Evaluate the existing biological resources within the project area including vegetative communities (including seagrasses), wildlife, fisheries, marine mammals, and federal and state threatened or endangered species, and analyze the potential impacts to these resources resulting from each alternative. Several protected species will be addressed, including, but not limited to, the bald eagle, Florida scrub jay, gopher tortoise, manatee, eastern indigo snake, wood stork, and southeastern beach mouse.

b. Describe the Merritt Island National Wildlife Refuge and any other relevant wildlife sanctuaries, refuges, national or state parks, forests, or grasslands, and evaluate the potential impacts to these resources resulting from each alternative.

c. Propose mitigation measures to avoid, minimize, eliminate, or compensate for potential impacts to biological resources, as appropriate.

6. Water Resources

The EIS will:

a. Describe the existing surface water and groundwater resources within the project area, including the Atlantic Ocean, lakes, rivers, streams, ponds, wetlands, and floodplains and analyze the potential impacts on these resources resulting from each alternative.

b. Describe the permitting requirements for the various alternatives with regard to wetlands, river crossings, water quality, floodplains, and erosion control.

c. Propose mitigation measures to avoid, minimize, eliminate, or compensate for potential project impacts to water resources, as appropriate.

7. Navigation

The EIS will:

a. Identify existing navigable waterways within the project area and analyze the potential impacts on navigability resulting from each alternative.

b. Describe the permitting requirements for the various alternatives with regard to navigation.

c. Propose mitigation measures to avoid, minimize or eliminate potential impacts to navigation, as appropriate.

8. Geology and Soils

The EIS will:

a. Describe the geology, soils, and seismic conditions found within the project area, including unique or problematic geologic formations or soils, prime farmland, and hydric soils, and analyze the potential impacts on these resources resulting from each alternative.

b. Evaluate any potential measures to avoid or construct through unique or problematic geologic formations or soils.

c. Propose mitigation measures to avoid, minimize or eliminate potential project impacts to geology and soils, as appropriate.

9. Air Quality and Climate

The EIS will:

a. Evaluate the air emissions from the potential operation of trains on the proposed rail line, including potential greenhouse gas emissions, as appropriate.

b. Evaluate the potential air quality impacts resulting from the proposed new rail line construction activities.

c. Evaluate the potential impacts of the proposed project on global climate change and the potential impacts of global climate change on the proposed project.

d. Propose mitigation measures to avoid, minimize or eliminate potential project impacts, as appropriate.

10. Noise and Vibration

The EIS will:

a. Describe the potential noise and vibration impacts during the proposed new rail line construction resulting from each alternative.

b. Describe the potential noise and vibration impacts of the proposed new rail line operation resulting from each alternative.

c. Propose mitigation measures to avoid, minimize or eliminate potential project impacts to sensitive noise receptors, as appropriate.

11. Energy Resources

The EIS will:

a. Describe and evaluate the potential impact of the proposed project on the distribution of energy resources in the project area resulting from each alternative.

b. Propose mitigation measures to avoid, minimize or eliminate potential project impacts to energy resources, as appropriate.

12. Socioeconomics

The EIS will:

a. Analyze the effects of a potential influx of construction workers to the project area and the potential increase in demand for local services interrelated with natural or physical environmental effects.

b. Propose mitigation measures to avoid, minimize or eliminate potential project-related adverse impacts to social and economic resources, as appropriate.

13. Cultural and Historic Resources

The EIS will:

a. Identify historic buildings, structures, sites, objects, or districts eligible for listing on or listed on the National Register of Historic Places (historic properties) within the area of potential effects for each alternative. The cultural resources identified will be categorized into three major groups: tribal resources, archaeological resources, and built resources.

b. Consult with federally recognized Native American tribes to identify properties with religious and cultural significance to the tribes within the area of potential effects for each alternative (tribal resources), and analyze potential project impacts to them.

c. Identify prehistoric-era and historic-era archaeological resources by using professionals who meet the Secretary of the Interior Professional Qualifications Standards (SOIPQS) in the discipline of archaeology, and analyze potential project impacts to them.

d. Identify built resources by using professionals who meet the SOIPQS in the disciplines of history or architectural history, and analyze potential project impacts to them.

e. Propose measures to avoid, minimize, or mitigate potentially adverse project impacts to tribal resources, built resources, and archaeological resources that are historic properties, as appropriate.

14. Aesthetics

The EIS will:

a. Describe the potential impacts of the proposed new rail line construction on any areas within the project area identified or determined to be of high visual quality.

b. Describe the potential impacts of the proposed new rail line construction on any waterways considered for or designated as wild and scenic.

c. Propose mitigation measures to avoid, minimize or eliminate potential project impacts on aesthetics, as appropriate.

15. Environmental Justice

The EIS will:

a. Evaluate the potential impacts resulting from each alternative on local

and regional minority and low-income populations.

b. Propose mitigation measures to avoid, minimize or eliminate potential project impacts on environmental justice populations, as appropriate.

16. Cumulative Impacts

The EIS will evaluate the cumulative and incremental impacts of the proposed project when added to other past, present, and reasonably foreseeable future actions in the project area, as appropriate.

By the Board.

Victoria Rutson,

Director, Office of Environmental Analysis.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2014–25464 Filed 10–24–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Senior Executive Service; Fiscal Service Performance Review Board

Authority: 5 U.S.C. 4314(c)(4)

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Fiscal Service Performance Review Board (PRB) for the Bureau of the Fiscal Service (Fiscal Service). The PRB reviews the performance appraisals of career senior executives who are below the level of Assistant Commissioner/Executive Director and who are not assigned to the Office of the Commissioner in the Fiscal Service. The PRB makes recommendations regarding proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions.

DATES: Effective on October 27, 2014.

FOR FURTHER INFORMATION CONTACT: Tracy Walters, Acting Deputy Chief Human Capital Officer, Bureau of the Fiscal Service, (304) 480–8949.

SUPPLEMENTARY INFORMATION: This Notice announces the appointment of the following primary and alternate members to the Fiscal Service PRB:

Primary Members

Kimberly A. McCoy, Deputy Commissioner, Finance and Administration, Fiscal Service

Dara N. Seaman, Assistant Commissioner, Treasury Securities Services, Fiscal Service

Matthew J. Miller, Acting Assistant Commissioner, Governmentwide Accounting, Fiscal Service

Alternate Member

Jeffrey Schramek, Assistant Commissioner, Debt Management Services, Fiscal Service.

Dated: October 22, 2014.

Sheryl Morrow,

Commissioner.

[FR Doc. 2014–25471 Filed 10–24–14; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Two Entities Blocked Pursuant to Executive Order 13382 of June 28, 2005 and Updating the Listing of One Individual Blocked Pursuant to Executive Order 13382 of June 28, 2005

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is removing the names of two entities whose property and interests in property were blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' from the list of Specially Designated Nationals and Blocked Persons (''SDN List''). In addition, OFAC is updating the listing of one individual whose property and interests in property were blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' from the SDN List.

DATES: The removal of the entities from the SDN List and the updating of the individual's listing are effective as of October 16, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Additional information concerning OFAC is available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

The Department of the Treasury's Office of Foreign Assets Control has determined that the following two entities are no longer blocked pursuant to E.O. 13382 and their names will be removed from the SDN List:

Entities

DEUTSCHE FORFAIT (a.k.a. DF DEUTSCHE FORFAIT AKTIENGESELLSCHAFT), Kattenbug 18–24, Koln, Nordrhein-Westfalen 50667, Germany; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR]

DF DEUTSCHE FORFAIT AMERICAS INC., Miami, FL; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR]

The unblocking of these entities is effective as of October 16, 2014. All property and interests in property of the entities that are in or hereafter come within the United States or the possession or control of United States persons are now unblocked.

The Department of the Treasury's Office of Foreign Assets Control has determined that the following individual's listing on the SDN List should be amended as follows:

Individual

WIPPERMANN, Ulrich; DOB 02 May 1956; Additional Sanctions Information—Subject to Secondary Sanctions (individual) [NPWMD] [IFSR].

Dated: October 16, 2014.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–25462 Filed 10–24–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPPA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending September 30, 2014. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated

as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/initials
ABDALLA	OSAMA	ELSIR
ABU-SHARR	BERYL	STONEQUIST
ADELSON	RYAN	SHELBY
AEBERSOLD	DONNA	MARIE
AEPPLI	LISABETH	
AGARWALLA	ANANG	
AINSCOUGH	ROBERT	DEAN
ALLAS	ERIK	PETER
ALLEMAND	EMMANUELLE	
ALLENBACH	DAVID	EMMANUEL
AL-SULAIMAN	BANDAR	GHASSAN
AL-SULAIMAN	SAUD	GHASSAN
AMAN	ZUBIA	
AMBANI	JAI	ANSHUL ANIL
ANDRE	CORALIE	
ANDREWS	DAVID	BRIAN COLLINGWOOD
ANG	LE	WEI
ANG	SEAN	YOUNG
ANGEHRN	GEORGE	JOSEPH
ANGEHRN	JEFF	RICHARD
ANLIKER	MARK	DAVID
ARBENZ	PETER	
ARCHER	KIM	MARIE O'SANNON
ARKHIPOVA	SVETLANA	VALERYEVNA
AROUNA	OMAR	
ASHCROFT	JONATHAN	WILLIAM
ASHENHURST	AMBER	R.
ASLAKSEN	ERIK	CHRISTIAN
ASSAL	MICHAEL	EDWARD
AVAKIAN	CORRINE	
AVNI	HAGUY	
BAARDSEN	KENNETH	ARTHUR
BADER-SCHNEBLI	ALESSANDRA	MARIA
BAINVILLE	BERNADETTE	MOREAU DE BONREPOSE
BALDIN	DIANE	FRANCOISE
BANKS	IMOGEN	HELEN
BARGEZI	JANET	RUTH
BARLOSKY	MARTIN	JOHN
BARLOSKY	PATRICIA	ANN
BARRETT	JOANNA	PENELOPE
BATERJI	ABDUL	JALIL
BATTERJEE	RUDWAN	
BAUER	JACQUES	ALAIN
BEALLE	REIJA	
BEATTY	MARY	KATHERINE
BEAUDOIN	NICOLE	
BECK	VALERIE	
BELL	FRANKLIN	DAVID
BENZ	MONIQUE	IRENE
BERGMAN	ESTHER	H
BERNER	NICOLAS	PHILIPPE
BERRY JR	BRIAN	PATRICK
BERTOLINI	ANDREA	
BETSCHART	ANDREAS	GUSTAV
BETTIS	DAVID	MICHAEL
BILAT	ANNIK	
BILAT	KRISTEL	
BIRCHALL	CAROLYN	RUTH
BIRSE	NANCY	ANN
BLACK	GRANT	
BLASBERG	ELIEZER	
BLOMFIELD-SMITH	EDWARD	ABERCROMBY
BOCCARD	CHRISTOPHER	CLAUDE
BODDEN	ROBERTA	LEE
BOLAND	BENOIOT	J
BOLTER	ELIZABETH	JANE
BOLTON	VANESSA	GERMAINE
BONHAM	SOPHIE	JEAN ISLA
BONHAM	ZOE	VIRGINIA
BONNARD	JACQUELINE	LOUISE
BORRALLO	ADRIAN	MANUEL

Last name	First name	Middle name/initials
BOURGEOIS	MARIE-EVE	JEANNE
BOURGEOIS-DEMAUREX	ROSEMARIE	MURIEL
BOYER	JULIE	
BRAILLARD	CAROLYNE	VANESSE PIERRE
BRANDT	RALPH	
BREWER	MEGAN	CHRISTINA
BRICK	MATTHEW	ALEXANDER
BROCK	KATHRYN	ELIZABETH
BROOK	JOHN	ROBERT
BROWN	BENJAMIN	HADDON DUNSTER
BROWN	KAREN	ELIZABETH
BROWNSTONE	GILBERT	
BRUCE	ERIN	LINNAE
BRUGGER	ALICE	VIKTORINA
BRUNNER	DENNIS	ALEXANDER
BRUNNER	PHILIP	WALTER
BUCHI	LIONEL	SIMOM ALVIN
BUHRER	ELIAS	DANIEL
BUOL	RONALD	NEIL
BURKHART	GARY	
BURNABY	HELEN	ANNE
BUSSY-DEMAUREX	AVELINE	MONIQUE
CALENTI	CHRISTOPHER	H
CAMMACK	ELIZABETH	
CAMPBELL	JOHN	MILTON
CAMPBELL	JUDITH	ANNE
CAPLAN	MIRIAM	RUTH
CAPRI	KIM	BARBARA
CARNAHAN	JESSICA	ELIZABETH
CARR	PAMELA	SUSAN
CASALI	NATHALIE	FIAMMETTA
CATTIER	ELISABETH	
CEFIS	ADRIANA	FEDERICA
CHADDAH	PRASHANT	
CHAFFEY	TESSA	
CHAN	CASEY	KWAN-HO
CHAN	DOUGLAS	HILL MING
CHANDARIA	DARSHNA	NAVIN
CHANG	JAMES	SHI-SHEN
CHAR	JEFFREY	TERENCE ZENG HAU
CHAREST	DANIEL	ALPHONSE
CHEANG	JAMES	JIA-HENG
CHEN	ALICE	JING
CHEN	HUMPHREY	DI
CHEN	JAMIE	MARDA
CHENG	EMILY	I-MAY
CHEUNG	CHRISTOPHER	LAPMAN
CHEUNG	FAI	
CHEUNG	LIZA	
CHIARELLI	SUSAN	CAROL
CHISHOLM	BARBARA	JEAN
CHISHOLM	MARGARET	DOWNER
CHISHOLM	SANDRA	MARY
CHIU	CHRISTIE	
CHIU	NYMPH	MICHEL
CHOW	TING	PONG DANIEL
CHRISTENSEN	CAROLE	
CHUANG	CHUNG-HWA	LEE
CINELLI	GIOCONDA	HENRIQUEZ
CIRJE	VIOREL	
CLARK	KAREN	LOUISE
CLARKE	MARGARET	
CLARKE	STEVEN	D
COENRAANDS	BART	JAN
COLBATH	JON	EMERSON
COLBENSON	DENNIS	ANTHONY
COLELLI	FRANCESCO	
COLEMAN	MALINDA	TIGAY
COLES	JENNIFER	SARAH
COLLINS	VICTORIA	L
CONIGLIO	NONA	
CONNEILLY	TIFFANY	MILLEN
CONWAY	JULIA	ANN
COOKE	LINDSAY	

Last name	First name	Middle name/initials
COPE	BENJAMIN	LEE
COPE	LEONARD	LEE
CORCIONE	NICOLAS	IVAN
CORPUS	GLENN	RAMOS
COTTIER-HOFSTETTER	ANGELA	NELLY
COURVOISIER	KATHERINE	ANNE
COWDEROY	SARAH	LOUISA MADELEINE
COYLE	JASON	
CRAIU	TALIA	
CRUZ	SARAH	WENCESLA
CUDLIPP III	CHANDLER	
CUESTA	DIEGO	S.
CUGNO	JEANETTE	PAULINE
CUTLER	DAPHNE	MICHELE
DA CUNHA	DAVID	DLUARTE
DAHLAN	ROMAIN	GILBERT FARID
DAMMERS	CLIFFORD	ROBERT
DAMMERS	ROBIN	ANDERSON
DANIELSEN	LINDA	TONE
DARMS	CORINA	PATRICIA
DAROM	GIL	
DAUM	LINDA	
DAVIE	CATHERINE	LOUISE FERGUSON
DAY	SHEILA	RAYE
DAZZI	HEIDI	SUE
DE BACKER	ALBERT	HECTOR
DE GRACIA	REDENTOR	A
DE JESZENICE	ANNE	ELIZABETH JANKOVICH
DE KARLI	MAZIMILIAN	VALERY FONSECA
DE LA GUARDIA ARIAS	VICTOR	JOSE
DE LIMBURG STIRUM	CHARLES	PHILIPPE
DE LOUREIRO	MIGUEL	TIERSONNIER
DE MESA	RAFAEL	FERNANDEZ
DE WAELE	SABRINA	VALERIE
DE WASSEIGE	HUBERT	ROBERT P.
DE WILDE	MONICA	BINDSCHEDLER
DEALY	SHELDON	RAY
DEAN	BRENDAN	ZHI MIN
DEBS	MAYA	
DEBS	TALAL	
DELUNAS	LEONARD	JAMES
DERUYTTER	DAVE	WIM
DICK	RUTH	
DIGUISTO	RAPHAEL	JACQUES MARIE
DOSSIN	PASCAL	HUBERT
DOWSETT	TREVOR	NEIL
DOZIER	BARTON	EVERETT
DOZIER	JEFFREY	SEAN MICHAEL
DRAZ	ISSAM	HIKMAT
DRAZIN	AARON	
DREGER	SUSAN	MICHELLE
DRESCHER	PHILLIP	ROBERT
DREW	LAWRENCE	LLOYD
DRISSI	HEDI	
DUGGAN	MICHAEL	WILLIAM
DUNN GOEKJIAN	MICHAEL	CHRISTOPHER
DUPONT	COLETTE	THERESE P.S.M.G.
DVORINA	TETYANA	
EASTMAN	JUDAH	TONY
EDWARDS	DERRICK	J
EICHHORN	NANCY	RUTH
ELHAG	RANDA	HASHIM ABASAEED
ELINSON	VICTORIA	GILLAN
ELLIS	DUNCAN	GAY
ELSTAD	LINDA	MARIE DICKEY
ELWOOD	MARY	K
EMLEY	DAVID	WILLIAM
ENGH	ALEXANDER	GUNNAR
ESSA SULTAN	MUHANAD	HISHAM
FABREGA	DANIELE	EDUARDO
FAIRBAIRN	HEATHER	ELIZABETH
FAN	HIN	LUNG
FARHA	AMIR	MAJED
FAUCOUNAU	CAROLINE	CLAUDINE

Last name	First name	Middle name/initials
FAULKNER	WILLIAM	TALBOT
FEARNLEY	PATRICIA	ANN
FEASEL	RICHARD	ALLEN
FEHLMANN	MARK	GREGOR
FEISTMANN	FREDERICK	ALAN
FERBER	GIDEON	
FERDINAND	CLAUDIA	
FFRENCH	HENRY	
FIELD	JOSEPH	PATRICK
FILICE	DANTE	GIOVANNI
FISCHER	COLETTE	MICHELE
FISHER	ETHEL	LUCY
FISHER III	FREDERICK	GEORGE
FLETCHER	ANTHONY	B
FLUCKIGER	NATHALIE	MARY
FLURY	BEATRICE	MARIA
FOLTZ	RICHARD	C.
FONT	CONCEPCION	
FOUR	MARION	
FRANKLIN	BARRY	ANTHONY WILLIAM
FRANTZ	ROBERT	H.
FRIEDLANDER	SCOTT	LAWRENCE
FRIEDMANN	LEA	
FROELICHER	NICOLAS	FRANCIS
FURLAN	NEVA	
GAGNER	SHANE	MICHAEL
GAMA	KHALID	ABID
GARSKI	NICOLAS	
GAUDET	PETER	JOSEPH JUDE
GEBHARDT-MANZONI	MARTINA	
GEHLHAAR-MATOSSIAN	VAHAKN	WOLFRAM
GEHRI	BARBARA	JOAN CONNELL
GENN	THOMAS	EDGAR
GERMANN	KRISTINE	LAVERNE
GERRY	MONTANA	ELIZABETH
GERRY	RHIANNA	JULIA
GERTNER	MARGANIT	
GFELLER	WALTER	ALAN
GLASER	IRIS	AVIVA
GLESTI	DANIEL	ANDREW
GOH	EMMANUEL	YEIN
GOLDBERG	ELIZABETH	LOGAN
GONZALEZ	MANUEL	ALBERTO
GONZALEZ REVILLA	MARTA	CRISTINA
GOROSTIDI-GARROW	RACHEL	ELAINE
GOTSHAL	ANJALIKA	CHEN
GOULSTON	ADAM	NACHUM
GOUNARIS	ROSA	
GOYA	NICHOLAS	ADAM
GRANDCHAMP	EVELYNE	RUTH
GRANT PETERKIN	HENRIETTA	MARGARET ANNE
GREEN	GEOFFREY	WILLIAM
GREGOR	MORIAH	JO MAC
GREMAUD	LAURA	
GRESSHOFF	ROSALYN	MARIE
GRETER	DOROTHEA	ISABELLE
GRIESBACH	CHRIS	B.
GRIFFITHS	MYRIAM	RENEE
GROSSARDI	GIAN	FRANCO
GROSSARDI	GIAN	FRANCO
GRUENIG	MAYA	CORNELIA
GUALLINI	ALAIN	GILBEERT
GUERREIRO	SANDRA	PAULINO
GUPTA	VIVAKE	
HACKETT	MARGARET	BERNADETTE
HAEGELSTEEN	NICOLAS	
HAEUSER	PETER	JAMES
HAGAN	GREGORY	MARK
HAGIN	EVELINE	HEIDI
HAHN	WILLIAM	WOOJAE
HALL	MAUREEN	R.
HAMLESCHER	EWALD	
HAN	JIAN-CHIU	
HANDELSMAN	STEPHEN	JEREMY

Last name	First name	Middle name/initials
HANDLER	PHILIPP	HANS PETER
HANNA	HANNA	BOULOS
HAQ	TAHSIN	UL
HARLEY	MATTHEW	ALAN LEE
HARRIS	JOHN	LESLIE
HARRIS	MARSHA	RUTH
HASSETT	NOEL	DENIS
HASSIG	YVONNE	
HATFIELD	PETER	TODD
HAUSSMANN	MATTHEW	PHILIP
HAZENBERG	AUDIE	ELEANOR
HEFERMEHL	LUKAS	JOHN
HEFERMEHL	PATRICIA	ELLEN
HEFERMEHL	VALERIE	JANE
HEGDAHL	RONALD	SIGFRED
HENDEL	GEORGES	
HENDRICKS	KENNETH	CHARLES
HERBORT	CARL	KENSAKU
HERLIHY	JAMES	PATRICK THURLOW
HERRMANN	THOMAS	
HERVE	ADRIENNE	
HETRAKUP	KAHN	
HETZ	SAMUEL	PETER
HILL	CHARLES	BRIAN
HILTON	JAMES	WALTER
HIRANO	AKIKO	
HOCKIN	ELLEN	K
HOEKSTRA	JOHN	THAYER
HOENING	MICHAEL	ARTHUR
HOFMANN	ANDREAS	FELIX
HOLD	WILLIAM	ADAMS
HOLENWEG	CHRISTINE	
HOLTEN	OLIVIA	CHRISTINE STOLT-NIELSEN
HONG	BENJAMIN	JUN-YANG
HONG	PHU	SANH
HOPKINS	WANDA	ANITA
HORNICK	JAN	
HOUGNON	TAMARA	MARIE
HOWARD	ERIKA	TERESA
HOWARD	TODD	
HOYNICKI	JOHN	LEON
HSU	JEFFREY	
HSU	JESSICA	
HUANG	BERNICE	
HUET	MARIJKE	KAREN
HUI	MAX	MO-SZE
HUNT	CHARLES	LEONARD
HUYGHE	NICOLAS	L
IIJIMA	SHINICHI	
ILLOVSKY	PETER	
IMOBERDORF-ETTER	BRIGITTA	VERENA
INNES	JONATHON	WINTHROP
ITSCHNER	CAROL	
JACKSON	ELIZABETH	ANN
JACKSON	MICHAEL	
JACOBS	GEORGE	MARTIN
JAGGI	STEPHAN	FRED
JAKOB	LISA	ANN
JANETT	JULIANNE	
JANETT	REBEKKA	MARIA
JELINSKI	DAVID	ROMAN
JENNERICH	RICHARD	
JENNI	AMANDA	BLAIRE
JENNINGS	GENRY	JOHN ARMBURG
JENNY	JASMINE	MANUELA
JESU	TERRY	
JOHNSON	BENJAMIN	OLIVIER
JOHNSON	SCOTT	DOUGLAS
JONES	AVERY	MAE
JONES	MICHAEL	PAUL
JULIHN	COREY	BRADFORD
JUSTAD	MICHAEL	OLAV
KADJAR-OLESEN	NIKOLEJ	GUY
KAEGI	ELISE	REEN

Last name	First name	Middle name/initials
KALANTAR	LOUISE	FLUHR
KAM	CHEUK	BUN
KARAGEORGELIS	EVANGELOS	DEMITRIOS
KARSIOTIS	THOMAS	ANDREAS
KAUFMAN	HANNAH	ESTHER
KELEHER	JOSEPH	PATRICK
KELLER	CHRISTOPH	JOHANNES
KELLER	DEBORA	ELISABETH
KELLER	MARGARET	L
KENNER	ELLY	
KEPKAY	MARK	DAVID
KERN	CAROLINE	DEBRA
KERR	KATHERINE	LEE
KEUSCH	JEANNETTE	
KING	SARAH	THERESA
KIRBY	BALSI	LOVELL MARIE
KITAGAWA	JOHNNY	HIROMU
KNOPFLER	BENJAMIN	
KNOPFLER	JOSEPH	
KOCOUREK	PAUL	FRANCIS
KOENIG	VERENA	BARBARA
KOO	JASON	KUNG YI
KORDA	ROSEMARIE	KATHERINE
KOZUSKANICH	CHRISTOPHER	M
KRAMER	PETER	ERNEST
KROEGER	CAROL	ANN
KRONENBERG	SUSAN	MARIE
KUNZI	ANDREAS	MARTIN
KURMANN	SIMONE	BARBARA
KWAN	PAUL	YUENCHIU
LA FORT	PATRICK	DOMINIQUE DONALD
LACHNER	RONALD	
LACKMANN	RICHARD	ANTON
LAM	HOWARD	
LAM	WALTER	SI-CHUN
LAN	WILLY	YU-WEI
LANCASTER	DANIEL	RAY
LANTERNIER	ALEXIS	PHILIPPE
LAPAIRE-MAYER	OLAF	CARL
LAPERCHES	YVES	GEORGES
LAPOINTE	CONSTANCE	CAMELIA
LARIVEE	NATASHA	JANE
LARY	PETER	H.
LAUER	TAD	READ
LAUTERBURG	ALEXANDER	BERNHARD
LAVELANET	CATHERINE	DANIELA
LAVELANET	FRANCOIS	RICHARD GABART
LAYTON	JENNIFER	CHRISTINA
LECOMTE	MARIE	ALICE
LEE	CAROLYN	KATHLEEN
LEE	DONALD	CHIEN-CHUN
LEFEBVRE	MAUREEN	ANNE CASEY
LEGAULT	MARJOLAINE	MARIE LOUISE
LEGAULT GRENIER	ROSE	IRENE
LEONG	PJ	WEN
LEONG	RICHARD	RAYMOND GAW
LETO	MARGARET	ANN
LEVNER	ETHAN	STRAUS
LEWIS	LUCY	VICTORIA
LEWIS	SIMONE	LARISSA
LIAO	LEWIS	YUAN-HONG
LIDDELL	MARY	FRANCES
LIGHTFOOT	MARK	HENRY
LILLEY	KAITLIN	LEE
LIM	JESSICA	SHAO-YEUNG
LIND	VICTOR	NOLTING
LINGSOM	SUSAN	PRESCOTT
LINKER	DAVID	SEAN
LIU	ERIC	KAR HANG
LIU	MICHELLE	
LLOYD	ANGELA	KAY
LO	IVAN	DING-RONG
LOEB	JACK	F
LOEPFE	KEVIN	NICOLAS

Last name	First name	Middle name/initials
LOERLI-CANNON	EDEN	STORM
LONG	MICHELE	RENEE
LOVENBACH	JACQUES	GEORGES
LUCAS	ANNE	STEVENSON
LUNG	MICHAEL	KOON-MING
LUNGER	BARBARA	ANN
LUSIARDO	MARIA	MAGDALENA
LUTZ	LENARD	PHILLIP
MA	ALEXANDER	
MA	SEAN	
MAALOUF	NICHOLAS	RAYMOND
MAC INTOSH	NANCY	ELIZABETH
MACAR	PATRICE	
MACLEAN (NEE: TAYLOR)	LINDA	JANE
MACY	VIVIENNE	WHITAKER
MALTZ	MARGARET	ETTA MABEL
MANDRALIS	PANAYIOTA	MILTIADES ALEXI
MANFREDI	FREDERICK	RICHARD
MARAZITA III	JOHN	
MARC	CLARA	JEANNE
MARCHEN (NEE: JARVIS)	PATRICIA	DOREEN
MARMUGI	CLELIA	
MARQUARD	MARY	LINDA
MARTENS	DAVID	KARL
MARTIAL	FREDERIQUE	CHARLOTTE
MARTIN	ARMAND	GUY
MARTIN	ELFRIEDA	VICTORIA
MARTINET	JASON	ROBERT
MARTINEZ	MARY	P
MARX	PATRICIA	JULIE ANNE
MATHIAS	CATHERINE	REBECCA
MAUPIN	ANIKA	SONYA
MAXWELL	SHERRI	
MAZA	CONCEPCION	FERNANDEZ
MAZANY	ROBIN	LEIGH
MAZREKU	JACK	MATTHEW
MAZREKU	VALERIA	
MC KETIAK	JARED	MICHAEL
MC KETIAK	JOAN	ANNE
MCGILLICUDDY	REBECCA	JOY
MEARS	LUCILE	LOUISE
MEILE	STEPHANIE	NANCY
MEISTER-CLEMONS	CYNTHIA	SUZANNE
MENCHACA	KYLE	STEVEN
MENETREY	CHRISTINE	ELISE
MENETREY	JOELLE	MARIANNE
MENETREY	SOPHIE	
MERRELL	JAMES	MATHIS
MERSON	JACOB	
MERSON	MIRIAM	ANNE
METTLER	MARTINE	HOLZER
MEYHACK	OLIVER	
MILLER	NATHANIEL	HIROSHI
MILLIKEN	MARK	MALLACHY
MIOZZARI	CLAUDIO	RETO
MITCHELL	ALI	SCOTT XAVIER
MOINET	PHILIPPE	ANDRE
MOK	JOSEPHINE	YEUN YUNG
MONTEIRO	THOMAS	RIBEIRO
MOON	KELLY	LOUISE
MOORE	RANDALL	JAEGER
MORETTO	CYNTHIA	MARY
MORETTO	GEORGE	C.
MORGAN	CHARDE	ANNETTE
MORRISON	ANNETTE	PAYNE
MOSSERI-MARLIO	WILLIAM	EDUARD
MUELLER SENN	SUSANNE	HELENE
MUHLEMANN	ANGELE	MUHLEMANN
MULLER	CYNTHIA	LESLIE
MURPHY	MICHAEL	ANDREW
MUSTER	ILEANA	BELINDA
MUZAYYIN	NASRAT	LUCAS
NALOS	DUNCAN	JEFFREY
NEIDHARDT	CHISTOPHER	SIMON

Last name	First name	Middle name/initials
NEMETH	JENNIFER	MARIE
NEUKOMM	ANITA	GRACE
NEVILLE-JONES	CLARE	ELIZABETH
NG	ZACHARY	CHER PING
NICOLET	CHANTAL	BEATRICE
NICOLLS	MARTINA	GIOIA
NIEM	TONY	PING FONG
NOLLAND	REBECCA	MARIE
NOVAK	BRITTANY	KRISTINA
NOVAK	KRISTINA	MARIE
NOYER	THOMAS	DAVID
NYEU	FONMING	
OBRAND	DANIEL	IAN
OBRECHT	CORINNE	CLAUDIA
OELMAN	ETHAN	ROBERT
OLDFIELD	DAVID	ARTHUR
OLDFIELD	SUSAN	AMELIA
OLESEN	NICHOLAS	A.
OLTRAMONTI	GIULIA	CLOTILDE PRELZ
OMAR	WAIS	
OON	ALEXANDER	XUE PENG IAN
OPELZ	HANNES	DAVID
OPRAVIL-DOMANSKI	SANDRA	JOEL
ORBAN	DAMIEN	ATTILA
O'SULLIVAN	KATHRYN	WINIFRED
OVERNEY	SARAH	MARIA
OXENHAM	GERTA	LOUISE
OYHARCABAL	FRANCOIS	GABRIEL
PAEK	KEVIN	KIHWA
PALLONE	JOHN	DOMINICK
PALMER	RICHARD	FARRINGTON
PAREDES	ALBERTO	JOSE
PAREDES	ALFONSO	
PARTRIDGE	ELLIS	W
PASTORE	SPENCER	RAY
PATT	RICHARD	FIDEL
PATTERSON	SCOTT	BRADFORD
PAUL	ERIK	CHARLES
PAVLOS	RIZOS	
PENNINGTON	RONALD	KEITH
PERLILNO	SUMITRA	
PERRUCHOUD	PHILIPPE	
PETER	JAMES	THOMAS
PETER	ROBIN	EDWARD
PETERS	COTTON	WALKER
PETERSEN	PATRICK	
PETERSON	WAYNE	KARL
PFISTER	BRYAN	GUSTAV
PICKARD	JUDITH	CLAIRE
PIRKLE	KATHERINE	DEAN
PIZURKI	LARA	JOHANNA
PLANTE	PIERRE	
POFFERI	ALDA	MARIA
POFFERI	GEORGIANNA	NINA
POINTER	ROHAN	MAYNARD
POPPER	EVELYN	RACHEL
PRADERVAND	MARC	ANDRE
PRETRE	MATHIEU	
PRICE	HANIA	MARGRET CURJEL
PSARROS	KYRIAKOULA	
QUELQUEJEU	MARIO	ENRIQUE
QUIRK	THOMAS	MICHAEL
RANGARAJAN	RAGHAVAN	
RASHED	AHMED	GAMAL
REDDY	KRISHNA	GUNUPATI VENKATA
REEVES	AILEEN	CHI YAU
REHSTEINER	ULRICH	PETER
REITER	BORIS	DANIEL
REY	BRUNO	ANDRE
RHODES	CARALEE	A
RICHARD	MARGARET	
RIEDER	YVONNE	
RIEGLER	TINA	MARIA
RIVERA	PHILLIP	JOHN

Last name	First name	Middle name/initials
ROBERTSON	DUNCAN	MICHAEL JOHNES
ROBERTSON	SHIELA	ELIZABETH
ROBUSTELLI	MARGOT	IRENE
RODGERS	EMILY	KATE
RODIN-MEDINA	EVELIN	TARARA
RODRIGUEZ	JUDITH	EMMANUELLE
ROED	FRANCISCO	
ROLLINS	LINDA	M.
ROMERO	ROXANE	MARIE
ROSS	JOSE	AKA JOSE REYA
ROSS	LORETTA	AKA ANA REYA
ROUFOSSE	FLORANCE	EMMANUELLE
ROXAS	ADRIANNA	DOMINIQUE T.
RUSTHOVEN	JAMES	JACOB
RUSTHOVEN	THEA	D.
SALA	JOSE	ALPHONSO
SANTONE, JR	MICHAEL	ANGELO
SARAN	YOGESH	
SARTORIUS	ALFONSO	
SAUCEDA JR	FRANCISCO	
SCALES	MICHAEL	JON
SCHALLER	AMELIA	
SCHEIDEGGER	DANIEL	PETER
SCHEIDEGGER	SUSANNE	DANIELA
SCHEIFELE	DANIEL	RICHARD
SCHEURING	MELANIE	
SCHEURING-DREIER	CARMEN	BEATRICE
SCHICKLER	THOMAS	ADAMS
SCHIESS	DANIEL	PATRICK
SCHILLER	DAWN	
SCHILLING	LESLIE	TANG
SCHIRATO	CORINNE	MARIA
SCHLENKER	PHILLIPPE	
SCHMID	SOPHIE	ELISABETH
SCHMIDHAUSER	PETER	ROGER
SCHNEIDER	KRISTINA	
SCHNEIDER	SEBASTIAN	
SCHNORF	CHRISTOPHER	DAVID
SCHNORF	GWENDOLYN	VERA
SCHOCH	JENNIFER	LAURA
SCHOENENBERGER	ANGELA	JACQUELINE
SCHWEPPE	LAURA	MICHELE
SEARS	LYSSANDRA	KATRINA
SEWARD	RONALD	WILLIAM
SHAFFER	CYNTHIA	S
SHAH	PANKAJ	DHITAJLAL
SHAH	PRITI	RAJEN
SHANI	AVISH	NARESH
SHARP	GREGORY	STEVEN
SHAW	REBECCA	JO
SHEDD	STEFANIE	NICOLE
SHELL	ELISABETH	ROZALETTE
SHERWIN	RUEBEN	J
SHERWIN	YONATAN	YEHUDA
SHIGIHARA	DAIKI	
SHLONSKY	UR	
SHOFF	KEVIN	KRISTOPHER
SIEBER	PIERRE	FRANCOIS
SIEMERS	JOHANNA	LAUREN
SIMPSON	SARAH	JAMIESON
SITINAS	NICOLAOS	ZACHARIAS
SMEETH	KATHERINE	ADELINE
SMITH	ERIC	TYRONE
SMITH	ERIN	MICHELLE
SMITH	JENNIFER	ROBIN
SNG	LOUISA	MEI CHEAH
SO	ERIC	TAO
SOLLER-PFENNINGER	GABRIELA	RUTH
SONDEREGGER	LARS	BERNHARD
SPADOLA	DAVID	ERIK
SPEAR	JUDIDTH	K
SPIERER	LUCAS	
ST ONGE	MICHAEL	ROBERT
STAHELI	SUSIE	ANN

Last name	First name	Middle name/initials
STAPLES	RICHARD	BRIAN
STERN	LESLIE	STRATTON
STORME	KAY	EUGENE
STORME	SHERRI	LYNN
STOUT	RICHARD	FARWELL
STRACHAN	JENNIFER	DECKER
STRAUSS	STEPHAN	LAURENCE
STREICH	RALPH	DOUGLAS
STRUBI	ALEXANDRE	ANTOINE
SULC	JONATHAN	ALLEN
SUTER	ELIZABETH	MARY
SWANSON	LAWRENCE	RAY
SWANSON	WENDY	JEAN
SWEE	JANICE	YU-CHEN
SWEE	JOLENE	MAY-CHEN
SY-TAN	MATTHEW	RANIER
TAKACS	PAUL	
TAKAGI	KANDAI	DANIEL
TAN	JEFFREY	PAK KERN
TAN	JING	YUAN
TAYLOR	MAUREEN	THERESE
TCHESNOKOVA	NELLIA	
TENENBAUM	ARI-LEV	
TENENBAUM	AVICHAI	C
TENENBAUM	ELIE	C
TENOT	MICHELE	MARIE
TEO	EILEEN	SIU LAN
THAELER	URS	PATRICK
THIBODEAU	LAUREN	ADELE
THOMAS	PETER	ALEXANDER
THOMPSON	HARVEY	HAROLD
TJAARDA	MICHAEL	PHILIPPE
TRAVIS	JEAN	ELIZABETH
TRAXLER	FRANZ	GUSTAV
TRIGGS	TELE	B
TRINGHAM	HELEN	CHARLOTTE
TSCHIRKY	ADRIAN	
TSOI	WAI	LING WINNIE
TURO	MARTIN	ROBERT EDWARD
TURRELL	THOMAS	GLADWIN
TYNES	DEBORAH	MARY
ULIAN	WAYNE	GILBERT
UNVER	CEVDET	Z
URSPRUNG	URSULA	VERONIKA
URWEIDER	INGRID	STERLING
VAN GORKOM	IRENE	L
VAN HASSELT	VIRGINIA	LYNN
VANDERLINDE	JULIANNA	
VATRE	NANCY	JANE AZALLION
VENIAMIS	IRENE	MARINA
VENTI	SAMUEL	PHILIP
VINCENT	MERVILLE	ARTHUR
VIT	OLIVER	DANIEL
VOGLER	DOLORES	MARIA
VOLKENSHTEYN	DANIEL	
VON RECHENBERG	CHRISTIAN	OLIVER
VON ROLL	ANDREAS	LOUIS
VON SCHONBORN-WIESENTHEID	ALEXANDRA	
VON WYSS	MARTIN	CHRISTOP
WALDVOGEL	LAURENCE	ANNE
WALKER	REBECCA	WHEATMAN
WALLACE	DIANNE	ELIZABETH
WALLACH	JEAN	PHILIPPE
WALSH	ALICIA	MARIE
WALTER	MORITZ	LEO
WAMPLER	ANDREW	EARL
WARING	ROBERT	WILSON
WARING	SARAH	ELIZABETH LONDAGIN
WATSON	MARION	STUART
WEIBEL	JESSICA	LAURIE
WEI-EN GOH	DANIEL	BENJAMIN
WEIR	HEATHER	ANN
WEISSMAN	JOHN	DAVID
WEISSMAN	STEVEN	LARRY

Last name	First name	Middle name/initials
WELLS	LARRY	LYNN
WENG	ALEXANDER	I-CHI
WESTERMAN	ERIK	CARL
WHITEING	TANYA	MAREE
WHITFIELD	SHAINA	DANIELA
WICHMANN	MARYALICE	EDITH
WIDSTRAND	FLOREDETH	
WILHELM	ANDREA	DAWN
WILLIAMS	VIRGINIA	WYMAN
WILLIS	REBECCA	MARGARET
WILSON-CHAN	JOAN	SUSANN
WIRTH	THOMAS	MARCEL
WITTWER	SONDRA	CLAIRE
WONG	CHRISTOPHER	
WONG	CHUN	KI
WONG	CONSTANCE	C.
WONG	JUSTIN	SHU SHEUNG
WONG	KAYLA	CARISSA
WONG	RICKY	
WONG	YI-LIN	
WONG PEARCE	REGINA	ANN
WOODRUFF	JULIANNE	
WOODRUFF	RACHEL	MARIE
WOODRUFF-HUGHES	MARIA	NOELLE
WOOG	CARL	ANDRE
WU	PAO	HUI
WUEST	HEDWIG	
WUNDERLI	GERALDINE	MARY
WUNDERLI	MARK	BEAT
WYSS	KEITH	DURAN
YOUNG	CHELSEA	
YOUNG	GAIL	HELEN
YOUNG	VANESSA	
ZACHARIAS	KATIANA	
ZACHARIAS	MANDI	RAE
ZAPATA	JIMENA	
ZAPATA	LORENA	
ZAVALA	GUSTAVO	
ZINGG	ANDREW	JOHN

Dated: October 16, 2014.

Frances Fay,

Manager Team 103, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2014–25412 Filed 10–24–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 79 Monday,
No. 207 October 27, 2014

Part II

Federal Reserve System

12 CFR Parts 225 and 252
Capital Plan and Stress Test Rules; Final Rule

FEDERAL RESERVE SYSTEM

12 CFR Parts 225 and 252

[Regulations Y and YY; Docket No. 1492]

RIN 7100–AE 20

Capital Plan and Stress Test Rules

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule.

SUMMARY: The Board is amending the capital plan and stress test rules applicable to bank holding companies with $50 billion or more in total consolidated assets and the company-run stress test rules applicable to bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets and savings and loan holding companies and state member banks with more than $10 billion in total consolidated assets to modify, following a transition period, the start date of the capital plan and stress test cycles from October 1 of a calendar year to January 1 of the following calendar year. The final rule makes other changes to the rules, including limiting the ability of a bank holding company with $50 billion or more in total consolidated assets to make capital distributions under the capital plan rule if the bank holding company's net capital issuances are less than the amount indicated in its capital plan. The final rule clarifies the application of the capital plan rule to a bank holding company that is a subsidiary of a U.S. intermediate holding company of a foreign banking organization and the characteristics of a stressed scenario to be included in company run stress tests.

DATES: Effective November 26, 2014, except the amendment to § 225.8(g)(3) (establishing a limitation on net capital distributions), which will be effective on April 1, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa Ryu, Deputy Associate Director, (202) 263–4833, Constance Horsley, Assistant Director, (202) 452–5239, Mona Touma Elliot, Senior Supervisory Financial Analyst, (202) 912–4688, Holly Kirkpatrick, Supervisory Financial Analyst, (202) 452–2796, Joseph Cox, Financial Analyst, (202) 452–3216, or Hillel Kipnis, Financial Analyst, (202) 452–2924, Division of Banking Supervision and Regulation; Laurie Schaffer, Associate General Counsel, (202) 452–2272, Christine Graham, Counsel, (202) 452–3005, or Julie Anthony, Senior Attorney, (202) 475–6682, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
A. Capital Plan and Stress Test Rules
B. Intermediate Holding Company Rule
II. Proposed Revisions to the Capital Plan and Stress Test Rules and Comments Received
A. Timing of Actions in the Capital Plan and Stress Test Rules
i. Timing of Capital Plan and Stress Test Cycles for Large Bank Holding Companies
ii. Disclosure Dates for Company-Run Stress Tests by Large Bank Holding Companies
iii. Transition Provisions for Capital Plan and Stress Test Rules for Large Bank Holding Companies
iv. Timing of Stress Test Cycle and Disclosure Requirements for Bank Holding Companies With Total Consolidated Assets of More Than $10 Billion But Less Than $50 Billion and Savings and Loan Holding Companies and State Member Banks With Total Consolidated Assets of More Than $10 billion
B. Definition of a ''BHC Stress Scenario''
C. Modifications to Capital Plan Resubmission Requirements Under the Capital Plan Rule
D. Consequences for Failure To Execute Planned Actions
E. Practice of Large Discrepancies in Planned Capital Distributions in the Out Quarters
F. Application of CCAR Process to Bank Holding Company Subsidiaries of Foreign Banking Organizations
i. Formation of a New U.S. Intermediate Holding Company
ii. Designation of Existing Bank Holding Company
iii. Guidance for 2017 Cycle
G. Modification of the Capital Plan Rule Regarding Capital Actions Not Requiring Approval
H. Clarification of Assumptions Regarding Capital Actions Under the Stress Test Rules
I. Other Modifications to the Capital Plan Rule and Related Requirements
i. Hearing Procedures
ii. Submission of Loss, Revenue, and Expense Estimation Models to the Board in Connection With Capital Plan
J. Comments on the Tier 1 Common Ratio and Capital Plan Capital Action Assumptions
III. Administrative Law Matters
A. Paperwork Reduction Act
B. Regulatory Flexibility Act Analysis
C. Solicitation of Comments on the Use of Plain Language

I. Background

On June 12, 2014, the Board invited comment on a proposed rule to modify and clarify aspects of the Board's capital plan rule (section 225.8 of Regulation Y) and stress test rules (subparts B, E, and F of Regulation YY) and the Board's enhanced prudential standards rule applicable to foreign banking organizations (subpart O of Regulation YY).

A. Capital Plan and Stress Test Rules

Pursuant to the Board's capital plan rule and related supervisory process, the Comprehensive Capital Analysis and Review (CCAR), the Federal Reserve assesses the internal capital planning process of each bank holding company with total consolidated assets of $50 billion or more (large bank holding company) and its ability to maintain sufficient capital to continue its operations under expected and stressful conditions.[1] Under the capital plan rule, a large bank holding company is required to submit an annual capital plan to the Federal Reserve that includes a detailed description of the following: The company's internal processes for assessing its capital adequacy; the policies governing capital actions such as common stock issuances, dividends and share repurchases; and all planned capital actions over a nine-quarter planning horizon (planning horizon). In addition, the bank holding company's capital plan must contain estimates of its regulatory capital ratios and its tier 1 common ratio under expected conditions and under a range of stressed scenarios over the planning horizon.[2] A capital plan also must include a discussion of how a large bank holding company will maintain regulatory capital ratios above the regulatory minimums and above a tier 1 common ratio of 5 percent under expected conditions and stressed scenarios.[3]

The capital plan rule works in conjunction with the stress test rules adopted by the Board to implement the stress testing requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (stress test rules).[4] The stress test rules establish a framework for the Board to conduct supervisory stress tests of large bank holding companies and require these bank holding companies to conduct annual and mid-cycle company-run stress tests.[5] In addition, the stress test rules

[1] 12 CFR 225.8.

[2] *See generally* 12 CFR 225.8.

[3] *Id.* at § 225.8(d)(2)(i)(B).

[4] *See* 12 USC 5365(i)(1) and 12 CFR part 252.

[5] The changes in this final rule will apply to nonbank financial companies supervised by the Board once they become subject to stress test requirements and to U.S. intermediate holding companies of foreign banking organizations in accordance with the transition provisions of the

require state member banks and savings and loan holding companies with total consolidated assets of more than $10 billion and bank holding companies with total consolidated assets of more than $10 billion but less than $50 billion to conduct annual company-run stress tests.[6]

The capital plan and stress test rules establish baseline requirements for all banking organizations that are subject to the rules; the Board has tailored its expectations regarding application of these requirements for companies based on their sizes, scopes of operations, activities, and systemic importance.[7] For example, the Board has significantly heightened supervisory expectations for the largest and most complex bank holding companies in all aspects of capital planning and expects these bank holding companies to have capital planning practices that are commensurate with their size and complexity.[8]

B. Intermediate Holding Company Rule

In February 2014, the Board issued a final rule requiring foreign banking organizations with U.S. non-branch assets of $50 billion or more establish U.S. intermediate holding companies (''IHC rule'').[9] The U.S. intermediate holding company is generally subject to the same prudential standards as a U.S. bank holding company, including capital planning and stress testing requirements.

II. Proposed Revisions to the Capital Plan and Stress Test Rules and Comments Received

The Board received 18 comments in response to the proposal. Commenters included individuals, bank holding companies with total consolidated assets of more than $10 billion but less than $50 billion, large bank holding companies, and trade organizations. Commenters expressed support for certain aspects of the proposal, particularly the proposed shift to the timing of the start of the capital planning and stress test cycles. Commenters also recommended revisions to provisions of the proposed rule, including the proposed limitation on net distributions, and provided comments on the preamble to the proposal, particularly regarding expectations for the bank holding company stress scenario. The following discussion provides a summary of comments received on the proposal and the Board's responses to those comments.

A. Timing of Actions in the Capital Plan and Stress Test Rules

i. Timing of Capital Plan and Stress Test Cycles for Large Bank Holding Companies

The current capital plan and stress test cycles for large bank holding companies begin on October 1, and large bank holding companies are required to submit their capital plans and annual company-run stress test results to the Board by January 5 of the following calendar year using data as of September 30 of the preceding calendar year. The proposed rule would have shifted the start of the capital planning and stress test cycles, as well as the related deadline for submission of results, by one calendar quarter. As a result of the proposed shift, the capital plan and stress test cycles would have started January 1, and large bank holding companies would have been required to submit their capital plans and stress test results to the Board by April 5. The proposed rule would have included a transition period to incorporate the proposed timing changes to the capital plan and stress test cycles. The capital plan cycle scheduled to begin on October 1, 2014, would have started on that date without change, and large bank holding companies would have been required to submit a capital plan to the Board by January 5, 2015. In order to provide a transition to the proposed timing, the Federal Reserve's objection or non-objection to a 2015 capital plan would have covered a five-quarter period commencing with the second quarter of 2015 and extending through the second quarter of 2016.[10]

Table 1 sets forth the proposed revisions to the relevant dates for actions in the annual capital plan and stress test cycles for large bank holding companies and state member banks that are subsidiaries of large bank holding companies, along with the proposed transition timeline.

TABLE 1—KEY DATES OF REVISED TIMELINE FOR ANNUAL CAPITAL PLAN AND STRESS TEST CYCLES FOR LARGE BANK HOLDING COMPANIES (LARGE BHC) AND STATE MEMBER BANKS THAT ARE SUBSIDIARIES OF LARGE BANK HOLDING COMPANIES

For cycle beginning October 1, 2014	For cycle beginning January 1, 2016, and thereafter	Supervisory stress test action	Company-run stress test action	Capital plan action
September 30, 2014	December 31 of the preceding calendar year.	As-of date for capital plan and stress test cycles.		
By September 30, 2014	By December 31 of the preceding calendar year.	.....	Board notifies a large BHC that it will require the company to use one or more additional scenarios.	
By November 15, 2014	By February 15	Board publishes scenarios for upcoming annual cycle.		

final rule incorporating enhanced prudential standards for U.S. bank holding companies and foreign banking organizations with total consolidated assets of $50 billion or more. (79 FR 17240 (March 27, 2014)). For simplicity, this preamble discussion of amendments generally refers only to bank holding companies.

[6] 77 FR 62378 (October 12, 2012) (codified at 12 CFR part 252, subparts E and F).

[7] Capital Planning at Large Bank Holding Companies: Supervisory Expectations and Range of Current Practice (August 19, 2013), p. 3, available at: *http://www.federalreserve.gov/bankinforeg/bcreg20130819a1.pdf.*

[8] *Id.*

[9] 79 FR 17240 (March 27, 2014).

[10] The proposal would have revised the Board's Policy Statement on the Scenario Design Framework for Stress Testing and provisions governing applicability of the stress test requirements to U.S. intermediate holding companies of foreign banking organizations to reflect the changes in the cycle shift. The final rule adopts these revisions without change.

TABLE 1—KEY DATES OF REVISED TIMELINE FOR ANNUAL CAPITAL PLAN AND STRESS TEST CYCLES FOR LARGE BANK HOLDING COMPANIES (LARGE BHC) AND STATE MEMBER BANKS THAT ARE SUBSIDIARIES OF LARGE BANK HOLDING COMPANIES—Continued

For cycle beginning October 1, 2014	For cycle beginning January 1, 2016, and thereafter	Supervisory stress test action	Company-run stress test action	Capital plan action
By December 1, 2014	By March 1		Board communicates description of any additional components or scenarios to a large BHC.	
By January 5, 2015	By April 5		Large BHCs submit required regulatory report to the Board on their stress tests.	Large BHCs submit capital plan (including results of bank holding company-run stress tests).
By March 31, 2015	By June 30	Board publishes summary results of the supervisory stress test.	Companies disclose summary results of the annual company-run stress test.[11].	Board responds to a large BHC's capital plan and publicly discloses the results.
By March 31, 2015	By June 30		Board notifies a large BHC that it will require the company to use one or more additional scenarios in the mid-cycle stress test.	
By June 1, 2015	By September 1		Board communicates description of any additional components or scenarios to a large BHC in the mid-cycle stress test.	
By July 5, 2015	By October 5		Large BHCs submit required regulatory report to the Board on their mid-cycle stress test.	
July 5–July 20 (revised to July 5–August 4 in the final rule).	October 5–October 20 (revised to October 5–November 4 in the final rule).		Large BHCs disclose results of their mid-cycle stress test.	

Commenters generally expressed support for the proposed transition timeline, and some commenters requested that the Board accelerate the implementation of the proposed timeframe to apply to the capital planning cycle beginning October 1, 2014. The final rule adopts the proposed revisions to the start of the stress test and capital planning cycles and related dates, including the five-quarter objection or non-objection period for CCAR 2015 capital plans, but does not accelerate the implementation. The transition period is necessary to permit the Federal Reserve and banking organizations sufficient time to revise reporting schedules and change internal systems. As such, the new timeline will become effective for the capital planning cycle that begins on January 1, 2016.

Commenters also requested that the Board provide macroeconomic scenarios by January 1 and global market shock components by January 15 of a given calendar year under the revised timeline to provide companies with additional time to conduct their company-run stress tests. In developing the scenarios, the Board aims to provide companies with as much time as possible to conduct the company-run stress tests, while ensuring that the scenarios reflect timely data on economic and financial conditions. The Board notes that in the capital plan cycle that started October 1, 2013, it released the macroeconomic scenarios in advance of the November 15, 2013 deadline provided in the rules. Under the revised timeline, the Board expects to continue to work to provide the macroeconomic scenarios as soon as possible. Accordingly, the Board has adopted this aspect of the proposal without change.

Commenters additionally requested that the length of the planning horizon be reduced from nine quarters to eight quarters. These commenters argued that the ninth quarter does not provide additional meaningful information given the incremental uncertainty as projections move further into the future, and that eight quarters would still represent two full years of capital planning. In addition, commenters noted that an eight-quarter horizon would allow the companies to better utilize the transition arrangements in the revised regulatory capital framework, which would make their capital planning less operationally complex.

The proposal would have shifted the stress testing and capital planning timeline by one quarter, but would have maintained the nine-quarter planning horizon. The nine-quarter planning horizon results, in general, in actual capital planning for eight quarters, as the first quarter of planning horizon is contemporaneous with the quarter in which the company formulates its plan. As such, in order to maintain two full years of capital planning, the final rule maintains the nine-quarter planning horizon.

A commenter expressed the view that the proposal was unclear with respect to when many of the planned rule changes

[11] As discussed in section II.A.ii of this preamble, companies must disclose summary results within 15 calendar days after the Board discloses the summary results of its supervisory stress test.

would be effective. The Board clarifies that the cycle shift will take effect beginning on January 1, 2016, the limitation on net distributions described in section II.D will take effect on April 1, 2015, and all other changes will take effect beginning on November 26, 2014.

Another commenter expressed the view that the Board consider the impact of the requirements on non-financial firms. The changes included in the final rule generally are intended to relieve burden or to formalize existing requirements and expectations, and therefore, should not have a significant impact on non-financial firms.

ii. Disclosure Ddates for Company-Run Stress Tests by Large Bank Holding Companies

The proposed rule would have revised the disclosure periods for a large bank holding company to publicly disclose the results of its annual and mid-cycle company-run stress test. For the annual company-run stress test, a bank holding company would be required to disclose the results within 15 calendar days after the Board disclosed the results of that bank holding company's supervisory stress test, unless that time was extended by the Board. For example, if the Board publicly disclosed supervisory stress test results on March 30, the bank holding company would have had until April 14 to publicly disclose its company-run stress test results.[12] The Board did not receive comments on the proposed changes to the disclosure dates for company-run annual stress tests, and is adopting this aspect of the proposal without change.

For the mid-cycle company-run stress tests, the proposed rule would have required a large bank holding company to publicly disclose the results of its mid-cycle stress test within 15 calendar days after it submitted the results of its mid-cycle stress test to the Board, unless that time period was extended by the Board. A commenter noted that a 15-day period to provide disclosures proposed by the Board would provide bank holding companies insufficient time to prepare thorough and meaningful disclosures and may adversely impact the amount of time bank holding companies allocate for scenario design and testing. The commenter proposed that the Board provide firms with 45 days to prepare the disclosure.

In response to the commenter's request, the final rule requires a bank holding company to disclose results of its mid-cycle stress test within 30 calendar days after the bank holding company submits the results of its mid-cycle stress test to the Board, unless that time period is extended by the Board. This extended time period will allow bank holding companies to focus on the multiple priorities of scenario design and testing, as well as publication of meaningful results.

iii. Transition Provisions for Capital Plan and Stress Test Rules for Large Bank Holding Companies

Transition Provisions in the Stress Test and Capital Plan Rules for Bank Holding Companies That Meet the $50 Billion Total Consolidated Asset Threshold

The proposal would have revised the transition provisions for the capital plan and the stress test rules to align application of the rules to a bank holding company that initially exceeds the $50 billion threshold. For a bank holding company with total consolidated assets of $50 billion or more,[13] the proposal would have provided that the bank holding company would become subject to the capital plan rule and the large bank holding company stress test rules beginning on the first day of the first capital plan and stress test cycle following the date on which the bank holding company meets that threshold.[14] The Board did not receive any comments on this provision, and the final rule adopts the provision without change.

Transition Provisions in the Stress Test Rules for Nonbank Financial Companies Designated for Board Supervision

The proposed rule would have provided that the Board would apply stress test requirements to a nonbank financial company supervised by the Board by rule or order and would have established timing for application of the stress test rules. If the Board issued the rule or order on or before March of the previous year, the stress test requirements would have been effective on January 1 of a given year, unless the time was accelerated or extended by the Board in writing. Commenters requested that the Board ensure that insurance nonbank financial companies have sufficient time to transition into the stress tests and capital planning regimes, and consider the lower risk profile and higher risk diversification of insurance companies in tailoring the stress test regime to insurance companies.

In response to comments, the final rule does not establish the timing for application of the stress test rules to nonbank financial companies. Instead, following designation of a nonbank financial company, the Board will consider the business model, capital structure, and risk profile of the designated company to determine how, and under what transition schedule, the stress test and capital planning standards should applied to that nonbank financial company.

Transition Provisions in the Capital Plan and Stress Test Rules Resulting From the Cycle Shift

The proposal would have revised the transition provisions in the capital plan and stress test rules for initial application of the stress test rules and incorporation of the risk-based capital advanced approaches to account for the change in the cycle start date. Under the proposal, a bank holding company that had total consolidated assets of $50 billion or more on or before March 31 of a given year would have been subject to the supervisory stress test rules beginning on January 1 of the following year. In addition, beginning January 1, 2016, a large bank holding company that received notification that it must use the advanced approaches methodology in addition to the standardized approach to determine its risk-based capital requirements on or before December 31 of a given year would have been required to use the advanced approaches to estimate its risk-based capital ratios in the stress test cycle beginning on January 1 of the following year.

While the Board did not receive comments on the revisions to the transition periods to account for the change in the cycle start date, some commenters urged the Board to reconsider the use of the advanced approaches in its capital planning and stress testing frameworks because use of the advanced approaches would require significant resources and would introduce complexity and opaqueness into the stress test framework. Certain bank holding companies are required to use the advanced approaches to determine their minimum capital requirements, and the capital plan and stress test rules require a bank holding company to estimate its regulatory capital ratios calculated under the

[12] As discussed in the proposal, the Board does not expect to disclose the results of the supervisory stress test results before March 1 for the 2015 stress test cycle or before June 1 in subsequent stress test cycles.

[13] Average total consolidated assets means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters.

[14] Accordingly, a bank holding company that meets the $50 billion threshold as of December 31, 2015 would be required to submit a capital plan on April 5, 2016.

regulatory capital rules. The proposed transition provisions were intended to align the timing of, but not otherwise impact, these requirements. Accordingly, the final rule adopts the proposed transition provisions to the stress test and capital planning cycles for firms subject to the advanced approaches without change.

iv. Timing of Stress Test Cycle and Disclosure Requirements for Bank Holding Companies With Total Consolidated Assets of More Than $10 Billion But Less Than $50 Billion and Savings and Loan Holding Companies and State Member Banks With Total Consolidated Assets of More Than $10 Billion

The proposed rule would have shifted the start of the stress test cycle by one calendar quarter, and the related deadline for submission of results by four months, for bank holding companies with total consolidated assets of more than $10 billion but less than $50 billion and savings and loan holding companies and state member banks with total consolidated assets of more than $10 billion.[15] For the stress testing cycle that would begin on January 1, 2016, these companies would have been required to submit the results of their company-run stress tests to the Board by July 31 and would have been required to publicly disclose those results in the period beginning on October 15 and ending on October 31.[16] Table 2 below describes the proposed changes to the stress test cycle timeline for bank holding companies with greater than $10 billion but less than $50 billion in total consolidated assets and savings and loan holding companies and state member banks with total consolidated assets of $10 billion or more, along with the proposed transition timeline. If such a company crossed the $10 billion asset threshold on or before March 31 of a given year, it would have been subject to the company-run stress test rules beginning on January 1 of the following year.

TABLE 2—KEY DATES OF REVISED TIMELINE FOR ANNUAL STRESS TEST CYCLE FOR BANK HOLDING COMPANIES WITH TOTAL CONSOLIDATED ASSETS BETWEEN $10–$50 BILLION AND SAVINGS AND LOAN HOLDING COMPANIES AND STATE MEMBER BANKS WITH TOTAL CONSOLIDATED ASSETS OF $10 BILLION OR MORE THAT ARE NOT SUBSIDIARIES OF LARGE BANK HOLDING COMPANIES

For cycle beginning October 1, 2014	For cycle beginning January 1, 2016, and thereafter	Company-run stress test action
September 30, 2014	December 31 of the preceding calendar year.	As-of date for stress test cycle.
By September 30, 2014	By December 31 of the preceding calendar year.	Board notifies a company that it will require the company to use one or more additional scenarios.
By November 15, 2014	By February 15	Board publishes scenarios for upcoming annual cycle.
By December 1, 2014	By March 1	Board communicates description of any additional components or scenarios to company.
By March 31, 2015	By July 31	Companies submit required regulatory report to the Board on their stress tests.
June 15, 2015 through June 30	October 15 through October 31	Companies disclose summary results of the annual company-run stress test.

A commenter argued that the Board should provide a flexible submission date for bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets so that such companies can implement their stress tests during their unique capital planning periods, which occur at different times of the year. The commenter also expressed concerns with the disclosure requirements, suggesting that the Board make an aggregate disclosure on behalf of all bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets to avoid misinterpretation of the results or comparisons of the results to the results of stress tests conducted by large bank holding companies.[17] In the alternative, commenters requested additional clarification on the substance of the disclosure by bank holding companies with between $10 and $50 billion in assets and the basis of evaluation of their disclosure.

Generally, the Board has sought to tailor its requirements and expectations for bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets. With regards to timing, the Board notes that the proposal already provides bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets an additional month to conduct their company-run stress tests as compared to the previous deadline, and an additional four months as compared to the requirements for large bank holding companies. Introducing a rolling year submission date, or further delaying the submission date, may cause the stress test to become stale by the time a company reports the

[15] Savings and loan holding companies are subject to the stress test requirements beginning with the stress test cycle that commences in the year after the year in which the company becomes subject to the Board's minimum regulatory capital requirements, unless the Board accelerates or extends that date. Savings and loan holding companies (other than those substantially engaged in commercial activities or insurance underwriting activities) are subject to the Board's capital requirements in the Board's Regulation Q beginning on January 1, 2015. The Board has not applied capital requirements to savings and loan holding companies that are substantially engaged in commercial activities or insurance underwriting activities to date. The Board is currently working on developing an appropriate capital regime for those institutions.

[16] As compared to the current rule, the proposed rule would have provided bank holding companies and savings and loan holding companies with total consolidated assets of more than $10 billion but less than $50 billion and state member banks that are not covered company subsidiaries with an additional 30 calendar days to report the results of their stress tests to the Board. This change is intended to further tailor the rule for these companies by providing an additional month to conduct stress tests. This aspect of the rule is being finalized as proposed.

[17] The commenter also expressed concern that the timing of the disclosure (October 15 through October 31) would overlap with the disclosure of mid-cycle stress test results by large bank holding companies (proposed to be October 5 through October 20), and would invite comparison between the results of the two sets of stress tests.

results to the Board. Accordingly, the final rule would adopt the timing as proposed.

With regards to disclosure, section 165(i)(2) of the Dodd-Frank Act requires the Board to adopt rules that require companies subject to the stress test requirement to publish a summary of the results of the required stress tests.[18] An aggregate disclosure by the Board would arguably not satisfy this statutory requirement, and would also lessen the extent to which the disclosure provides information to market participants and enhances market discipline. The Board's stress test rules set forth the minimum information that must be included in a company's disclosure of its stress test results, but do not prescribe the form that the disclosure must take. This flexibility permits companies to design their disclosures as appropriate for their institutions. In addition, the Board has tailored the disclosure requirements for companies with more than $10 billion but less than $50 billion in total consolidated assets compared to larger companies, specifically by requiring fewer items to be disclosed. While the Board may review a company's disclosure of its stress test results to ensure that it contains the required information set forth in the rule, it does not intend to conduct a formal supervisory evaluation of disclosures by a company prior to that public disclosure.

The Board carefully considers how its regulations affect bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets, and has taken significant steps to tailor the regulatory stress testing requirements and its supervisory expectations applicable to these firms beyond the reporting and disclosure requirements noted above. For example, expectations for data sources, data segmentation, sophistication of estimation practices approaches, reporting and public disclosure are elevated for larger and more complex organizations than for bank holding companies with more than $10 billion but less than $50 billion in total consolidated assets.[19] The Board continues to consider ways to reduce burden on these institutions.

One commenter noted that the proposed rule lacks any analysis that fulfills the Board's obligations under the Riegle Community Development and Regulatory Improvement Act (''Riegle Act''). The Riegle Act requires a federal banking agency to consider administrative burdens and benefits in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on a depository institution.[20] The proposed regulation does not impose additional reporting, disclosure, or other requirements on a depository institution. Rather, it generally reduces burden on state member banks by modifying the stress test cycle date and providing certain state member banks with an additional month to complete public disclosure of their stress test results.

B. Definition of a ''BHC Stress Scenario''

The capital plan rule requires each large bank holding company to design its own stress scenario that is appropriate for the company's business model and portfolios. The proposed rule would have defined the term ''BHC stress scenario'' as a scenario designed by the bank holding company that stresses the specific vulnerabilities of the bank holding company's risk profile and operations. Commenters were generally supportive of the BHC stress scenario definition, and commenters representing insurance companies viewed the definition as consistent with the Board's commitment to tailor stress testing and capital planning requirements to the specific risks faced by firms. The final rule would finalize the definition as proposed.

The preamble to the proposal explained the Board's expectations regarding the BHC stress scenario. As described in the preamble to the proposal, an appropriately tailored scenario would likely result in an impact to projected pre-tax net income that is at least as severe as the results of the bank holding company's company run stress test under the Board's severely adverse scenario. The preamble to the proposal further clarified that, while the Board expected a BHC stress scenario to be severe enough to result in a substantial negative impact on capital, a stress scenario that produced regulatory capital and tier 1 common capital ratios that were lower than those produced under the Board's severely adverse scenario would not, by itself, have demonstrated that the bank holding company had developed an appropriate BHC stress scenario. In the Board's view, it would be equally critical that the stress scenario be designed to capture potential risks stemming from a bank holding company's idiosyncratic positions and activities.

Many commenters expressed concerns with the statement that the BHC stress scenario generally would result in projected pre-tax net income that is ''at least as severe as'' the company run stress test of the Board's severely adverse scenario. Many commenters interpreted this expectation to mean that a BHC stress scenario would be qualitatively deficient if the quantitative results of the BHC stress scenario did not reflect higher losses than the results of the company-run stress tests under the severely adverse scenario. Commenters argued that this expectation could compel a large bank holding company to tailor its BHC stress scenario as an add-on to the supervisory severely adverse scenario, rather than basing the BHC stress scenario on an evaluation of the bank holding company's idiosyncratic risks. The commenters also cited timing issues, as bank holding companies would be required to wait for the release of the supervisory scenarios in order to calibrate the severity of their BHC stress scenario.

Bank holding companies should not view the Board's general expectation for the severity of the BHC stress scenario as a rigid benchmark against the particular supervisory severely adverse scenario from a single stress test cycle. Rather, the Board expects a bank holding company to develop scenarios of severity generally comparable to the usual severity in the Board's severely adverse scenario.[21] The Board also notes that if a particular cycle's severely adverse scenario was notably more severe for a particular company than in previous exercises, for example, if a particular company was required to include an additional component in its severely adverse scenario for the first time, then the Board would take that into account when assessing the appropriateness of the company's BHC stress scenario.

Clarifying the Board's general expectation for the severity of the BHC stress scenario should mitigate concerns expressed by commenters that a bank holding company would be driven to base its BHC stress scenario as an add-on to the supervisory severely adverse

[18] 12 U.S.C. 5365(i)(2)(C)(iv).

[19] *See, e.g.,* Supervisory Guidance on Implementing Dodd-Frank Act Company-Run Stress Tests for Banking Organizations With Total Consolidated Assets of More Than $10 Billion but Less Than $50 Billion, 79 FR 14153 (March 13, 2014).

[20] 12 U.S.C. 4802.

[21] For guidance on the usual severity of the severely adverse scenario, a bank holding company should review the Board's ''Policy Statement on the Scenario Design Framework for Stress Testing,'' which sets forth the Board's approach to designing the severely adverse scenario. 12 CFR 252, Appendix A. Additionally, bank holding companies could review the severely adverse scenarios used in previous cycles to guide the severity of the BHC stress scenario.

scenario or wait for the release of the supervisory scenarios in order to calibrate the severity of their BHC stress scenario. The Board emphasizes that the proposed rule requires bank holding companies to incorporate the specific vulnerabilities of their risk profiles and operations into their BHC stress scenarios. The Board expects each large bank holding company to develop a BHC stress scenario that is both appropriately severe and that is relevant to its idiosyncratic risks.

Some commenters suggested that the Board recognize elements other than net income that may have a material impact on capital ratios when measuring the severity of a BHC stress scenario, such as the impact of other comprehensive income or the changes in the value of mortgage servicing rights. The Board agrees with the commenter that the severity of the BHC stress scenario should be evaluated based on factors in addition to net income, such as other comprehensive income. If a bank holding company can demonstrate that the combined effect of the BHC stress scenario on net income and other elements that affect capital results in a BHC stress scenario of greater severity than the severely adverse scenario, then the Board's expectations for the severity of the BHC stress scenario would be satisfied.

A central goal of the capital plan rule is to ensure that large bank holding companies have robust internal practices and policies to determine their adequate amount and composition of capital, given the bank holding company's risk exposures and corporate strategies as well as supervisory expectations and regulatory standards. While the stress scenarios designed by the Federal Reserve for use in company-run and supervisory stress testing are helpful in showing the comparative effects of a downturn in the economy across companies, these scenarios are created with the overall banking industry in mind, rather than a focus on an individual company's risk profile. For these reasons, the BHC stress scenario is a key element of a firm's capital plan that assists the Federal Reserve and the firm in gaining a deeper understanding of an individual company's vulnerabilities. The Board will continue to evaluate each BHC stress scenario on a qualitative basis to ensure that the scenario is appropriately severe and captures the bank holding company's idiosyncratic risks.

C. Modifications to Capital Plan Resubmission Requirements Under the Capital Plan Rule

The proposed rule would have provided flexibility by permitting, rather than requiring, a large bank holding company to resubmit its capital plan in the event that the Board objected to the capital plan. This proposed change targeted circumstances in which the automatic resubmission requirements may have been counterproductive by drawing a bank holding company's focus away from efforts to remediate the issues that gave rise to the Board's objection, and cases in which the remediation of such issues may have required more than the allotted 30 calendar days (the period within which companies previously had been required to resubmit their capital plans).

Commenters were supportive of this change, as it would provide firms with flexibility in their decision to resubmit capital plans and give them time to remediate issues that led to the objection of the capital plan. The final rule adopts the changes to the capital plan resubmission requirements as proposed.

D. Consequences for Failure To Execute Planned Capital Actions

The proposed rule would have limited a large bank holding company's ability to make capital distributions to the extent that the bank holding company did not execute planned capital issuances during the capital plan cycle. Under the proposed rule, if a large bank holding company were to raise less capital than the amount it projected in its capital plan for a given quarter, the bank holding company would have been required to address that shortfall by reducing capital distributions (e.g., reducing dividends or repurchases) on instruments with greater or equal ability to absorb losses (quarterly net distribution limit).[22] The proposal would have provided an exception from the quarterly net distribution limit where a large bank holding company had contemplated a capital issuance to support a merger or acquisition, but did not consummate such merger or acquisition.

Commenters requested that the Board not finalize the proposed quarterly net distribution limit, but instead use its authority to object to capital plans on qualitative grounds if a bank holding company does not adequately explain a failure to execute planned issuances. Commenters expressed the concern that the proposed limitation was too severe and would hinder a firm's ability to conduct optimal capital management. Commenters expressed the view that tying capital distributions to planned capital actions on a quarter-by-quarter basis would be impractical, as companies are not able to predict market conditions with precision in developing their capital plans. Commenters noted that, to the extent that a bank holding company had planned to declare preferred stock dividends and issue additional preferred stock but market conditions turned poor, the proposal would force firms to either undertake issuances in the poor market conditions, or cancel planned dividends on preferred stock, which would lead investors to question the bank holding company's credibility and financial condition. Commenters also contended that large bank holding companies would be less likely to include capital issuances in their capital plan in order to avoid adverse consequences under the proposed rule, rather than reflecting their actual capital issuance plans.

In the alternative, commenters proposed modifications to increase the flexibility of the limit. For instance, one commenter proposed that a firm should be allowed to proceed with planned distributions in a given quarter as long as the firm maintained applicable minimum regulatory capital ratios under the supervisory severely adverse scenario. Another commenter proposed that capital actions should be assessed on an annual cumulative basis, so that issuances in excess of those included in the capital plan in a given quarter or distributions less than those proposed in the capital plan in a given quarter are carried over to the next quarter to allow for fluctuations in actual issuances or distributions. Also, some commenters recommended that the Board include a buffer for small deviations from the capital plan. For example, a commenter asserted that a $10 million shortfall in planned capital issuance for a firm with $1 billion in capital should qualify for an exception to the quarterly net distribution limit.

Commenters also provided additional examples of circumstances in which they believed the quarterly net distribution limit would not be appropriate. For example, commenters argued that the quarterly net distribution limit should not be triggered by employee-directed issuance activity, which is at the discretion of the employee and may deviate from the

[22] The proposed rule would have identified common equity tier 1 capital as having the greatest ability to absorb losses, followed by additional tier 1 capital, and tier 2 capital, each as defined in the Board's Regulation Q (12 CFR 217.2).

bank holding company's estimates due to employee turnover or changes in stock price. With regard to the exception for mergers and acquisitions, a commenter also argued that the Board should expand the exception for mergers and acquisitions where a bank holding company issued less stock due to changes in the merger price.

The Federal Reserve evaluates the bank holding company's post-stress capital position based on the assumption that the bank holding company actually executes the issuances contained in its plan. Relying on the Board's authority to object to a capital plan on qualitative grounds, as suggested by commenters, would not permit the Board to address behavior that deviates from that which is contemplated in a bank holding company's capital plan in a timely manner. It would also result in less transparency into the capital plan review process. In contrast, the proposed rule would have increased transparency in the operation of the capital plan rule by formalizing the Board's current practice of approving repurchases net of capital issuances. For these reasons, the final rule adopts the requirement that a bank holding company reduce its distributions to the extent it does not execute planned capital issuances.

The final rule reflects several significant changes from the proposal in order to address commenters' concerns. As noted by commenters, a bank holding company may suffer significant market consequences if it does not make scheduled payments on non-common equity instruments that qualify as additional tier 1 and tier 2 capital instruments. Accordingly, the final rule would not require a large bank holding company to reduce its scheduled payments on non-common equity instruments that qualify as additional tier 1 and tier 2 capital instruments (e.g., dividends on preferred stock) if it did not issue the additional tier 1 and tier 2 capital instruments included in its capital plan.[23] In addition, the final rule does not require a bank holding company to reduce distributions on instruments with greater ability to absorb losses in the event that a bank holding company does not execute a planned issuance of a capital instrument with less ability to absorb losses (i.e., non-common equity instruments that qualify as additional tier 1 or tier 2 capital instruments), if it had no planned redemptions or repurchases of additional tier 1 or tier 2 capital instruments, respectively, in that quarter.

As suggested by commenters, the final rule measures issuances and distributions beginning with the third quarter of the planning horizon (cumulative net distribution limit), which provides bank holding companies with flexibility to credit excess issuances or lower distributions of capital, in each case relative to the amounts included in the company's capital plan for a given class of regulatory capital instrument.[24] Under the cumulative net distribution limit, a bank holding company that has reduced the dollar amount of its capital distributions on a given class of regulatory capital instrument, increased the dollar amount of its issuances of that class of regulatory capital instrument, or taken any combination of the foregoing actions beginning in the third quarter of the planning horizon would be permitted to recognize this net increase in that class of regulatory capital relative to planned amounts in a quarter in which the company does not make its issuances as planned.[25]

In addition, the final rule includes exceptions to address specific circumstances raised by commenters. In particular, the final rule provides that the cumulative net distribution limit does not apply to the extent that the bank holding company raised a smaller dollar amount of capital due to employee-driven issuance activities or issuances related to mergers and acquisitions for which the purchase price is lower than the price projected in a bank holding company's capital plan. The final rule also provides that the cumulative net distribution limit does not apply to a capital distribution to the extent that the excess net distributions is *de minimis* (the excess net distributions are less than one percent of the bank holding company's tier 1 capital, as reported on the bank holding company's first quarter FR Y–9C), and the bank holding company notifies the appropriate Reserve Bank at least 15 calendar days in advance of any such capital distribution.

The final rule also provides bank holding companies with a means for seeking a non-objection from the Board for planned distributions when market conditions or other circumstances have prevented the company from making planned issuances. This provision would provide some flexibility for cases in which, for example, a bank holding company issued capital with greater ability to absorb losses than it had included in its capital plan, and desired to execute its planned capital distributions as included in its capital plan. Consistent with other requests for approval or non-objection to execute distributions under the capital plan rule, the request for non-objection to make a planned capital distribution must contain the information set forth in section 225.8(g)(4) of the final rule. The Board expects a bank holding company to reflect its change in planned capital issuances and any other relevant changes in the capital plan is submits under section 225.8(g)(4), and may require a bank holding company to submit supporting information, including the bank holding company's forward-looking assessment of the bank holding company's capital adequacy under revised scenarios, any supporting information, and a description of any quantitative methods used that are different than those used in their original capital plan.[26]

Below are two examples that illustrate the operation of the cumulative net distribution limit in the final rule.

Example 1: Table 3 sets forth a large bank holding company's planned regulatory capital issuances and distributions included in its capital plan for the third through sixth quarters of the planning horizon. Table 4 sets forth the large bank holding company's actual regulatory capital issuances and distributions for the third through sixth quarters of the planning horizon.

[23] The final rule would continue to require a bank holding company to offset a failure to execute planned regulatory capital issuances in common equity tier 1 capital instruments issuances by reducing its common equity tier 1 regulatory capital distributions.

[24] The classes of regulatory capital instruments are common equity tier 1, additional tier 1, and tier 2 capital instruments, as defined in 12 CFR 217.2. The final rule does not contemplate that a bank holding company would raise capital with a greater ability to absorb losses to compensate for lower issuances of capital with less ability to absorb losses. However, as noted below, if a bank holding company believes that a distribution would be appropriate even if it would not be allowed under the cumulative net distribution limit, the bank holding company may seek a non-objection from the Board to make a planned capital distribution.

[25] The final rule would also permit a bank holding company to calculate the gross maximum amount of its distributions on a cumulative basis so that a company may credit reduced distributions beginning in the third quarter of the planning horizon to increase the maximum permitted distributions in a later quarter up to the cumulative gross amount of its planned distributions (cumulative gross distribution limit). For the purposes of the cumulative gross distribution limit, a company may not carry reduced distributions forward beyond the end of the sixth quarter of the planning horizon to the next capital plan cycle.

[26] 12 CFR 225.8(g)(4)(i)(D).

TABLE 3—PLANNED ISSUANCES AND DISTRIBUTIONS

	Planning horizon quarter			
	Q3	Q4	Q5	Q6
Issuance	$125 m (common stock)	$125 m (common stock)	$125 m (common stock)	$125 m (common stock).
Distribution	$100 m (common stock repurchase).	$100 m (common stock dividend).	$100 m (common stock repurchase).	$100 m (common stock dividend).

TABLE 4—ACTUAL ISSUANCES AND DISTRIBUTIONS

	Planning horizon quarter			
	Q3	Q4	Q5	Q6
Issuance	$250 m (common stock)	$0	$125 m (preferred stock)	$250 m (common stock).
Distribution	$100 m (common stock repurchase).	$100 m (common stock dividend).	$0	$100 m (common stock dividend) $100 m (common stock repurchase).

Market conditions for issuances were more favorable than anticipated in the third quarter, so the firm issued $250 million of common stock, the entire amount of common stock issuances planned in quarters three and four. In the fourth quarter, market conditions were unfavorable, and the company executed none of its planned common stock issuance. In the fifth quarter, instead of issuing common stock as planned, the company issued $125 million of preferred stock (qualifying as additional tier 1 capital). Early in the sixth quarter, the company issued $250 million of common stock, $125 million in excess of the amount it had planned for the quarter.

Under the final rule, the bank holding company would be permitted to make its planned $100 million common stock distributions in the third quarter because it issued an amount of common stock at least as large as planned for that quarter. In the fourth quarter, in which the company did not issue any common stock included in its plan, the cumulative net distribution limit under the rule permits the company to credit its over-issuance from the previous quarter. As a result, the company could make the distributions it planned in the fourth quarter ($100 million common stock dividend). Because the bank holding company did not issue common stock but instead issued $100 million in preferred stock in the fifth quarter, the cumulative net distribution limit would prohibit the company from making its planned common stock dividend in that quarter.[27] After the common stock issuance in the sixth quarter, the net distribution limitation under the final rule permits the company to make the distributions it planned but did not execute in the fifth quarter, as well as those planned in the sixth quarter ($100 million common stock repurchase and $100 million common stock dividend).

Example 2: Table 5 sets forth a large bank holding company's regulatory capital issuances and distributions included in its capital plan for the third through sixth quarters of the planning horizon. Table 6 sets forth the large bank holding company's actual regulatory capital issuances and distributions for the third through sixth quarters of the planning horizon.

TABLE 5—PLANNED ISSUANCES AND DISTRIBUTIONS

	Planning horizon quarter			
	Q3	Q4	Q5	Q6
Issuance	$125 m (preferred stock)	$125 m (preferred stock)	$125 m (preferred stock)	$125 m (preferred stock).
Distribution	$100 m (preferred stock dividend).	$100 m (preferred stock repurchase).	$100 m (preferred stock repurchase).	$100 m (preferred stock dividend).

TABLE 6—ACTUAL ISSUANCES AND DISTRIBUTIONS

	Planning horizon quarter			
	Q3	Q4	Q5	Q6
Issuance	$75 m (preferred stock)	$125 m (preferred stock)	$175 m (preferred stock)	$0.
Distribution	$100 m (preferred stock dividend).	$50 m (preferred stock repurchase).	$150 m (preferred stock repurchase).	$100 m (preferred stock dividend).

In the third quarter of the planning horizon, the company issued $75 million of the $125 million preferred stock included in its plan for that quarter. In the fourth quarter, the company issued the full $125 million of preferred stock included in its capital plan for that quarter. Early in the fifth quarter, market conditions were

[27] The final rule would not permit the bank holding company to substitute a preferred stock issuance for a common stock issuance. In the fifth quarter, the company could have sought a non-objection from the Board to make its planned distributions.

particularly favorable, and the company issued $175 million of preferred stock instead of the $125 million included in its capital plan for that quarter. In the sixth quarter, the company issued none of the $125 million of preferred stock it had planned for that quarter.

Although the company issued less preferred stock than it included in its plan for the third quarter, the rule permits the company to make the full $100 million of its planned preferred stock dividend for that quarter because the rule permits the company to make scheduled payments on an additional tier 1 capital instrument. In the fourth quarter, the cumulative net distribution limit requires the bank holding company to reduce its preferred stock repurchases to $50 million of the planned $100 million for that quarter. This is because the rule requires the company to reduce its planned repurchases of preferred stock to the extent that it failed to make planned issuances in that class of regulatory capital instrument. (The $50 million reduction in preferred stock repurchases reflects the $50 million shortfall in issuances of preferred stock in the third quarter.)[28] After the preferred stock issuance in the fifth quarter, the cumulative net distribution limit in the final rule permits the company to make the full $100 million of its planned preferred stock repurchases and an additional $50 million of the planned preferred stock repurchases that the bank holding company was required to reduce in the fourth quarter, for a total of $150 million in preferred stock repurchases. This is because the company can credit the excess preferred stock issuance it made in the fifth quarter to make the remaining preferred stock repurchase originally planned for the fourth quarter. In the sixth quarter, as in the third quarter, the rule permits the company to make the full $100 million of preferred stock dividends as it is a scheduled payment on an additional tier 1 capital instrument, even though the company did not issue the preferred stock included in its plan.

Under the final rule, as under the proposed rule, the Board may object to a large bank holding company's capital plan in the following cycle, or require resubmission of its capital plan in the current cycle, if the assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate. The Board generally expects that a bank holding company will undertake the capital actions included in its capital plan and be able to justify discrepancies between its planned and executed capital issuances. A bank holding company's consistent failure to do so may be indicative of shortcomings in its capital planning processes and may indicate that the assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate. Accordingly, a bank holding company's consistent failure to execute capital issuances in its capital plan may form the basis for objection if it is unable to explain the discrepancies between its planned and executed capital issuances.

E. Practice of Large Discrepancies in Planned Capital Distributions in the Out Quarters

The preamble to the proposal described a practice whereby some large bank holding companies have included markedly reduced distributions in the final three quarters of the planning horizon (i.e., the quarters that are not subject to objection in the current capital plan cycle, sometimes referred to as ''out-quarters'') relative to the distributions in the preceding four quarters of the capital plan (i.e., the distributions that are subject to possible objection in the current cycle). In the next capital plan cycle, when the previous capital plan cycle's ''out quarters'' become subject to possible objection, the bank holding companies submit a capital plan with significantly increased distributions relative to the previous capital plan cycle's ''out-quarters,'' while again submitting reduced distributions for the ''out-quarters'' of the new capital plan cycle.

The proposal explained that, in the Board's view, the practice of widely varying planned capital distributions based on whether they occur in an ''out-quarter'' as compared to a quarter that is subject to a possible objection may be indicative of shortcomings in a bank holding company's capital planning processes and may indicate that ''the assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate.'' [29] This may form the basis for objection to a bank holding company's capital plan. The proposal further clarified that, in reviewing this type of practice, the Federal Reserve would consider whether the bank holding company can adequately explain why the bank holding company revised its planned distributions for the same period of time from one capital plan cycle to the next capital plan cycle.

Commenters noted that there are legitimate reasons bank holding companies would raise their capital distributions from year to year to reflect new expectations and business conditions. Commenters also argued that if a bank holding company projected a decline in net income, it should be allowed to plan for lower capital distributions. Some commenters noted that bank holding companies do not have sufficient predictive insight into out quarters to support realistic assumptions around capital distributions.

The Board uses CCAR as an assessment of a bank holding company's capital planning processes, and it generally expects that a firm will project its distributions in the final three quarters of their capital plans based on realistic assumptions about the future and in a manner broadly consistent with previous quarters, unless the bank holding company is in fact planning to reduce its distributions. The Board understands that circumstances may arise, such as changes in market conditions, the profitability of the company, or the risk profile of the company, that may cause a bank holding company to revise its out-quarter capital distributions in a capital plan cycle as compared to the treatment of the same quarters in the next capital plan cycle. However, the Board will continue to closely monitor this behavior, and if bank holding companies are unable to provide sufficient explanation for changes in planned capital actions, the Board may see that as an indication of poor capital planning.

F. Application of CCAR Process to Bank Holding Company Subsidiaries of Foreign Banking Organizations

Under the Board's IHC rule, a foreign banking organization with U.S. non-branch assets of $50 billion or more is required to establish a U.S. intermediate holding company by July 1, 2016. The foreign banking organization may do so either by designating an existing bank holding company, designating an existing nonbank company, or forming a new holding company. The U.S. intermediate holding company is subject to enhanced prudential

[28] If the company wished to make the full $100 in preferred repurchases in the fourth quarter, the company could seek a non-objection from the Board.

[29] 12 CFR 225.8(e)(2)(ii)(B).

standards following the transition periods set forth in the IHC rule.

i. Formation of a New U.S. Intermediate Holding Company

Under the transition provisions in the IHC rule, a company that is formed or designated as an intermediate holding company that was not previously subject to prudential standards would not be subject to prudential standards until the effective date of the IHC rule's requirements.[30] An intermediate holding company that is formed in anticipation of the IHC rule would not be subject to risk-based capital, liquidity, and risk management standards until July 1, 2016, the capital plan rule until the 2017 cycle, and the stress testing rule and the CCAR process until the 2018 cycle. This transition period was designed to provide foreign banking organizations with a reasonable transition period during which to prepare for the compliance with the IHC rule, including the required structural reorganization.[31] This transition period applies notwithstanding that, upon its formation, the intermediate holding company may become a bank holding company.

However, the IHC rule does not relieve existing subsidiary bank holding companies of foreign banking organizations that were not formed to comply with the IHC rule and that were previously subject to prudential standards from compliance with the regulatory requirements that apply to U.S. bank holding companies. The Board notes that these bank holding companies may be designated by a foreign banking organization as an intermediate holding company or moved under a foreign banking organization's intermediate holding company in order to comply with the intermediate holding company requirement. In either case, these existing bank holding companies are required to continue complying with all applicable prudential requirements that applied to them prior to their designation as an intermediate holding company or the transfer of their ownership to an intermediate holding company, including with respect to any assets transferred to the existing bank holding company before the IHC requirements become effective.[32] To ensure that bank holding company subsidiaries of foreign banking organizations remain subject to stress testing requirements during this transition period, the Board proposed that any bank holding company subsidiary of a foreign banking organization must comply with any applicable stress test requirements through the 2017 stress test cycle. Similarly, the Board proposed that any bank holding company subsidiary of a foreign banking organization must comply with the capital plan rule through the 2017 capital planning cycle.[33]

One commenter argued that, by continuing to apply the various enhanced prudential standards to bank holding company subsidiaries of foreign banking organizations while providing some transition relief for newly formed U.S. intermediate holding companies, the proposal provides an incentive for a foreign banking organization to establish a new company to serve as the U.S. intermediate holding company rather than to designate an existing subsidiary bank holding company. To remove this incentive and provide foreign banking organizations with more options for organizing their U.S. operations, commenters requested that the Board provide the transition period to an existing bank holding company subsidiary of a foreign banking organization. Commenters also suggested that the Board temporarily exclude from the stress test and capital planning frameworks subsidiaries that have been transferred into a bank holding company subsidiary of a foreign banking organization in order to provide additional time for foreign banking organizations to comply with the stress test and capital plan rules.

In developing the transition provisions in the IHC rule, the Board intended to prevent foreign-owned bank holding companies from weakening their capital or risk management during the transition period under the IHC rule and to ensure that existing U.S. subsidiary bank holding companies of foreign banking organizations would continue to be held to consistent prudential standards that maintain a level playing field between U.S. and foreign-owned bank holding companies. The approaches suggested by commenters would be inconsistent with these principles. The commenter's suggestion of excluding assets that have been transferred to the bank holding company in compliance with the IHC rule from capital planning and stress testing would not address the fact that the bank holding company is exposed to the risks of the assets it holds and, therefore, should be holding capital commensurate with those risks. Generally, the Board expects that foreign banking organizations will determine whether to designate an existing bank holding company and when to transfer assets to an existing bank holding company depending on a variety of facts and circumstances, including the effect of the transition periods in the IHC rule. For these reasons, the Board reaffirms that existing U.S. subsidiary bank holding companies of foreign banking organizations remain subject to prudential standards during the transition provisions in the IHC rule.

ii. Designation of Existing Bank Holding Company

Commenters noted that certain foreign banking organizations intend to designate existing bank holding company subsidiaries as their U.S. intermediate holding companies, and requested that the Board clarify that such a bank holding company subsidiary would not be required to project the formation of a U.S. intermediate holding company in its capital plan for 2015 and 2016. Commenters expressed the view that this approach would introduce uncertainty into the organization's 2015 capital plan and would effectively prohibit the organization from giving effect to any additional capital that would be contributed or otherwise raised in connection with the designation as a U.S. intermediate holding company unless the capital was contributed prior to December 31, 2014. To address these concerns, a commenter suggested that, for purposes of their capital plans and stress test results submitted January 5, 2015, and April 5, 2016, the Board permit a bank holding company owned by a foreign banking organization to exclude any effect on the capital plans that could arise from the formation of the U.S. intermediate holding company.

The capital plan rule requires a bank holding company to include in its capital plan an assessment of its expected uses and sources of capital, including estimates of projected revenues, losses, reserves, and pro forma capital levels over the planning horizon.[34] To the extent that a foreign banking organization controls nonbank

[30] *See* 12 CFR 252.152(c)(1); 12 CFR 252.153(e)(1)(ii).

[31] 79 FR 17240, 17244 (March 27, 2014).

[32] As discussed below, for the 2015 capital planning cycle, the Board will not require a bank holding company subsidiary of a foreign banking organization to reflect the reorganization required by the IHC rule in its capital plan and stress test results.

[33] With the mutual consent of the company and the Board, another U.S. bank holding company owned by the foreign banking organization could comply with the requirements of the capital plan rule in lieu of the subsidiary bank holding company. 12 CFR 225.8(c)(2)(iii)(A).

[34] 12 CFR 225.8.

subsidiaries outside of a bank holding company, those nonbank subsidiaries would not likely have the systems and models in place to make the necessary projections to comply with the capital plan rule. As such, subsidiary bank holding companies may not have sufficient time to adjust their management information and accounting systems to take into account exposures of those nonbank subsidiaries for the 2015 capital planning cycle. Thus, for the 2015 capital planning cycle, the Board will not require a bank holding company subsidiary of a foreign banking organization to reflect the reorganization required by the IHC rule in its capital plan and stress test results. For the 2016 capital planning cycle, the Board expects a bank holding company subsidiary of a foreign banking organization to reflect the effects of any transfers associated with the IHC rule in the bank holding company's capital plan due April 5, 2016.[35] By April 2016 foreign banking organizations should have completed any necessary adjustments to their management information and accounting systems in order to comply with the IHC rule on July 1, 2016, which would be less than three months after the capital plan submission. In the April 5, 2016 capital plan submission, a bank holding company should reflect any capital issuances or contributions planned during the planning horizon that are related to the capitalization of the intermediate holding company.[36]

If a bank holding company that will be designated as the U.S. intermediate holding company elects to avail itself of this relief for the 2015 capital planning cycle, the Board expects that, generally, the U.S. bank holding company will have a capital plan that includes planned capital distributions (net of capital issuance) that are no greater than those included in the bank holding company's capital plan for the previous cycle (or, if the bank holding company has not previously submitted a capital plan, the amount of capital distributions (net of capital issuance) actually made in the previous year). In the Board's view, this limitation is appropriate because the Board would expect such a bank holding company to retain capital as compared to its previous capital plan in preparation for compliance with the U.S. intermediate holding company requirement. For a bank holding company that avails itself of this relief, neither the assets of subsidiaries that will be transferred under the bank holding company as part of IHC formation, nor the projections of earnings from those subsidiaries, would be included in the bank holding company's capital plan.

iii. Guidance for 2017 Cycle

Commenters requested further information for U.S. intermediate holding companies that will be subject for the first time to the stress test and capital plan processes in the 2017 capital planning cycle. Commenters suggested that requirements and details be provided as soon as possible to allow U.S. intermediate holding companies the opportunity to prepare for the Board's requests. In addition, commenters suggested that the initial assessment of an intermediate holding company's capital plan by the Board be similar to the process used for bank holding companies entering CCAR that had not previously been subject to the Supervisory Capital Assessment Program.[37] Commenters also suggested that public disclosures for the new participants be limited, similar to the CapPR process.

As noted above, for the 2017 capital planning cycle, U.S. intermediate holding companies (unless the U.S. intermediate holding company was a bank holding company subject to the CCAR process prior to its designation) will not be subject to the stress test rules. Accordingly, for the 2017 cycle, the Federal Reserve's assessment of the U.S. intermediate holding company's capital plan will not be based on a supervisory stress test estimates conducted under those rules.[38] Instead, the Federal Reserve intends to conduct a more limited quantitative assessment of the U.S. intermediate holding company's capital plan based on the company's own stress scenario and any scenarios provided by the Board and a qualitative assessment of its capital planning processes and supporting practices. The Board expects that this assessment will be similar to the Board's CapPR process, and that the disclosures will also be limited. Beginning with the 2018 cycle, the Board anticipates that a U.S. intermediate holding company will be subject to the full CCAR process. The Board recognizes the challenges that will face the U.S. intermediate holding companies that are new to the CCAR process, and expects that these bank holding companies will continue to work to enhance their capital planning systems and processes to meet supervisory expectations.[39]

Commenters requested further detail on how U.S. intermediate holding companies and their subsidiary bank holding companies can jointly submit their capital plans during the cycle when they are both subject to the capital plan rule. As noted in the proposal, companies may jointly submit a capital plan that clearly explains how certain aspects of the capital plan for the U.S. intermediate holding company build upon the bank holding company's capital plan. For example, if the U.S. intermediate holding company and the bank holding company subsidiary rely on common stress testing models and practices, both companies could submit the same supporting documentation for these models, provided that each company's submission meets all of the requirements of the capital plan rule. The Board intends to provide additional information regarding this submission in the future.

G. Modification of the Capital Plan Rule Regarding Capital Actions Not Requiring Approval

The proposed rule would have modified a provision of the capital plan rule that required a large bank holding company to request prior approval or provide prior notice of a capital distribution if the ''dollar amount of the capital distribution will exceed the amount described in the capital plan for which a non-objection was issued.'' [40] This provision applied to all capital distributions, including those associated with new issuances of regulatory capital instruments. Accordingly, large bank holding companies that issued accretive capital instruments with fixed dividends were required to seek the Board's approval or provide notice to the Board in order to issue these instruments. The Board approved the prior requests, and would anticipate approving similar requests in the future, provided that the proposed capital issuance would result in net capital accretion. In order to relieve the burden on the bank holding companies going forward, the proposed rule would have

[35] The Board has moved the date for the capital plan submission for 2016 to April 2016. 12 CFR 225.8(e)(1)(ii).

[36] If the bank holding company did not execute its planned issuances, the final rule generally would require the bank holding company to reduce its planned capital distributions, as described in section II.D of this preamble.

[37] These firms were not immediately required to participate in the full CCAR process, and were given a two-year transition period under the Board's CapPR process.

[38] *See* 12 CFR part 252, subpart E.

[39] Commenters also requested that bank holding companies subject to the Board's SR Letter 01–01 be granted an extension before becoming subject to the ''Capital Assessments and Stress Testing'' (FR Y–14) regulatory report, arguing that the bank holding companies were not given sufficient prior notice of their inclusion in the proposal. Those comments are addressed in the final reporting collection. 79 FR 59264 (October 1, 2014).

[40] *See* section 225.8(f) of the capital plan rule (12 CFR 225.8(f)).

removed prior approval and prior notice requirements for distributions involving incremental issuances of instruments that would qualify for inclusion in the numerator of regulatory capital ratios (i.e., common equity tier 1, additional tier 1, and tier 2 capital). Commenters were generally supportive of this proposed change, and the final rule adopts it without change.

H. Clarification of Assumptions Regarding Capital Actions Under the Stress Test Rules

The stress test rules require companies to assume, as part of company-run stress tests, that they issue no capital and redeem no capital instruments in the second through ninth quarters of the planning horizon. The proposal would have provided an exception to this assumption for issuances related to expensed employee compensation.

While the Board received no comments on this proposed exception, one commenter expressed the view that the Board should allow the inclusion of new capital issuances in stress testing if the issuance is related to a discretely defined strategic initiative that could not take place without the capital issuance.

The stress test rule requires companies to make consistent assumptions about their capital actions in order to enhance the comparability of the stress test across companies. An exception for expensed employee compensation does not undermine this comparability because all companies subject to stress testing generally have outstanding employee compensation programs, and have little to no discretion to direct issuances relating to employee compensation. In contrast, strategic initiatives vary across firms, and may be halted in times of stress. As such, the Board is finalizing the change to the stress testing capital action assumptions as proposed.

I. Other Modifications to the Capital Plan Rule and Related Requirements

i. Hearing procedures

The proposal would have revised the hearing procedures in the capital plan rule. Under the proposal, a large bank holding company would have had 15 calendar days to request an informal hearing, and the hearing would have been held within 30 calendar days of the request. The Board would have provided written notice of its final decision to the bank holding company within 60 calendar days of the conclusion of any informal hearing. Commenters were supportive of the flexibility provided to firms under the informal hearing procedures, and the final rule adopts the proposed revisions without change.

ii. Submission of Loss, Revenue, and Expense Estimation Models to the Board in Connection With Capital Plan

The proposed rule also would have required a bank holding company to be capable of providing to the Board its loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation status.

Commenters argued that they would have difficulty presenting the Board with certain models as they may be housed on third party servers or for other reasons. Commenters requested that the Board provide flexibility to firms to meet this requirement given the wide variety of loss, revenue and expense estimation models employed by firms and the contractual obligations firms may have with third party vendors regarding the dissemination of proprietary models.

In response, the Board clarifies that it will require companies to provide an inventory and description of models and methodologies, not the models themselves. This information is needed by supervisors in order to properly assess a bank holding company's capital adequacy and capital planning processes. In this regard, the information helps facilitate cross-firm comparisons of bank holding companies' loss, revenue, and expense estimation models and their approaches to model validation. The Board is finalizing the additional required documentation supporting a capital plan as proposed.

J. Comments on the Tier 1 Common Ratio and Capital Plan Capital Action Assumptions

While the Board did not propose to change the role of the tier 1 common ratio or the capital plan's capital action assumptions in the proposal, commenters provided views on these aspects of the rules.

Regarding the tier 1 common ratio, commenters noted that the components of the tier 1 common ratio will no longer be calculated as part of the regulatory capital calculations, and projecting the ratio for purposes of the capital plan and stress test rules imposes an additional burden on bank holding companies. The Board notes that the common equity tier 1 ratio will not be fully phased in until January 1, 2018. During the transition period, the Board expects that, for certain firms, the common equity tier 1 ratio will require less capital than the tier 1 common ratio under the supervisory severely adverse scenario. Consistent with the principle articulated in other aspects of the final rule where transition periods are relevant (see, for example, the discussion regard the clarification of the CCAR process for bank holding company subsidiaries of foreign banking organizations), the Board aims to ensure that bank holding companies are not held to lower standards during transition periods than they were prior to the adoption of the relevant rule. Accordingly, the final rule retains the tier 1 common ratio. However, the Board intends to monitor the common equity tier 1 ratio as it is phased in under the revised risk-based capital framework and implemented in stress testing and capital planning, and expects to revisit the issue as additional relevant data becomes available.

Commenters also provided views regarding the requirement that companies assume that they continue to execute capital actions planned in baseline conditions throughout the adverse and severely adverse supervisory scenarios for purposes of the capital plan rule. Commenters argue that this assumption does not reflect the fact that bank holding companies operate subject to internal capital management policies, and that the Board has supervisory authority to force banks to preserve capital in times of stress distributions in CCAR. In addition, commenters noted that the use of planned capital distributions in times of stress will be inconsistent with the soon-to-be-implemented capital conservation buffer requirements under the revised risk-based capital rules.[41]

The Board notes that CCAR makes conservative assumptions in order to provide a rigorous assessment of the capital adequacy of large bank holding companies. By assuming that distributions continue even during a stress period, CCAR is designed to approximate the tendency of losses in a crisis to occur suddenly, with capital continuing to be distributed until losses are realized or unavoidable. In this way, it helps to ensure that a bank holding company would remain sufficiently capitalized even if the timing of the losses were different or more sudden than that projected in the severely adverse scenario. Thus, the Board is not modifying its assumptions regarding baseline capital actions. With respect to the capital conservation buffer, the Board notes that the effects of the

[41] *See* 12 CFR 217.11.

capital conservation buffer distribution limitations are likely to be limited for the stress testing and capital planning cycle that begins on October 1, 2014, given the small portion of the buffer that will be effective during the planning horizon (0.625 percent of risk-weighted assets, only one quarter the size of the fully phased-in capital conservation buffer). Therefore, as noted in the CCAR 2015 instructions, the Board will not consider the limitation effects of the capital conservation buffer in the last four quarters of the CCAR 2015 planning horizon when performing its post-stress capital analysis of a bank holding company's planned capital distributions and bank holding companies should not assume the operation of distribution limitations of the capital conservation buffer when conducting their stress tests.[42] The Board is considering the appropriate treatment of the capital conservation buffer distribution limitations in stress testing and capital planning for future capital planning cycles and intends to address this issue in due course.

III. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320, Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by Office of Management and Budget (OMB). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control for this information collection is 7100–0342. In addition, as permitted by the PRA, the Board is extending for three years, with revision, the Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans) (Reg Y–13; OMB No. 7100–0342).

As mentioned in the preamble, the Board received 18 comment letters, however, none specifically addressed the PRA analysis. One commenter, however, did express general concerns regarding their ability to provide supporting documentation, due to third party legal and physical impediments, required by section 225.8(e)(3)(vi). In response to this comment, the Board adjusted its PRA burden estimate associated with this requirement.

The final rule contains requirements subject to the PRA. The collection of information revised by this final rule is found in section 225.8 of Regulation Y (12 CFR part 225). Section 225.8(e)(3)(vi) requires a bank holding company to be capable of providing to the Board its loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation status. This information is needed by supervisors in order to properly assess a bank holding company's capital adequacy and capital planning processes. In this regard, the information helps facilitate cross-firm comparisons of bank holding companies' loss, revenue, and expense estimation models and their approaches to model validation. The Board estimates that, on average, respondents take an additional 5 hours to comply with the requirements in section 225.8(e)(3)(vi).

Section 225.8(g)(1) removes prior approval and prior notice requirements for distributions involving incremental issuances of instruments that would qualify for inclusion in the numerator of regulatory capital ratios (i.e., common equity tier 1, additional tier 1, and tier 2 capital). As mentioned in the preamble, the Board believes that removing the requirement would reduce unnecessary efforts by a bank holding company to submit requests for distributions outside of the capital plan that are associated with issuances of regulatory capital. The Board estimates that respondent burden associated with section 225.8(g)(1) would be reduced by approximately 50 percent.

Section 225.8(g)(3)(iii)(A)—*Net distribution limitation* exceptions—To the extent that the Board or the appropriate Reserve Bank indicates in writing its non-objection pursuant to section 225.8(g)(5), following a request for non-objection from the bank holding company that includes all of the information required to be submitted under section 225.8(g)(4). The Board estimates that, on average, respondents take 16 hours to comply with the requirement in section 225.8(g)(3)(iii)(A).

Title of Information Collection: Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans) (Reg Y–13).

Frequency of Response: Recordkeeping requirements, annually. Reporting requirements, varied—the capital plan exercise would be done at least annually, capital plan resubmissions and prior approval requirements would be event-generated.

Affected Public: This information collection applies to every top-tier bank holding company domiciled in the United States that has $50 billion or more in total consolidated assets (large U.S. bank holding companies) and U.S. intermediate holding companies with total consolidated assets of $50 billion or more.

General Description of Information Collection: This information collection is mandatory and the recordkeeping requirement to maintain the Capital Plan is in effect until either a bank holding company is no longer operational or until further notice by the Board. Section 616(a) of the Dodd-Frank Act amended section 5(b) of the Bank Holding Company Act (BHC Act) (12 U.S.C. § 1844(b)) to specifically authorize the Board to issue regulations and orders relating to capital requirements for bank holding companies. The Board is also authorized to collect and require reports from bank holding companies pursuant to section 5(c) of the BHC Act (12 U.S.C. § 1844(c)). Additionally, the Board's rulemaking authority for the information collection requirements associated with Reg Y–13 is found in sections 908 and 910 of the International Lending Supervision Act, as amended (12 U.S.C. 3907 and 3909). Additional support for Reg Y–13 is found in sections 165 and 166 of the Dodd-Frank Act (12 U.S.C. 5365 and 5366). The capital plan information submitted by the covered bank holding company would consist of confidential and proprietary modeling information and highly sensitive business plans, such as acquisition plans submitted to the Federal Reserve for approval. Therefore, it appears the information would be subject to withholding under exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Estimated Burden

Number of Respondents: 52
Estimated Burden per Response:
__.8(e)(1)(i) and (ii) Recordkeeping and Reporting, 12,000 hours
__.8(e)(1)(iii) Recordkeeping, 100 hours
__.8(e)(3)(i)–(vii) Reporting, 1,005 hours
__.8(e)(4) Reporting, 100 hours
__.8(f)(3)(i) Reporting, 16 hours
__.8(g)(1), (3) and (4) Reporting, 100 hours
__.8(g)(3)(iii)(A) Reporting, 16 hours
__.8(g)(6) Reporting, 16 hours

Total Estimated Annual Burden: 685,156 hours.

The Board has a continuing interest in the public's opinions of collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to:

[42] *See* Comprehensive Capital Analysis and Review 2015 Summary Instructions and Guidance (October 17, 2014).

Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0342), Washington, DC 20503.

B. Regulatory Flexibility Act Analysis

The Board has considered the potential impact of the final rule on small companies in accordance with the Regulatory Flexibility Act (5 U.S.C. 603(b)). Based on its analysis and for the reasons stated below, the Board believes that the final rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a final regulatory flexibility analysis.

Under regulations issued by the Small Business Administration (''SBA''), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $550 million or less (a small banking organization).[43] The final rule will apply to bank holding companies, savings and loan holding companies, and state member banks with total consolidated asset of $10 billion or more and nonbank financial companies supervised by the Board. Companies that will be subject to the final rule therefore substantially exceed the $550 million total asset threshold at which a company is considered a small company under SBA regulations.

In light of the foregoing, the Board does not believe that the final rule will have a significant economic impact on a substantial number of small entities.

C. Solicitation of Comments on the Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board sought to present the proposed rule in a simple and straightforward manner and solicited comment on how to make the proposed rule easier to understand. No comments were received on the use of plain language.

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

12 CFR Part 252

Administrative practice and procedure, Banks, Banking, Capital planning, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

Authority and Issuance

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

Subpart A—General Provisions

■ 2. Section 225.8 is revised to read as follows:

§ 225.8 Capital planning.

(a) *Purpose.* This section establishes capital planning and prior notice and approval requirements for capital distributions by certain bank holding companies.

(b) *Scope and reservation of authority*—(1) *Applicability.* Except as provided in paragraph (c) of this section, this section applies to:

(i) Any top-tier bank holding company domiciled in the United States with average total consolidated assets of $50 billion or more ($50 billion asset threshold);

(ii) Any other bank holding company domiciled in the United States that is made subject to this section, in whole or in part, by order of the Board;

(iii) Any U.S. intermediate holding company subject to this section pursuant to 12 CFR 252.153; and

(iv) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Average total consolidated assets.* For purposes of this section, average total consolidated assets means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters, as applicable. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(3) *Ongoing applicability.* A bank holding company (including any successor bank holding company) that is subject to any requirement in this section shall remain subject to any such requirement unless and until its total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

(4) *Reservation of authority.* Nothing in this section shall limit the authority of the Federal Reserve to issue a capital directive or take any other supervisory or enforcement action, including an action to address unsafe or unsound practices or conditions or violations of law.

(5) *Rule of construction.* Unless the context otherwise requires, any reference to bank holding company in this section shall include a U.S. intermediate holding company and shall include a nonbank financial company supervised by the Board to the extent this section is made applicable pursuant to a rule or order of the Board.

(c) *Transitional arrangements*—(1) *Transition periods for certain bank holding companies.* (i) A bank holding company is subject to this section beginning on the first day of the first capital plan cycle that begins after the bank holding company meets or exceeds the $50 billion asset threshold (as measured under paragraph (b) of this section), unless that time is extended by the Board in writing.

(ii) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(1)(i) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(2) *Transition periods for subsidiaries of certain foreign banking organizations*—(i) *Bank holding companies that rely on SR Letter 01–01.* (A) A bank holding company that meets

[43] *See* 13 CFR 121.201. Effective July 14, 2014, the SBA revised the size standards for banking organizations to $550 million in assets from $500 million in assets. 79 FR 33647 (June 12, 2014).

the $50 billion asset threshold (as measured under paragraph (b) of this section) and is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) is subject to this section beginning on January 1, 2016, unless that time is extended by the Board in writing.

(B) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(2)(i)(A) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(ii) *U.S. intermediate holding companies.* (A) A U.S. intermediate holding company is subject to this section beginning on the first day of the first capital plan cycle after the date that the U.S. intermediate holding company is required to be established pursuant to 12 CFR 252.153, unless that time is extended by the Board in writing.

(B) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a U.S. intermediate holding company described in paragraph (c)(2)(ii)(A) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(iii) *Bank holding company subsidiaries of U.S. intermediate holding companies required to be established by July 1, 2016.* (A) Notwithstanding any other requirement in this section, a bank holding company that is a subsidiary of a U.S. intermediate holding company (or, with the mutual consent of the company and Board, another bank holding company domiciled in the United States) shall remain subject to paragraph (e) of this section until December 31, 2017 and shall remain subject to the requirements of paragraphs (f) and (g) of this section until the Board issues an objection or non-objection to the capital plan of the relevant U.S. intermediate holding company.

(B) After the time periods set forth in paragraph (c)(iii)(A) of this section, this section will cease to apply to a bank holding company that is a subsidiary of a U.S. intermediate holding company, unless otherwise determined by the Board in writing.

(3) *Transition periods for bank holding companies subject to the advanced approaches.* (i) Notwithstanding any other requirement in this section, a bank holding company must use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 217, subpart D and F, as applicable, to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the capital plan cycle beginning on October 1, 2014, and the bank holding company may not use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio until January 1, 2016.

(ii) Beginning January 1, 2016, a bank holding company must use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for purposes of its capital plan submission under paragraph (e) of this section if the Board notifies the bank holding company before the first day of the capital plan cycle that the bank holding company is required to use the advanced approaches to determine its risk-based capital requirements.

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

(1) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(2) *BHC stress scenario* means a scenario designed by a bank holding company that stresses the specific vulnerabilities of the bank holding company's risk profile and operations, including those related to the company's capital adequacy and financial condition.

(3) *Capital action* means any issuance or redemption of a debt or equity capital instrument, any capital distribution, and any similar action that the Federal Reserve determines could impact a bank holding company's consolidated capital.

(4) *Capital distribution* means a redemption or repurchase of any debt or equity capital instrument, a payment of common or preferred stock dividends, a payment that may be temporarily or permanently suspended by the issuer on any instrument that is eligible for inclusion in the numerator of any minimum regulatory capital ratio, and any similar transaction that the Federal Reserve determines to be in substance a distribution of capital.

(5) *Capital plan* means a written presentation of a bank holding company's capital planning strategies and capital adequacy process that includes the mandatory elements set forth in paragraph (e)(2) of this section.

(6) *Capital plan cycle* means:

(i) Until September 30, 2015, the period beginning on October 1 of a calendar year and ending on September 30 of the following calendar year, and

(ii) Beginning October 1, 2015, the period beginning on January 1 of a calendar year and ending on December 31 of that year.

(7) *Capital policy* means a bank holding company's written assessment of the principles and guidelines used for capital planning, capital issuance, capital usage and distributions, including internal capital goals; the quantitative or qualitative guidelines for capital distributions; the strategies for addressing potential capital shortfalls; and the internal governance procedures around capital policy principles and guidelines.

(8) *Minimum regulatory capital ratio* means any minimum regulatory capital ratio that the Federal Reserve may require of a bank holding company, by regulation or order, including, as applicable, the bank holding company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, and E to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(9) *Nonbank financial company supervised by the Board* means a company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(10) *Planning horizon* means the period of at least nine consecutive quarters, beginning with the quarter preceding the quarter in which the bank holding company submits its capital plan, over which the relevant projections extend.

(11) *Tier 1 capital* has the same meaning as under appendix A to this part or under 12 CFR part 217, as applicable, or any successor regulation.

(12) *Tier 1 common capital* means tier 1 capital as defined under appendix A to this part less the non-common elements of tier 1 capital, including perpetual preferred stock and related surplus, minority interest in

subsidiaries, trust preferred securities and mandatory convertible preferred securities.

(13) *Tier 1 common ratio* means the ratio of a bank holding company's tier 1 common capital to total risk-weighted assets as defined under appendices A and E to this part.

(14) *U.S. intermediate holding company* means the top-tier U.S. company that is required to be established pursuant to 12 CFR 252.153.

(e) *General requirements*—(1) *Annual capital planning.* (i) A bank holding company must develop and maintain a capital plan.

(ii) A bank holding company must submit its complete capital plan to the Board and the appropriate Reserve Bank each year. For the capital plan cycle beginning on October 1, 2014, the capital plan must be submitted by January 5, 2015, or such later date as directed by the Board or by the appropriate Reserve Bank with concurrence of the Board. For each capital plan cycle beginning thereafter, the capital plan must be submitted by April 5, or such later date as directed by the Board or by the appropriate Reserve Bank with concurrence of the Board.

(iii) The bank holding company's board of directors or a designated committee thereof must at least annually and prior to submission of the capital plan under paragraph (e)(1)(ii) of this section:

(A) Review the robustness of the bank holding company's process for assessing capital adequacy,

(B) Ensure that any deficiencies in the bank holding company's process for assessing capital adequacy are appropriately remedied; and

(C) Approve the bank holding company's capital plan.

(2) *Mandatory elements of capital plan.* A capital plan must contain at least the following elements:

(i) An assessment of the expected uses and sources of capital over the planning horizon that reflects the bank holding company's size, complexity, risk profile, and scope of operations, assuming both expected and stressful conditions, including:

(A) Estimates of projected revenues, losses, reserves, and pro forma capital levels, including any minimum regulatory capital ratios (for example, leverage, tier 1 risk-based, and total risk-based capital ratios) and any additional capital measures deemed relevant by the bank holding company, over the planning horizon under expected conditions and under a range of scenarios, including any scenarios provided by the Federal Reserve and at least one BHC stress scenario;

(B) A calculation of the pro forma tier 1 common ratio over the planning horizon under expected conditions and under a range of stressed scenarios and discussion of how the company will maintain a pro forma tier 1 common ratio above 5 percent under expected conditions and the stressed scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section;

(C) A discussion of the results of any stress test required by law or regulation, and an explanation of how the capital plan takes these results into account; and

(D) A description of all planned capital actions over the planning horizon.

(ii) A detailed description of the bank holding company's process for assessing capital adequacy, including:

(A) A discussion of how the bank holding company will, under expected and stressful conditions, maintain capital commensurate with its risks, maintain capital above the minimum regulatory capital ratios and above a tier 1 common ratio of 5 percent, and serve as a source of strength to its subsidiary depository institutions;

(B) A discussion of how the bank holding company will, under expected and stressful conditions, maintain sufficient capital to continue its operations by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary;

(iii) The bank holding company's capital policy; and

(iv) A discussion of any expected changes to the bank holding company's business plan that are likely to have a material impact on the bank holding company's capital adequacy or liquidity.

(3) *Data collection.* Upon the request of the Board or appropriate Reserve Bank, the bank holding company shall provide the Federal Reserve with information regarding:

(i) The bank holding company's financial condition, including its capital;

(ii) The bank holding company's structure;

(iii) Amount and risk characteristics of the bank holding company's on- and off-balance sheet exposures, including exposures within the bank holding company's trading account, other trading-related exposures (such as counterparty-credit risk exposures) or other items sensitive to changes in market factors, including, as appropriate, information about the sensitivity of positions to changes in market rates and prices;

(iv) The bank holding company's relevant policies and procedures, including risk management policies and procedures;

(v) The bank holding company's liquidity profile and management;

(vi) The loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation; and

(vii) Any other relevant qualitative or quantitative information requested by the Board or by the appropriate Reserve Bank to facilitate review of the bank holding company's capital plan under this section.

(4) *Re-submission of a capital plan.* (i) A bank holding company must update and re-submit its capital plan to the appropriate Reserve Bank within 30 calendar days of the occurrence of one of the following events:

(A) The bank holding company determines there has been or will be a material change in the bank holding company's risk profile, financial condition, or corporate structure since the bank holding company last submitted the capital plan to the Board and the appropriate Reserve Bank under this section; or

(B) The Board or the appropriate Reserve Bank with concurrence of the Board, directs the bank holding company in writing to revise and resubmit its capital plan for any of the following reasons:

(*1*) The capital plan is incomplete or the capital plan, or the bank holding company's internal capital adequacy process, contains material weaknesses;

(*2*) There has been, or will likely be, a material change in the bank holding company's risk profile (including a material change in its business strategy or any risk exposure), financial condition, or corporate structure;

(*3*) The BHC stress scenario(s) are not appropriate for the bank holding company's business model and portfolios, or changes in financial markets or the macro-economic outlook that could have a material impact on a bank holding company's risk profile and financial condition require the use of updated scenarios; or

(*4*) The capital plan or the condition of the bank holding company raise any of the issues described in paragraph (f)(2)(ii) of this section.

(ii) A bank holding company may resubmit its capital plan to the Federal Reserve if the Board or the appropriate Reserve Bank objects to the capital plan.

(iii) The Board or the appropriate Reserve Bank with concurrence of the Board, may extend the 30-day period in

paragraph (e)(4)(i) of this section for up to an additional 60 calendar days, or such longer period as the Board or the appropriate Reserve Bank, with concurrence of the Board, determines, in its discretion, appropriate.

(iv) Any updated capital plan must satisfy all the requirements of this section; however, a bank holding company may continue to rely on information submitted as part of a previously submitted capital plan to the extent that the information remains accurate and appropriate.

(5) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this section and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

(f) *Review of capital plans by the Federal Reserve; publication of summary results*—(1) *Considerations and inputs.* (i) The Board or the appropriate Reserve Bank with concurrence of the Board, will consider the following factors in reviewing a bank holding company's capital plan:

(A) The comprehensiveness of the capital plan, including the extent to which the analysis underlying the capital plan captures and addresses potential risks stemming from activities across the firm and the company's capital policy;

(B) The reasonableness of the bank holding company's capital plan, the assumptions and analysis underlying the capital plan, and the robustness of its capital adequacy process; and

(C) The bank holding company's ability to maintain capital above each minimum regulatory capital ratio and above a tier 1 common ratio of 5 percent on a pro forma basis under expected and stressful conditions throughout the planning horizon, including but not limited to any scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section.

(ii) The Board or the appropriate Reserve Bank with concurrence of the Board, will also consider the following information in reviewing a bank holding company's capital plan:

(A) Relevant supervisory information about the bank holding company and its subsidiaries;

(B) The bank holding company's regulatory and financial reports, as well as supporting data that would allow for an analysis of the bank holding company's loss, revenue, and reserve projections;

(C) As applicable, the Federal Reserve's own pro forma estimates of the firm's potential losses, revenues, reserves, and resulting capital adequacy under expected and stressful conditions, including but not limited to any scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section, as well as the results of any stress tests conducted by the bank holding company or the Federal Reserve; and

(D) Other information requested or required by the Board or the appropriate Reserve Bank, as well as any other information relevant, or related, to the bank holding company's capital adequacy.

(2) *Federal Reserve action on a capital plan.* (i) The Board or the appropriate Reserve Bank with concurrence of the Board, will object, in whole or in part, to the capital plan or provide the bank holding company with a notice of non-objection to the capital plan:

(A) For the capital plan cycle beginning on October 1, 2014, by March 31, 2015;

(B) For each capital plan cycle beginning thereafter, by June 30 of the calendar year in which a capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section; and

(C) For a capital plan resubmitted pursuant to paragraph (e)(4) of this section, within 75 calendar days after the date on which a capital plan is resubmitted, unless the Board provides notice to the company that it is extending the time period.

(ii) The Board or the appropriate Reserve Bank with concurrence of the Board, may object to a capital plan if it determines that:

(A) The bank holding company has material unresolved supervisory issues, including but not limited to issues associated with its capital adequacy process;

(B) The assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate;

(C) The bank holding company has not demonstrated an ability to maintain capital above each minimum regulatory capital ratio and above a tier 1 common ratio of 5 percent, on a pro forma basis under expected and stressful conditions throughout the planning horizon; or

(D) The bank holding company's capital planning process or proposed capital distributions otherwise constitute an unsafe or unsound practice, or would violate any law, regulation, Board order, directive, or condition imposed by, or written agreement with, the Board or the appropriate Reserve Bank. In determining whether a capital plan or any proposed capital distribution would constitute an unsafe or unsound practice, the Board or the appropriate Reserve Bank would consider whether the bank holding company is and would remain in sound financial condition after giving effect to the capital plan and all proposed capital distributions.

(iii) The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to object to a capital plan.

(iv) If the Board or the appropriate Reserve Bank objects to a capital plan and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, issues a non-objection to the bank holding company's capital plan, the bank holding company may not make any capital distribution, other than capital distributions arising from the issuance of a regulatory capital instrument eligible for inclusion in the numerator of a minimum regulatory capital ratio or capital distributions with respect to which the Board or the appropriate Reserve Bank has indicated in writing its non-objection.

(v) The Board may disclose publicly its decision to object or not object to a bank holding company's capital plan under this section, along with a summary of the Board's analyses of that company. Any disclosure under this paragraph will occur by March 31 (for the capital plan cycle beginning on October 1, 2014) or June 30 (for each capital plan cycle beginning thereafter), unless the Board determines that a later disclosure date is appropriate.

(3) *Request for reconsideration or hearing*—(i) *General.* Within 15 calendar days of receipt of a notice of objection to a capital plan by the Board or the appropriate Reserve Bank:

(A) A bank holding company may submit a written request to the Board requesting reconsideration of the objection, including an explanation of why reconsideration should be granted. Within 15 calendar days of receipt of the bank holding company's request, the Board will notify the company of its decision to affirm or withdraw the objection to the bank holding company's capital plan or a specific capital distribution; or

(B) As an alternative to paragraph (f)(3)(i)(A) of this section, a bank holding company may request an informal hearing on the objection.

(ii) *Request for an informal hearing.* (A) A request for an informal hearing shall be in writing and shall be submitted within 15 calendar days of a

notice of an objection. The Board may, in its sole discretion, order an informal hearing if the Board finds that a hearing is appropriate or necessary to resolve disputes regarding material issues of fact.

(B) An informal hearing shall be held within 30 calendar days of a request, if granted, provided that the Board may extend this period upon notice to the requesting party.

(C) Written notice of the final decision of the Board shall be given to the bank holding company within 60 calendar days of the conclusion of any informal hearing ordered by the Board, provided that the Board may extend this period upon notice to the requesting party.

(D) While the Board's final decision is pending and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board issues a non-objection to the bank holding company's capital plan, the bank holding company may not make any capital distribution, other than those capital distributions with respect to which the Board or the appropriate Reserve Bank has indicated in writing its non-objection.

(4) *Application of this section to other bank holding companies.* The Board may apply this section, in whole or in part, to any other bank holding company by order based on the institution's size, level of complexity, risk profile, scope of operations, or financial condition.

(g) *Approval requirements for certain capital actions*—(1) *Circumstances requiring approval.* Notwithstanding a notice of non-objection under paragraph (f)(2)(i) of this section, a bank holding company may not make a capital distribution (excluding any capital distribution arising from the issuance of a regulatory capital instrument eligible for inclusion in the numerator of a minimum regulatory capital ratio) under the following circumstances, unless it receives prior approval from the Board or appropriate Reserve Bank pursuant to paragraph (g)(5) of this section:

(i) After giving effect to the capital distribution, the bank holding company would not meet a minimum regulatory capital ratio or a tier 1 common ratio of at least 5 percent;

(ii) The Board or the appropriate Reserve Bank with concurrence of the Board, notifies the company in writing that the Federal Reserve has determined that the capital distribution would result in a material adverse change to the organization's capital or liquidity structure or that the company's earnings were materially underperforming projections;

(iii) Except as provided in paragraph (g)(2) of this section, the dollar amount of the capital distribution will exceed the amount described in the capital plan for which a non-objection was issued under this section, as measured on an aggregate basis beginning in the third quarter of the planning horizon through the quarter at issue; or

(iv) The capital distribution would occur after the occurrence of an event requiring resubmission under paragraphs (e)(4)(i)(A) or (B) of this section and before the Federal Reserve has acted on the resubmitted capital plan.

(2) *Exception for well capitalized bank holding companies.* (i) A bank holding company may make a capital distribution for which the dollar amount exceeds the amount described in the capital plan for which a non-objection was issued under paragraph (f)(2)(i) of this section if the following conditions are satisfied:

(A) The bank holding company is, and after the capital distribution would remain, well capitalized as defined in § 225.2(r) of Regulation Y (12 CFR 225.2(r));

(B) The bank holding company's performance and capital levels are, and after the capital distribution would remain, consistent with its projections under expected conditions as set forth in its capital plan under paragraph (f)(2)(i) of this section;

(C) The annual aggregate dollar amount of all capital distributions (for purposes of the capital plan cycle beginning on October 1, 2014, in the period beginning on April 1, 2015 and ending on March 31, 2016, and for purposes of each capital plan cycle beginning thereafter, in the period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year) would not exceed the total amounts described in the company's capital plan for which the bank holding company received a notice of non-objection by more than 1.00 percent multiplied by the bank holding company's tier 1 capital, as reported to the Federal Reserve on the bank holding company's first quarter FR Y–9C;

(D) The bank holding company provides the appropriate Reserve Bank with notice 15 calendar days prior to a capital distribution that includes the elements described in paragraph (g)(4) of this section; and

(E) The Board or the appropriate Reserve Bank with concurrence of the Board, does not object to the transaction proposed in the notice. In determining whether to object to the proposed transaction, the Board or the appropriate Reserve Bank shall apply the criteria described in paragraph (g)(5)(ii) of this section.

(ii) The exception in this paragraph (g)(2) shall not apply if the Board or the appropriate Reserve Bank notifies the bank holding company in writing that it may not take advantage of this exception.

(3) *Net distribution limitation*—(i) *General.* Notwithstanding a notice of non-objection under paragraph (f)(2)(i) of this section, a bank holding company must reduce its capital distributions in accordance with paragraph (g)(3)(ii) of this section if the bank holding company raises a smaller dollar amount of capital of a given category of regulatory capital instruments than it had included in its capital plan, as measured on an aggregate basis beginning in the third quarter of the planning horizon through the end of the current quarter.

(ii) *Reduction of distributions*—(A) *Common equity tier 1 capital.* If the bank holding company raises a smaller dollar amount of common equity tier 1 capital (as defined in 12 CFR 217.2), the bank holding company must reduce its capital distributions relating to common equity tier 1 capital such that the dollar amount of the bank holding company's capital distributions, net of the dollar amount of its capital raises, (''net distributions'') relating to common equity tier 1 capital is no greater than the dollar amount of net distributions relating to common equity tier 1 capital included in its capital plan, as measured on an aggregate basis beginning in the third quarter of the planning horizon through the end of the current quarter.

(B) *Additional tier 1 capital.* If the bank holding company raises a smaller dollar amount of additional tier 1 capital (as defined in 12 CFR 217.2), the bank holding company must reduce its capital distributions relating to additional tier 1 capital (other than scheduled payments on additional tier 1 capital instruments) such that the dollar amount of the bank holding company's net distributions relating to additional tier 1 capital is no greater than the dollar amount of net distributions relating to additional tier 1 capital included in its capital plan, as measured on an aggregate basis beginning in the third quarter of the planning horizon through the end of the current quarter.

(C) *Tier 2 capital.* If the bank holding company raises a smaller dollar amount of tier 2 capital (as defined in 12 CFR 217.2), the bank holding company must reduce its capital distributions relating to tier 2 capital (other than scheduled payments on tier 2 capital instruments) such that the dollar amount of the bank holding company's net distributions

relating to tier 2 capital is no greater than the dollar amount of net distributions relating to tier 2 capital included in its capital plan, as measured on an aggregate basis beginning in the third quarter of the planning horizon through the end of the current quarter.

(iii) *Exceptions.* Paragraphs (g)(3)(i) and (ii) of this section shall not apply:

(A) To the extent that the Board or appropriate Reserve Bank indicates in writing its non-objection pursuant to paragraph (g)(5) of this section, following a request for non-objection from the bank holding company that includes all of the information required to be submitted under paragraph (g)(4) of this section;

(B) To capital distributions arising from the issuance of a regulatory capital instrument eligible for inclusion in the numerator of a minimum regulatory capital ratio that the bank holding company had not included in its capital plan;

(C) To the extent that the bank holding company raised a smaller dollar amount of capital in the category of regulatory capital instruments described in paragraph (g)(3)(i) of this section due to employee-directed capital issuances related to an employee stock ownership plan;

(D) To the extent that the bank holding company raised a smaller dollar amount of capital in the category of regulatory capital instruments described in paragraph (g)(3)(i) of this section due to a planned merger or acquisition that is no longer expected to be consummated or for which the consideration paid is lower than the projected price in the capital plan; or

(E) To the extent that the dollar amount by which the bank holding company's net distributions exceed the dollar amount of net distributions included in its capital plan in the category of regulatory capital instruments described in paragraph (g)(3)(i) of this section, as measured on an aggregate basis beginning in the third quarter of the planning horizon through the end of the current quarter, is less than 1.00 percent of the bank holding company's tier 1 capital, as reported to the Federal Reserve on the bank holding company's first quarter FR Y–9C, and the bank holding company notifies the appropriate Reserve Bank at least 15 calendar days in advance of any capital distribution in that category of regulatory capital instruments.

(4) *Contents of request.* (i) A request for a capital distribution under this section shall be filed with the appropriate Reserve Bank and the Board and shall contain the following information:

(A) The bank holding company's current capital plan or an attestation that there have been no changes to the capital plan since it was last submitted to the Federal Reserve;

(B) The purpose of the transaction;

(C) A description of the capital distribution, including for redemptions or repurchases of securities, the gross consideration to be paid and the terms and sources of funding for the transaction, and for dividends, the amount of the dividend(s); and

(D) Any additional information requested by the Board or the appropriate Reserve Bank (which may include, among other things, an assessment of the bank holding company's capital adequacy under a revised stress scenario provided by the Federal Reserve, a revised capital plan, and supporting data).

(ii) Any request submitted with respect to a capital distribution described in paragraph (g)(1)(i) of this section shall also include a plan for restoring the bank holding company's capital to an amount above a minimum level within 30 calendar days and a rationale for why the capital distribution would be appropriate.

(5) *Approval of certain capital distributions.* (i) The Board or the appropriate Reserve Bank with concurrence of the Board, will act on a request under this paragraph (g)(5) within 30 calendar days after the receipt of all the information required under paragraph (g)(4) of this section.

(ii) In acting on a request under this paragraph, the Board or appropriate Reserve Bank will apply the considerations and principles in paragraph (f) of this section. In addition, the Board or the appropriate Reserve Bank may disapprove the transaction if the bank holding company does not provide all of the information required to be submitted under paragraph (g)(4) of this section.

(6) *Disapproval and hearing.* (i) The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to disapprove any proposed capital distribution. Within 15 calendar days after receipt of a disapproval by the Board, the bank holding company may submit a written request for a hearing.

(A) The Board may, in its sole discretion, order an informal hearing if the Board finds that a hearing is appropriate or necessary to resolve disputes regarding material issues of fact.

(B) An informal hearing shall be held within 30 calendar days of a request, if granted, provided that the Board may extend this period upon notice to the requesting party.

(C) Written notice of the final decision of the Board shall be given to the bank holding company within 60 calendar days of the conclusion of any informal hearing ordered by the Board, provided that the Board may extend this period upon notice to the requesting party.

(D) While the Board's final decision is pending and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, approves the capital distribution at issue, the bank holding company may not make such capital distribution.

Appendix A to Part 225 [Removal Withdrawn]

■ 3. The removal of appendix A to part 225 published October 11, 2013, at 78 FR 62291, and effective January 1, 2019, is withdrawn.

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

■ 4. The authority citation for part 252 is revised to read as follows:

Authority: 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p-1, 1844(b), 1844(c), 5361, 5365, 5366.

■ 5. Subpart B is revised to read as follows:

Subpart B—Company-Run Stress Test Requirements for Certain U.S. Banking Organizations With Total Consolidated Assets Over $10 Billion and Less Than $50 Billion

Sec.

252.10 [Reserved]
252.11 Authority and purpose.
252.12 Definitions.
252.13 Applicability.
252.14 Annual stress test.
252.15 Methodologies and practices.
252.16 Reports of stress test results.
252.17 Disclosure of stress test results.

§ 252.10 [Reserved]

§ 252.11 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831o, 1831p–1, 1844(b), 1844(c), 3906–3909, 5365.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires a bank holding company with total consolidated assets of greater than $10 billion but less than $50 billion and savings and loan holding companies and state member banks with total consolidated assets of greater than $10 billion to conduct annual stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 252.12 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the regulatory capital requirements at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Asset threshold* means:

(1) For a bank holding company, average total consolidated assets of greater than $10 billion but less than $50 billion, and

(2) For a savings and loan holding company or state member bank, average total consolidated assets of greater than $10 billion.

(d) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company, savings and loan holding company, or state member bank on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) or Consolidated Report of Condition and Income (Call Report), as applicable, for the four most recent consecutive quarters. If the bank holding company, savings and loan holding company, or state member bank has not filed the FR Y–9C or Call Report, as applicable, for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C or Call Report, as applicable, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C or Call Report, as applicable, used in the calculation of the average.

(e) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(f) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank, and that reflect the consensus views of the economic and financial outlook.

(g) *Capital action* has the same meaning as in § 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)).

(h) *Covered company subsidiary* means a state member bank that is a subsidiary of a covered company as defined in subpart F of this part.

(i) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(j) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(k) *Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

(l) *Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

(m) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the bank holding company, savings and loan holding company, or state member bank on the FR Y–9C or Call Report, as appropriate.

(n) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, a company's tier 1 and supplementary leverage ratio and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under the Board's regulations, including appendices A, D, and E to 12 CFR part 225, appendices A, B, and E to 12 CFR part 208, and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation. For state member banks other than covered company subsidiaries and for all bank holding companies, for the stress test cycle that commences on October 1, 2013, regulatory capital ratios must be calculated pursuant to the regulatory capital framework set forth in 12 CFR part 225, appendix A, and not the regulatory capital framework set forth in 12 CFR part 217.

(o) *Savings and loan holding company* has the same meaning as in § 238.2(m) of the Board's Regulation LL (12 CFR 238.2(m)).

(p) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank that the Board annually determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(q) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(r) *State member bank* has the same meaning as in § 208.2(g) of the Board's Regulation H (12 CFR 208.2(g)).

(s) *Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a bank holding company, savings and loan holding company, or state member bank over the planning horizon, taking into account the current condition, risks, exposures, strategies, and activities.

(t) *Stress test cycle* means:

(1) Until September 30, 2015, the period beginning on October 1 of a calendar year and ending on September 30 of the following calendar year, and

(2) Beginning October 1, 2015, the period beginning on January 1 of a calendar year and ending on December 31 of that year.

(u) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2(o)).

§ 252.13 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to:

(i) Any bank holding company with average total consolidated assets (as defined in § 252.12(d)) of greater than $10 billion but less than $50 billion;

(ii) Any savings and loan holding company with average total consolidated assets (as defined in § 252.12(d)) of greater than $10 billion; and

(iii) Any state member bank with average total consolidated assets (as defined in § 252.12(d)) of greater than $10 billion.

(2) *Ongoing applicability.* (i) A bank holding company, savings and loan holding company, or state member bank (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $10 billion for each of four consecutive quarters, as reported on the FR Y–9C or Call Report, as applicable and effective on the as-of date of the fourth consecutive FR Y–9C or Call Report, as applicable.

(ii) A bank holding company or savings and loan holding company that becomes a covered company as defined in subpart F of this part and conducts a stress test pursuant to that subpart is not subject to the requirements of this subpart.

(b) *Transitional arrangements*—(1) *Transition periods for bank holding*

companies and state member banks. (i) A bank holding company or state member bank that exceeds the asset threshold for the first time on or before March 31 of a given year, must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A bank holding company or state member bank that exceeds the asset threshold for the first time after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(iii) Notwithstanding paragraphs (b)(1)(i) or (ii) of this section, a bank holding company that meets the asset threshold (as defined in § 252.12(c)) and that is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning on January 1, 2016, unless that time is extended by the Board in writing.

(2) *Transition period for savings and loan holding companies.* (i) A savings and loan holding company that is subject to minimum regulatory capital requirements and exceeds the asset threshold for the first time on or before March 31 of a given year, must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A savings and loan holding company that is subject to minimum regulatory capital requirements and exceeds the asset threshold for the first time after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(3) *Transition periods for companies subject to the advanced approaches.* Notwithstanding any other requirement in this section:

(i) A bank holding company, savings and loan holding company, or state member bank must use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 217, subpart D and F, as applicable, to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the stress test cycle beginning on October 1, 2014, and may not use the advanced approaches until January 1, 2016; and

(ii) Beginning January 1, 2016, a bank holding company, savings and loan holding company, or state member bank must use the advanced approaches to estimate its pro forma regulatory capital ratios if the Board notifies the company before the first day of the stress test cycle that the company is required to use the advanced approaches to determine its risk-based capital requirements.

§ 252.14 Annual stress test.

(a) *General requirements*—(1) *General.* A bank holding company, savings and loan holding company, and state member bank must conduct an annual stress test in accordance with paragraphs (a)(2) and (3) of this section.

(2) *Timing for the stress test cycle beginning on October 1, 2014.* For the stress test cycle beginning on October 1, 2014:

(i) A state member bank that is a covered company subsidiary must conduct its stress test by January 5, 2015, based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must conduct its stress test by March 31, 2015 based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing.

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary and a savings and loan holding company with average total consolidated assets of $50 billion or more must conduct its stress test by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary, a bank holding company, and a savings and loan holding company with average total consolidated assets of less than $50 billion must conduct its stress test by July 31 of each calendar year using financial statement data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a bank holding company, savings and loan holding company, or state member bank must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios to each bank holding company, savings and loan holding company, or state member bank no later than November 15, 2014 (for the stress test cycle beginning on October 1, 2014) and no later than February 15 of that calendar year (for each stress test cycle beginning thereafter).

(2) *Additional components.* (i) The Board may require a bank holding company, savings and loan holding company, or state member bank with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. The Board may also require a state member bank that is subject to 12 CFR part 208, appendix E (or, beginning on January 1, 2015, 12 CFR 217, subpart F) or that is a subsidiary of a bank holding company that is subject to either this paragraph or § 252.54(b)(2)(i) of this part to include a trading and counterparty component in the state member bank's adverse and severely adverse scenarios in the stress test required by this section. For the stress test cycle beginning on October 1, 2014, the data used in this component must be as of a date between October 1 and December 1 of 2014 selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than December 1 of the calendar year. For each stress test cycle beginning thereafter, the data used in this component must be as of a date between January 1 and March 1 of that calendar year selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of that calendar year.

(ii) The Board may require a bank holding company, savings and loan holding company, or state member bank to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a bank holding company, savings and loan holding company, or state member bank to include one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a bank holding

company, savings and loan holding company, or state member bank to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing by September 30, 2014 (for the stress test cycle beginning on October 1, 2014) and by December 31 (for each stress test cycle beginning thereafter).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the bank holding company, savings and loan holding company, or state member bank may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the bank holding company, savings and loan holding company, or state member bank with a description of any additional component(s) or additional scenario(s) by December 1, 2014 (for the stress test cycle beginning on October 1, 2014) and by March 1 (for each stress test cycle beginning thereafter).

§ 252.15 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under § 252.14, for each quarter of the planning horizon, a bank holding company, savings and loan holding company, or state member bank must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for loan and lease losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under § 252.14, a bank holding company or savings and loan holding company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) For the first quarter of the planning horizon, the bank holding company or savings and loan holding company must take into account its actual capital actions as of the end of that quarter; and

(2) For each of the second through ninth quarters of the planning horizon, the bank holding company or savings and loan holding company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters);

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter;

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation.

(c) *Controls and oversight of stress testing processes*—(1) *In general.* The senior management of a bank holding company, savings and loan holding company, or state member bank must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a bank holding company, savings and loan holding company, or state member bank must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the company may warrant, but no less than annually. The board of directors and senior management of the bank holding company, savings and loan holding company, or state member bank must receive a summary of the results of the stress test conducted under this section.

(3) *Role of stress testing results.* The board of directors and senior management of a bank holding company, savings and loan holding company, or state member bank must consider the results of the stress test in the normal course of business, including but not limited to, the banking organization's capital planning, assessment of capital adequacy, and risk management practices.

§ 252.16 Reports of stress test results.

(a) *Reports to the Board of stress test results*—(1) *General.* A bank holding company, savings and loan holding company, and state member bank must report the results of the stress test to the Board in the manner and form prescribed by the Board, in accordance with paragraphs (a)(2) and (3) of this section.

(2) *Timing for the stress test cycle beginning on October 1, 2014.* For the stress test cycle beginning on October 1, 2014:

(i) A state member bank that is a covered company subsidiary must report the results of its stress test to the Board by January 5, 2015, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must report the results of its stress test to the Board by March 31, 2015, unless that time is extended by the Board in writing.

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary and a savings and loan holding company that has average total consolidated assets of $50 billion or more must report the results of the stress test to the Board by April 5, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary, a bank holding company, and a savings and loan holding company with average total consolidated assets of less than $50 billion must report the results of the stress test to the Board by July 31, unless that time is extended by the Board in writing.

(b) *Contents of reports.* The report required under paragraph (a) of this section must include the following information for the baseline scenario, adverse scenario, severely adverse scenario, and any other scenario required under § 252.14(b)(3):

(1) A description of the types of risks being included in the stress test;

(2) A summary description of the methodologies used in the stress test; and

(3) For each quarter of the planning horizon, estimates of aggregate losses, pre-provision net revenue, provision for loan and lease losses, net income, and regulatory capital ratios;

(4) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(5) Any other information required by the Board.

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.17 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *General.* (i) A bank holding company, savings and loan holding company, and state member bank must publicly disclose a summary of the results of the stress test required under this subpart.

(2) *Timing for the stress test cycle beginning on October 1, 2014.* For the stress test cycle beginning on October 1, 2014:

(i) A state member bank that is a covered company subsidiary must publicly disclose a summary of the results of the stress test within 15 calendar days after the Board discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c) of this part, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must publicly disclose a summary of the results of the stress test in the period beginning on June 15 and ending on June 30, 2015, unless that time is extended by the Board in writing.

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary must publicly disclose a summary of the results of the stress test within 15 calendar days after the Board discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c) of this part, unless that time is extended by the Board in writing;

(ii) A savings and loan holding company with average total consolidated assets of $50 billion or more must publicly disclose a summary of the results of the stress test in the period beginning on June 15 and ending on June 30, unless that time is extended by the Board in writing; and

(iii) A state member bank that is not a covered company subsidiary, a bank holding company, and a savings and loan holding company with average total consolidated assets of less than $50 billion must publicly disclose a summary of the results of the stress test in the period beginning on October 15 and ending on October 31, unless that time is extended by the Board in writing.

(3) *Disclosure method.* The summary required under this section may be disclosed on the Web site of a bank holding company, savings and loan holding company, or state member bank, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results*—(1) *Bank holding companies and savings and loan holding companies.* The summary of the results of a bank holding company or savings and loan holding company must, at a minimum, contain the following information regarding the severely adverse scenario:

(i) A description of the types of risks included in the stress test;

(ii) A summary description of the methodologies used in the stress test;

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue;

(C) Provision for loan and lease losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board;

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(v) With respect to any depository institution subsidiary that is subject to stress testing requirements pursuant to 12 U.S.C. 5365(i)(2), as implemented by this subpart, 12 CFR part 46 (OCC), or 12 CFR part 325, subpart C (FDIC), changes over the planning horizon in regulatory capital ratios and any other capital ratios specified by the Board and an explanation of the most significant causes for the changes in regulatory capital ratios.

(2) *State member banks that are subsidiaries of bank holding companies.* A state member bank that is a subsidiary of a bank holding company satisfies the public disclosure requirements under this subpart if the bank holding company publicly discloses summary results of its stress test pursuant to this section or § 252.58 of this part, unless the Board determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the state member bank and requires the state member bank to make public disclosures.

(3) *State member banks that are not subsidiaries of bank holding companies.* A state member bank that is not a subsidiary of a bank holding company or that is required to make disclosures under paragraph (b)(2) of this section must publicly disclose, at a minimum, the following information regarding the severely adverse scenario:

(i) A description of the types of risks being included in the stress test;

(ii) A summary description of the methodologies used in the stress test;

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue

(C) Provision for loan and lease losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The disclosure of aggregate losses, pre-provision net revenue, provision for loan and lease losses, and net income that is required under paragraph (b) of this section must be on a cumulative basis over the planning horizon.

(2) The disclosure of pro forma regulatory capital ratios and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value and minimum value of each ratio over the planning horizon.

■ 6. Subpart E is revised to read as follows:

Subpart E—Supervisory Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

Sec.

252.40 [Reserved].
252.41 Authority and purpose.
252.42 Definitions.
252.43 Applicability.
252.44 Annual analysis conducted by the Board.
252.45 Data and information required to be submitted in support of the Board's analyses.
252.46 Review of the Board's analysis; publication of summary results.
252.47 Corporate use of stress test results.

§ 252.40 [Reserved].

§ 252.41 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart implements section 165(i)(1) of the Dodd-Frank Act

(12 U.S.C. 5365(i)(1)), which requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with $50 billion or more in total consolidated assets to evaluate whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

§ 252.42 Definitions.

For purposes of this subpart F, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(d) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of $50 billion or more;

(2) A U.S. intermediate holding company subject to this section pursuant to § 252.153 of this part; and

(3) A nonbank financial company supervised by the Board.

(g) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(h) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(i) *Nonbank financial company supervised by the Board* means a nonbank financial company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(j) *Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

(k) *Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

(l) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered company on the FR Y–9C.

(m) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, the company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, and E to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(n) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board annually determines are appropriate for use in the supervisory stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(o) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(p) *Stress test cycle* means:

(1) Until September 30, 2015, the period beginning on October 1 of a calendar year and ending on September 30 of the following calendar year, and

(2) Beginning October 1, 2015, the period beginning on January 1 of a calendar year and ending on December 31 of that year.

(q) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2).

(r) *Tier 1 common ratio* has the same meaning as in the Board's Regulation Y (12 CFR 225.8).

§ 252.43 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any bank holding company with average total consolidated assets (as defined in § 252.42(c)) of $50 billion or more;

(ii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153 of this part; and

(iii) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* A bank holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

(b) *Transitional arrangements*—(1) *Transition periods for bank holding companies that become covered companies after October 1, 2014.* (i) A bank holding company that becomes a covered company on or before March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A bank holding company that becomes a covered company after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(2) *Bank holding companies that rely on SR Letter 01–01.* A covered company that is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning on January 1, 2016, unless that time is extended by the Board in writing.

(c) *Transition periods for covered companies subject to the advanced approaches.* Notwithstanding any other requirement in this section, for a given stress test cycle:

(1) The Board will use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 217, subpart D and F, as applicable, to estimate a covered company's pro forma regulatory capital

ratios and its pro forma tier 1 common ratio for the stress test cycle beginning on October 1, 2014 and will not use the advanced approaches until January 1, 2016; and

(2) Beginning January 1, 2016, the Board will use the advanced approaches to estimate a covered company's pro forma regulatory capital ratios and pro forma tier 1 common ratio if the Board notified the covered company before the first day of the stress test cycle that the covered company is required to use the advanced approaches to determine its risk-based capital requirements.

§ 252.44 Annual analysis conducted by the Board.

(a) *In general.* (1) On an annual basis, the Board will conduct an analysis of each covered company's capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

(2) The analysis will include an assessment of the projected losses, net income, and pro forma capital levels and regulatory capital ratios, tier 1 common ratio, and other capital ratios for the covered company and use such analytical techniques that the Board determines are appropriate to identify, measure, and monitor risks of the covered company that may affect the financial stability of the United States.

(3) In conducting the analyses, the Board will coordinate with the appropriate primary financial regulatory agencies and the Federal Insurance Office, as appropriate.

(b) *Economic and financial scenarios related to the Board's analysis.* The Board will conduct its analysis under this section using a minimum of three different scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario. For the stress test cycle beginning on October 1, 2014, the Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle by no later than November 15, 2014, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than December 1, 2014. For each stress test cycle beginning thereafter, the Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle by no later than February 15 of each year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than March 1 of that year.

§ 252.45 Data and information required to be submitted in support of the Board's analyses.

(a) *Regular submissions.* Each covered company must submit to the Board such data, on a consolidated basis, that the Board determines is necessary in order for the Board to derive the relevant pro forma estimates of the covered company over the planning horizon under the scenarios described in § 252.44(b).

(b) *Additional submissions required by the Board.* The Board may require a covered company to submit any other information on a consolidated basis that the Board deems necessary in order to:

(1) Ensure that the Board has sufficient information to conduct its analysis under this subpart; and

(2) Project a company's pre-provision net revenue, losses, provision for loan and lease losses, and net income; and, pro forma capital levels, regulatory capital ratios, tier 1 common ratio, and any other capital ratio specified by the Board under the scenarios described in § 252.44(b).

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.46 Review of the Board's analysis; publication of summary results.

(a) *Review of results.* Based on the results of the analysis conducted under this subpart, the Board will conduct an evaluation to determine whether the covered company has the capital, on a total consolidated basis, necessary to absorb losses and continue its operation by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary under baseline, adverse and severely adverse scenarios, and any additional scenarios.

(b) *Publication of results by the Board.* (1) The Board will publicly disclose a summary of the results of the Board's analyses of a covered company by March 31, 2015 (for the stress test cycle beginning on October 1, 2014) and by June 30 (for each stress test cycle beginning thereafter).

(2) The Board will notify companies of the date on which it expects to publicly disclose a summary of the Board's analyses pursuant to paragraph (b)(1) of this section at least 14 calendar days prior to the expected disclosure date.

§ 252.47 Corporate use of stress test results.

(a) *In general.* The board of directors and senior management of each covered company must consider the results of the analysis conducted by the Board under this subpart, as appropriate:

(1) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital);

(2) When assessing the covered company's exposures, concentrations, and risk positions; and

(3) In the development or implementation of any plans of the covered company for recovery or resolution.

(b) *Resolution plan updates.* Each covered company must update its resolution plan as the Board determines appropriate, based on the results of the Board's analyses of the covered company under this subpart.

■ 8. Subpart F is revised to read as follows:

Subpart F—Company-Run Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

Sec.

252.50 [Reserved].
252.51 Authority and purpose.
252.52 Definitions.
252.53 Applicability.
252.54 Annual stress test.
252.55 Mid-cycle stress test.
252.56 Methodologies and practices.
252.57 Reports of stress test results.
252.58 Disclosure of stress test results.

§ 252.50 [Reserved].

§ 252.51 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires a covered company to conduct annual and semi-annual stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 252.52 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation

methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(d) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Capital action* has the same meaning as in § 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)).

(g) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of $50 billion or more;

(2) A U.S. intermediate holding company subject to this section pursuant to § 252.153 of this part; and

(3) A nonbank financial company supervised by the Board.

(h) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(i) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(j) *Nonbank financial company supervised by the Board* means a nonbank financial company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(k) *Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle (on October 1 or April 1, as appropriate) over which the relevant projections extend.

(l) *Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

(m) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered company on the FR Y–9C.

(n) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, the company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, and E to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(o) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board, or with respect to the mid-cycle stress test required under § 252.55, the covered company, annually determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(p) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(q) *Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered company over the planning horizon, taking into account its current condition, risks, exposures, strategies, and activities.

(r) *Stress test cycle* means:

(1) Until September 30, 2015, the period beginning on October 1 of a calendar year and ending on September 30 of the following calendar year, and

(2) Beginning October 1, 2015, the period beginning on January 1 of a calendar year and ending on December 31 of that year.

(s) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2).

(t) *Tier 1 common ratio* has the same meaning as in § 225.8 of the Board's Regulation Y (12 CFR 225.8).

§ 252.53 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any bank holding company with average total consolidated assets (as defined in § 252.42(c) of this part) of $50 billion or more;

(ii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153 of this part; and

(iii) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* A bank holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

(b) *Transitional arrangements*—(1) *Transition periods for bank holding companies that become covered companies after October 1, 2014.* (i) A bank holding company that becomes a covered company on or before March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A bank holding company that becomes a covered company after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(2) *Bank holding companies that rely on SR Letter 01–01.* A covered company that is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning on January 1, 2016, unless that time is extended by the Board in writing.

(3) *Transition periods for covered companies subject to the advanced approaches.* Notwithstanding any other requirement in this section:

(i) A covered company must use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 217, subpart D and F, as applicable, to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the stress test cycle beginning on October 1, 2014, and may not use the advanced approaches until January 1, 2016; and

(ii) Beginning January 1, 2016, a covered company must use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for purposes of its stress test under § 252.54 if the Board notifies the company before the first day of the stress test cycle that the company is required to use the advanced approaches to determine its risk-based capital requirements.

§ 252.54 Annual stress test.

(a) *In general.* A covered company must conduct an annual stress test. For the stress test cycle beginning on October 1, 2014, the stress test must be conducted by January 5, 2015, based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing. For each stress test cycle beginning thereafter, the stress test must be conducted by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a covered company must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, for the stress test cycle beginning on October 1, 2014, the Board will provide a description of the scenarios to each covered company no later than November 15, 2014. Except as provided in paragraphs (b)(2) and (3) of this section, for each stress test cycle beginning thereafter, the Board will provide a description of the scenarios to each covered company no later than February 15 of that calendar year.

(2) *Additional components.* (i) The Board may require a covered company with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. For the stress test cycle beginning on October 1, 2014, the data used in this component must be as of a date between October 1 and December 1, 2014, as selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than December 1, 2014. For the stress test cycle beginning on January 1, 2016, and for each stress test cycle beginning thereafter, the data used in this component must be as of a date between January 1 and March 1 of that calendar year selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of the relevant calendar year.

(ii) The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing. For the stress test cycle beginning on October 1, 2014, the Board will provide such notification no later than September 30, 2014, and for each stress test cycle beginning thereafter, the Board will provide such notification no later than December 31 of the preceding calendar year. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted.

(iii) *Description of component.* The Board will respond in writing within 14 calendar days of receipt of the company's request. The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by December 1, 2014 (for the stress test cycle beginning on October 1, 2014) and by March 1 (for each stress test cycle beginning thereafter).

§ 252.55 Mid-cycle stress test.

(a) *Mid-cycle stress test requirement.* In addition to the stress test required under § 252.54, a covered company must conduct a mid-cycle stress test. For the stress test cycle beginning on October 1, 2014, the mid-cycle stress test must be conducted by July 5 based on data as of March 31 of that calendar year, unless the time or the as-of date is extended by the Board in writing. For each stress test cycle beginning thereafter, the stress test must be conducted by September 30 of each calendar year based on data as of June 30 of that calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios related to mid-cycle stress tests*—(1) *In general.* A covered company must develop and employ a minimum of three scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario, that are appropriate for its own risk profile and operations, in conducting the stress test required by this section.

(2) *Additional components.* The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing. For the stress test cycle beginning on October 1, 2014, the Board will provide such notification no later than March 31, and for each stress test cycle beginning thereafter, the Board will provide such notification no later than June 30. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional

component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by June 1 (for the stress test cycle beginning on October 1, 2014) and by September 1 (for each stress test cycle beginning thereafter).

§ 252.56 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under §§ 252.54 and 252.55, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for loan and lease losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios, the tier 1 common ratio, and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under §§ 252.54 and 252.55, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) For the first quarter of the planning horizon, the covered company must take into account its actual capital actions as of the end of that quarter; and

(2) For each of the second through ninth quarters of the planning horizon, the covered company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters);

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter;

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation.

(c) *Controls and oversight of stress testing processes*—(1) *In general.* The senior management of a covered company must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the covered company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance. Policies of covered companies must also describe processes for scenario development for the mid-cycle stress test required under § 252.55.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a covered company must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered company may warrant, but no less than annually. The board of directors and senior management of the covered company must receive a summary of the results of any stress test conducted under this subpart.

(3) *Role of stress testing results.* The board of directors and senior management of each covered company must consider the results of the analysis it conducts under this subpart, as appropriate:

(i) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital);

(ii) When assessing the covered company's exposures, concentrations, and risk positions; and

(iii) In the development or implementation of any plans of the covered company for recovery or resolution.

§ 252.57 Reports of stress test results.

(a) *Reports to the Board of stress test results.* (1) A covered company must report the results of the stress test required under § 252.54 to the Board in the manner and form prescribed by the Board. For the stress test cycle beginning on October 1, 2014, such results must be submitted by January 5, unless that time is extended by the Board in writing. For each stress test cycle beginning thereafter, such results must be submitted by April 5, unless that time is extended by the Board in writing.

(2) A covered company must report the results of the stress test required under § 252.55 to the Board in the manner and form prescribed by the Board. For the stress test cycle beginning on October 1, 2014, such results must be submitted by July 5, unless that time is extended by the Board in writing. For each stress test cycle beginning thereafter, such results must be submitted by October 5, unless that time is extended by the Board in writing.

(b) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.58 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *In general.* (i) A covered company must publicly disclose a summary of the results of the stress test required under § 252.54 within the period that is 15 calendar days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c) of this part, unless that time is extended by the Board in writing.

(ii) A covered company must publicly disclose a summary of the results of the stress test required under § 252.55. For the stress test cycle beginning on October 1, 2014, this disclosure must occur in the period beginning on July 5 and ending on August 4, unless that time is extended by the Board in writing. For all stress test cycles beginning thereafter, this disclosure must occur in the period beginning on October 5 and ending on November 4, unless that time is extended by the Board in writing.

(2) *Disclosure method.* The summary required under this section may be disclosed on the Web site of a covered company, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results.* The summary results must, at a minimum, contain the following information regarding the severely adverse scenario:

(1) A description of the types of risks included in the stress test;

(2) A general description of the methodologies used in the stress test, including those employed to estimate

losses, revenues, provision for loan and lease losses, and changes in capital positions over the planning horizon;

(3) Estimates of—

(i) Pre-provision net revenue and other revenue;

(ii) Provision for loan and lease losses, realized losses or gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes;

(iv) Loan losses (dollar amount and as a percentage of average portfolio balance) in the aggregate and by subportfolio, including: Domestic closed-end first-lien mortgages; domestic junior lien mortgages and home equity lines of credit; commercial and industrial loans; commercial real estate loans; credit card exposures; other consumer loans; and all other loans; and

(v) Pro forma regulatory capital ratios and the tier 1 common ratio and any other capital ratios specified by the Board;

(4) An explanation of the most significant causes for the changes in regulatory capital ratios and the tier 1 common ratio; and

(5) With respect to any depository institution subsidiary that is subject to stress testing requirements pursuant to 12 U.S.C. 5365(i)(2), as implemented by subpart B of this part, 12 CFR part 46 (OCC), or 12 CFR part 325, subpart C (FDIC), changes over the planning horizon in regulatory capital ratios and any other capital ratios specified by the Board and an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The following disclosures required under paragraph (b) of this section must be on a cumulative basis over the planning horizon:

(i) Pre-provision net revenue and other revenue;

(ii) Provision for loan and lease losses, realized losses/gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes; and

(iv) Loan losses in the aggregate and by subportfolio.

(2) The disclosure of pro forma regulatory capital ratios, the tier 1 common ratio, and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

Subpart O—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of $50 Billion or More and Combined U.S. Assets of $50 Billion or More

■ 8. In § 252.153, revise paragraph (e) to read as follows:

§ 252.153 U.S. intermediate holding company requirement for foreign banking organizations with U.S. non-branch assets of $50 billion or more.

* * * * *

(e) *Enhanced prudential standards for U.S. intermediate holding companies*—(1) *Applicability*—(i) *Ongoing application.* Subject to the initial applicability provisions in paragraph (e)(1)(ii) of this section, a U.S. intermediate holding company must comply with the capital, risk management, and liquidity requirements set forth in paragraphs (e)(2)(i), (e)(3), and (e)(4) of this section beginning on the date it is required to be established, comply with the capital plan requirements set forth in paragraph (e)(2)(ii) of this section in accordance with § 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)), and comply with the stress test requirements set forth in paragraph (e)(5) beginning with the stress test cycle the calendar year following that in which it becomes subject to regulatory capital requirements.

(ii) *Initial applicability*—(A) *General.* A U.S. intermediate holding company required to be established by July 1, 2016 must comply with the risk-based capital, risk management, and liquidity requirements set forth in paragraphs (e)(2)(i), (e)(3), and (e)(4) of this section beginning on July 1, 2016, and comply with the capital planning requirements set forth in (e)(2)(ii) of this section in accordance with § 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)).

(B) *Transition provisions for leverage.* (1) A U.S. intermediate holding company required to be established by July 1, 2016 must comply with the leverage capital requirements set forth in paragraph (e)(2)(i) of this section beginning on January 1, 2018, provided that each subsidiary bank holding company and insured depository institution controlled by the foreign banking organization immediately prior to the establishment or designation of the U.S. intermediate holding company, and each bank holding company and insured depository institution acquired by the foreign banking organization after establishment of the intermediate holding company, is subject to leverage capital requirements under 12 CFR part 217 until December 31, 2017.

(2) The Board may accelerate the application of the leverage ratio to a U.S. intermediate holding company if it determines that the foreign banking organization has taken actions to evade the application of this subpart.

(C) *Transition provisions for stress testing.* A U.S. intermediate holding company required to be established by July 1, 2016 must comply with the stress test requirements set forth in paragraph (e)(5) of this section beginning on January 1, 2018, provided that each subsidiary bank holding company and insured depository institution controlled by the foreign banking organization immediately prior to the establishment or designation of the U.S. intermediate holding company, and each bank holding company and insured depository institution acquired by the foreign banking organization after establishment of the intermediate holding company, must comply with the stress test requirements in subparts B, E, or F of this subpart, as applicable, until December 31, 2017.

■ 8. Appendix A to part 252 is amended by:

■ a. Redesignating footnotes 21 through 40 as footnotes 1 through 20.

■ b. Revising newly redesignated footnotes 1, 2, 9, 19, and 20; and

■ c. Revising paragraphs 1.b, 2.a, and 7.a

The revisions read as follows:

Appendix A to Part 252—Policy Statement on the Scenario Design Framework for Stress Testing

1. Background

[1] 12 U.S.C. 5365(i)(1); 12 CFR part 252, subpart E.

* * * * *

[2] 12 U.S.C. 5365(i)(2); 12 CFR part 252, subparts B and F.

* * * * *

[9] 12 CFR 252.14(b), 12 CFR 252.44(b), 12 CFR 252.54(b).

* * * * *

[19] 12 CFR 252.55.

* * * * *

[20] 12 CFR 252.55.

* * * * *

b. The stress test rules provide that, for the stress test cycle beginning on October 1, 2014, the Board will notify covered companies by no later than November 15, 2014 of the scenarios it will use to conduct its annual supervisory stress tests and the scenarios that covered companies must use to conduct their annual company-run stress tests.[4] For each stress test cycle beginning

[4] 12 CFR 252.44(b), 12 CFR 252.54(b). For the stress test cycle beginning on October 1, 2014, the

Continued

thereafter, the Board will provide a description of these scenarios to covered companies by no later than February 15 of that calendar year. Under the stress test rules, the Board may require certain companies to use additional components in the adverse or severely adverse scenario or additional scenarios.[5] For example, the Board expects to require large banking organizations with significant trading activities to include a trading and counterparty component (market shock, described in the following sections) in their adverse and severely adverse scenarios. The Board will provide any additional components or scenario by no later than December 1 of each year.[6] The Board expects that the scenarios it will require the companies to use will be the same as those the Board will use to conduct its supervisory stress tests (together, stress test scenarios).

* * * * *

annual company-run stress tests use data as of September 30 of each calendar year. For each stress test cycle beginning thereafter, the annual company-run stress tests use data as of December 31 of each calendar year.

[5] *Id.*

[6] *Id.*

2. Overview and Scope

a. This policy statement provides more detail on the characteristics of the stress test scenarios and explains the considerations and procedures that underlie the approach for formulating these scenarios. The considerations and procedures described in this policy statement apply to the Board's stress testing framework, including to the stress tests required under 12 CFR part 252, subparts E, F, and G, as well as the Board's capital plan rule (12 CFR 225.8).[8]

* * * * *

7. Timeline for Scenario Publication

a. The Board will provide a description of the macroeconomic scenarios by no later than November 15, 2014 (for the stress test cycle beginning on October 1, 2014) and no later than February 15 (for each stress test cycle beginning thereafter). During the period immediately preceding the publication of the scenarios, the Board will collect and consider information from academics, professional forecasters, international organizations, domestic and foreign supervisors, and other private-sector analysts that regularly conduct stress tests based on U.S. and global economic and financial scenarios, including analysts at the covered companies. In addition, the Board will consult with the FDIC and the OCC on the salient risks to be considered in the scenarios. For the stress test cycle beginning on October 1, 2014, the Board expects to conduct this process in July and August of 2014 and to update the scenarios based on incoming macroeconomic data releases and other information through the end of October. For each stress test cycle beginning thereafter, the Board expects to conduct this process in October and November of each year and to update the scenarios based on incoming macroeconomic data releases and other information through the end of January.

* * * * *

[8] 12 CFR 252.44(b), 12 CFR 252.54(b). For the stress test cycle beginning on October 1, 2014, the annual company-run stress tests use data as of September 30 of each calendar year. For each stress test cycle beginning thereafter, the annual company-run stress tests use data as of December 31 of each calendar year.

By order of the Board of Governors of the Federal Reserve System, October 17, 2014.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2014–25170 Filed 10–24–14; 8:45 am]

BILLING CODE 6210–01–P

Reader Aids

Federal Register

Vol. 79, No. 207

Monday, October 27, 2014

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations
General Information, indexes and other finding aids **202–741–6000**
Laws **741–6000**

Presidential Documents
Executive orders and proclamations **741–6000**
The United States Government Manual **741–6000**

Other Services
Electronic and on-line services (voice) **741–6020**
Privacy Act Compilation **741–6064**
Public Laws Update Service (numbers, dates, etc.) **741–6043**
TTY for the deaf-and-hard-of-hearing **741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, OCTOBER

59087–59422 1
59423–59622 2
59623–60056 3
60057–60318 6
60319–60738 7
60739–60950 8
60951–61214 9
61215–61562 10
61563–61758 14
61759–61988 15
61989–62294 16
62295–62552 17
62553–62796 20
62797–63030 21
63031–63286 22
63287–63496 23
63497–63806 24
63807–64046 27

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.

2 CFR
1882 62797
Proposed Rules:
2700 62060

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
9189 61759
9190 62295
9191 62297
9192 62299
9193 62301
9194 62303
9195 62551
9196 63289
9197 63291
Executive Orders:
13678 60949
13679 62323
13680 63287
13681 63491
Administrative Orders:
Memorandums:
Memorandum of September 24, 2014 60041
Memorandum of October 17, 2014 ..... 63803, 63805
Memorandum of October 17, 2008 (Revoked by Memorandum of October 17, 2014) 63805
Notices:
Notice of October 16, 2014 62795
Notice of October 21, 2014 63495
Presidential Determinations:
No. 2015–01 of October 9, 2014 62793

5 CFR
890 62325
1201 63031
1210 63031
9901 63497
Proposed Rules:
337 61266
576 61266
792 61266
831 61266
842 61266
870 61788

7 CFR
51 63293
301 61215
319 ..... 59087, 59089, 61216, 63807
761 60739
762 60739
763 60739
764 60739
765 60739
Proposed Rules:
250 63224
251 63224
319 62055
948 60117
980 60117
3201 63841
3202 63846

10 CFR
50 62329
52 61944
72 59623
431 59090
433 61563
435 61563
436 61563
Proposed Rules:
50 ..... 60383, 62360
72 59693
429 ..... 60996, 62522
430 ..... 60996, 62522, 62891, 62894, 63336
431 ..... 59153, 62899, 62910
433 61694
435 61694
460 ..... 59154, 63339

11 CFR
104 62797
110 62335
114 62797
Proposed Rules:
100 59459
110 62361

12 CFR
50 61440
225 64026
249 61440
252 64026
329 61440

335.....63498
390.....63498
Ch. VI.....63033
621.....63033
701.....59627
706.....59627
790.....59627
1024.....63295
Proposed Rules:
340.....63580
380.....63585
611.....62058
931.....60783
933.....60783
1001.....60762
1090.....60762
1263.....60384
1277.....60783

13 CFR

107.....62819
Proposed Rules:
103.....62060
121.....62576
124.....62060
134.....62060

14 CFR

13.....61761
25 .....59423, 59431, 60319, 63299, 63300, 63302
39 .....59091, 59093, 59096, 59102, 59630, 59633, 59636, 59640, 59643, 60322, 60325, 60327, 60329, 60331, 60334, 60337, 60339, 63305, 63307, 63311, 63502, 63809
71.....62336
73.....59645, 61989
95.....63505
97 .....63524, 63528, 63530, 63531
398.....60951
406.....61990
1267.....62797
1274.....62797
Proposed Rules:
39 .....59154, 59157, 59160, 59162, 59459, 59461, 59463, 59465, 59467, 59468, 59695, 59697, 60384, 60389, 60789, 62070, 62072, 62075, 62363, 62928, 63340, 63341, 63855
65.....63061
71 .....60793, 61790, 62079, 62080, 62366
1245.....60119
1260.....61013
1274.....61013

15 CFR

4.....62553
774.....61571
Proposed Rules:
762.....59166

16 CFR

1240.....59962
Proposed Rules:
306.....61267
1120.....62081

17 CFR

200.....59104
232.....61576
240.....61576
249.....61576
249b.....61576
Proposed Rules:
14.....63343
23.....59898
140.....59898

18 CFR

2.....60953
4.....59105
38.....60953
380.....59105

19 CFR

122.....63313

20 CFR

404.....61221
Proposed Rules:
615.....63859
620.....61013

21 CFR

866.....63034
Proposed Rules:
1.....63346
16.....63346
73.....62932, 63062
112.....63346
117.....63346
179.....59699
507.....63346
573.....62090
1271.....63348

22 CFR

62.....60294
120.....61226
121.....61226
123.....61226
126.....61226
130.....61226
Proposed Rules:
237.....62576

23 CFR

771.....60100

24 CFR

5.....59646
232.....59646
Proposed Rules:
Ch. II.....61020
891.....60590
892.....60590
970.....62250
972.....62250

25 CFR

Proposed Rules:
81.....61021, 62587
82.....61021, 62587
169.....60794

26 CFR

1.....59112
31.....63811
54.....59130
301.....63811
Proposed Rules:
1.....61791

27 CFR

9.....60954, 60968
Proposed Rules:
478.....60391
555.....60391
771.....60391

29 CFR

10.....60634
552.....60974
2590.....59130
4022.....61761
Proposed Rules:
1910.....61384
1915.....61384
1917.....61384
1918.....61384
1926.....61384

30 CFR

1290.....62047
Proposed Rules:
5.....61035
7.....59167
75.....59167
550.....61041
551.....61041
556.....61041
581.....61041
582.....61041
585.....61041

31 CFR

34.....61236
223.....61992
Proposed Rules:
1.....59699

32 CFR

Proposed Rules:
86.....59168, 60794

33 CFR

100.....59647, 61762
110.....62568
117 .....59431, 59432, 60976, 62337, 62338, 62824, 62825, 62826, 63314
165 .....59648, 59650, 60057, 60745, 61238, 61578, 62339, 62341, 62344, 62570, 62827, 62829, 63315, 63534, 63813, 63815, 63818
Proposed Rules:
117.....61041
165.....59173, 59701
328.....61590, 63594

34 CFR

668.....62752
685.....63317
Proposed Rules:
75.....63062
77.....63062

36 CFR

Proposed Rules:
7.....61587

37 CFR

1.....63036
2.....63036
7.....63036
11.....63036
41.....63036
42.....63036
210.....60977

38 CFR

17.....63819
Proposed Rules:
38.....59176

39 CFR

3032.....62290
Proposed Rules:
241.....63880

40 CFR

9.....63821
51.....60343
52 .....59433, 59435, 59663, 60059, 60061, 60064, 60065, 60070, 60073, 60075, 60078, 60081, 60347, 60978, 60985, 62003, 62006, 62008, 62010, 62019, 62022, 62035, 62042, 62346, 62350, 62352, 62752, 62832, 62844, 62846, 62852, 62856, 62859, 62861, 63044, 63045, 63332, 63536
60.....60993
63.....60898
81 .....59674, 60078, 60081
82.....62863
93.....60343
98.....63579, 63750
180 .....59115, 59119, 60748, 63047, 63053
194.....60750
271.....59438, 60756
272.....59438
300.....63540
312.....60087
721.....60759, 63821
Proposed Rules:
52 .....59471, 59703, 60123, 60124, 60125, 60405, 61042, 61794, 61799, 61822, 62090, 62368, 62378, 62379, 62389, 62932, 62933, 62934, 62934, 62935, 63349, 63350, 63591
60.....61044, 63882
63.....60238, 61843
81 .....59703, 61822, 62389
110.....61590, 63594
112.....61590, 63594
116.....61590, 63594
117.....61590, 63594
122.....61590, 63594
141.....62716
174.....63594
180.....61844, 63594
191.....61268
194.....61268
228.....61591
230.....61590, 63594
232.....61590, 63594
271.....59471, 60795
272.....59471
300 .....59179, 59182, 61590, 63594
302.....61590, 63594
401.....61590, 63594
403.....63258
441.....63258
721.....59186

41 CFR

Proposed Rules:
300–3.....62588
301–10.....62588
301–70.....62588

42 CFR

Ch. IV.....62356
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
Ch. V.....62356

Proposed Rules:

409.....61164
410.....61164
418.....61164
440.....61164
484.....61164
485.....61164
488.....61164
600.....63363
1001.....59717
1003.....59717

43 CFR

4.....62047

44 CFR

64 .....59123, 59127, 61766
204.....63540
206.....63540

45 CFR

146.....59130
147.....59137
155.....59137
1355.....61241
1614.....61770

46 CFR

1.....63547
10.....63547
11.....63547
12.....63547
13.....63547
14.....63547
15.....63547
67.....61261
125.....62358

Proposed Rules:

515.....61544

47 CFR

12.....61785
20.....59444
27.....59138
54.....60090
64.....62875
73 .....59447, 60090, 60091, 61787, 62883
76.....63547
95.....60092

Proposed Rules:

0.....63883
1.....63883
2.....63883
15.....63883
27.....63883
54.....60406
64.....62935
73 .....60796, 61045, 61271, 63883, 63890
74.....63883

48 CFR

Ch. 1.....61738, 61743
1.....61743, 61746
2 .....61739, 61746, 63562
4 .....61739, 61746, 63562
12.....61746
14.....61746
15.....61746
19.....61746
22.....61746
26.....61746
28.....61743
36.....61746
52.....61743, 61746
53.....61746
205.....61579
206.....61579
215.....61579
219.....61579
226.....61579
232.....61579
235.....61579
247.....61583
252.....61579, 61584
501.....62883, 63056
514.....63056
537.....62883
552.....62883, 63056

49 CFR

10.....59448
26.....59566
355.....59450
365.....59450
369.....59450
383.....59450
384.....59450
385.....59450
387.....59450
390.....59450, 63057
391.....59139, 59450
392.....59450
395.....59450
397.....59450
602.....60349
622.....60100

Proposed Rules:

831.....61272

50 CFR

17 .....59140, 59992, 60365, 63672
300.....63562
622 .....60379, 61262, 61585, 62358, 62575
648.....59150, 63563
679 .....60381, 61263, 61264, 62052, 62053, 62054, 62885, 63059, 63577

Proposed Rules:

17 .....59195, 59364, 60406, 61136, 62408
222.....63066
300.....60796
622.....59204, 62410
648.....59472
660.....61272, 62590
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 9, 2014

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.