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DEPARTMENT OF AGRICULTURE

7 CFR Part 15c

RIN 0503–AA57

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From the U.S. Department of Agriculture

AGENCY: U.S. Department of Agriculture.

ACTION: Direct final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) seeks to issue a Department-wide regulation to implement the Age Discrimination Act of 1975, as amended (''Age Act''), and the Government-wide Age Discrimination regulation promulgated by the U.S. Department of Health and Human Services (HHS). The Age Act and HHS regulations prohibit age discrimination in programs and activities receiving Federal financial assistance. The Direct final regulation intends to ensure compliance with the Age Act and HHS regulations and provide guidance to USDA agencies, employees, recipients, and beneficiaries on Age Act requirements.

DATES: This rule is effective January 9, 2015 unless the Agency receives written adverse comments on or before January 9, 2015. If we receive adverse comments or notices, the Office of the Assistant Secretary for Civil Rights (OASCR) will publish a timely document in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Written comments must be received by the Agency or carry a postmark or equivalent no later than January 9, 2015.

ADDRESSES: Submit adverse comments to Anna G. Stroman, Chief, Policy Division, by mail at Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250. You can also submit adverse comments at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Anna G. Stroman at (202) 205–5953 or at *anna.stroman@ascr.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Age Act, 42 U.S.C. Sections 6101–6107, *et seq.,* prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Age Act, which applies to persons of all ages, also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.

The Age Act requires the head of each Federal department or agency that extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, to publish agency-specific regulations setting standards regarding the Age Act to be followed by the agency's employees, recipients, and beneficiaries.

This Direct final rule establishes policy and provides guidance to USDA agencies, employees, recipients, and beneficiaries to ensure compliance with the Age Act and the requirements set by HHS in the Government-wide regulation at 45 CFR part 90. This regulation applies to each USDA recipient and to each program and activity receiving Federal financial assistance in whole or in part from USDA, its agencies and instrumentalities. The final rule does not apply to:

a. Conducted programs which is direct assistance, in which Federal funds flow directly and unconditionally from USDA to individual beneficiaries;

b. Age distinctions established under authority of any Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(1) Provides any benefits or assistance to persons based on age; or

(2) Establishes criteria for participation in age-related terms; or

(3) Describes intended beneficiaries or target groups in age-related terms;

c. Discrimination on the basis of age in employment, which is covered by the Age Discrimination in Employment Act of 1967, as amended, which is administered by the United States Equal Employment Opportunity Commission; and

d. Discrimination on the basis of age in programs or activities conducted by USDA, which is covered by 7 CFR part 15d ''Nondiscrimination in Programs or Activities Conducted by the United States Department of Agriculture.''

Executive Orders 12866 and 13563

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

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, and, therefore, OMB was not required to review this direct final rule.

Regulatory Flexibility Act

OASCR has determined that, under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), the final rule will not have a significant economic impact on a substantial number of small entities. In making this determination, OASCR used the definition of *small entity* set forth in the RFA: (1) A small business, as defined by the Small Business Administration in 13 CFR part 121.201; (2) a small governmental jurisdiction, which is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization, which is any non-profit enterprise that is independently owned and operated and is not dominant in its field.

Executive Order 12988

This direct final rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform.'' This direct final rule would not preempt State and or local laws, and rules, or

policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13175

This direct final rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The review reveals that this direct final rule will not have substantial and direct effects on Tribal Governments and will not have significant Tribal implications. OASCR provided a copy of the direct final rule to the USDA Office of Tribal Relations, who has indicated that the direct final rule will not impact or have direct effects on Tribal Governments and will not have significant Tribal implications. OASCR continues to consult with the USDA Office of Tribal Relations to have meaningful collaboration on the development and strengthening of departmental regulations.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4 (2 U.S.C. 1501 *et seq.*), does not apply to the rule because it does not apply to regulatory actions that establish or enforce statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap or disability. Further, the rule contains no ''Federal mandate'' under Title II of UMRA because UMRA excludes from the definitions of ''Federal intergovernmental mandate'' and ''Federal private sector mandate'' duties that arise from conditions of Federal assistance and duties that arise from participation in a voluntary Federal program. Congress mandated in the Age Act the establishment of these agency-specific regulations to enforce the prohibition of discrimination on the basis of age in programs or activities receiving Federal financial assistance. These regulations do not apply to any program or activity unless it applies for and receives financial assistance from USDA. Application for, and receipt of, USDA assistance is entirely voluntary. In addition, USDA has determined that the rule will not significantly or uniquely affect state, local, and tribal governments. These regulations apply uniformly to all organizational recipients of USDA financial assistance.

Paperwork Reduction Act of 1995

USDA has determined that the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* does not apply because the rule does not impose any new information collection requirements that require OMB approval. Section 3518(c)(1)(B) of the PRA exempts from OMB approval, collections of information ''during the conduct of . . . (ii) an administrative action or investigation involving an agency against specific individuals or entities.'' These regulations provide USDA with discretionary authority to require information from recipients as part of an investigation, thereby eliminating any PRA concerns, because it is discretionary and tied to USDA's authority to investigate. Further, the rule provides that individuals ''may file'' complaints and requires that recipients provide notice to sub-recipients of their obligations under the Age Act and the regulations, neither of which involve a ''collection of information'' under the PRA.

E-Government Act Compliance

OASCR is committed to complying 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.

List of Subjects in 7 CFR Part 15c

For the reasons set forth in the preamble, USDA adds 7 CFR part 15c to read as follows:

PART 15c__ NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE

Sec.

Authority: 5 U.S.C. 301; 42 U.S.C. 6101 *et seq.*

§ 15c.1 Purpose.

The purpose of this part is to establish the nondiscrimination policy of the USDA on the basis of age in programs and activities funded in whole or in part by USDA, in compliance with the Age Discrimination Act of 1975, as amended (Age Act), and the requirements set by the HHS in its Government-wide regulation at 45 CFR part 90.

§ 15c.2 Definitions.

Action means any act, activity, policy, rule, standard, or method of administration or use of any policy, rule, standard or method of administration.

Age Act means The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*

Age means the number of elapsed years from the date of a person's birth.

Age distinction means any action using age or an age-related term.

Age-related term means a word or words that necessarily imply a particular age or range of ages (*e.g.* ''children,'' ''adult,'' or ''older person'').

Agency means a major organizational unit of USDA with delegated authorities to deliver programs, activities, benefits, and services.

Agency Head means the head of any agency within USDA which may hold the title Administrator, Chief, or Director depending on the agency.

Assistant Secretary for Civil Rights (ASCR) means the civil rights officer for USDA responsible for the performance and oversight of all civil rights functions within USDA, and who retains the authority to delegate civil rights functions to heads of USDA agencies and offices. The ASCR is also responsible for evaluating agency heads on their performance of civil rights functions.

Beneficiary means a person or group of persons with an entitlement to receive or enjoy the benefits, services, resources, and information from, or to participate in, the activities and programs funded in whole or in part by USDA.

Complainant means any person or group of persons who files with any USDA agency a complaint that alleges discrimination in a program or activity funded in whole or in part by USDA.

Complaint means a written statement that contains the complainant's name and address and describes the alleged discriminatory action in sufficient detail to inform the Office of the Assistant Secretary for Civil Rights (OASCR) of the nature and date of the alleged civil rights violation. The statement must be signed by the complainant(s) or someone authorized to sign on behalf of

the complainant(s). The complaint need not be written or signed if submitted in an alternate format to accommodate the complaint filing needs of a person who has Limited English Proficiency, a disability, or other special need. The complaint must be based on one or more prohibited bases.

Compliance Review means a systematically planned and regularly initiated investigation that assesses and evaluates the civil rights and equal opportunity policies, procedures and practices of a USDA agency or instrumentality to determine compliance with civil rights statutes, regulations, standards, and policies.

Department (used interchangeably with USDA) means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

Discrimination means unlawful treatment or denial of benefits, services, terms, conditions, rights, or privileges to a person or persons based on a protected basis, including age.

(1) *Federal Financial Assistance* includes:

(i) Grants and loans of Federal funds;

(ii) The grant or donation of Federal property and interests in property;

(iii) The detail of Federal personnel;

(iv) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property, or any interest in such property, or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease or furnishing of services to the recipient; and

(v) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(2) Federal financial assistance does not include procurement contracts at market value, contracts of guarantee or insurance, regulated programs, licenses, or programs that provide direct benefits. The complaint must be based on one or more prohibited bases.

HHS means The United States Department of Health and Human Services.

Normal Operation means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

Program or activity includes all of the operations of:

(1) *State and local governments.* (i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government.

(2) *Educational institutions.* (i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system.

(3) *Private organizations.* (i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation.

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship.

(4) *Other organizations receiving Federal financial assistance.* Any other entity which is established by two or more of the entities described in paragraph (r)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

Recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision (to include the District of Columbia and any United States territories and possessions), any public or private entity, institution, organization or any of their instrumentalities, or any individual (provided the individual is not the ultimate beneficiary) in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program or activity, including any successor, assignee, or transferee thereof.

Statutory Objective means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected general purpose legislative body.

§ 15c.3 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) *Specific discriminatory actions prohibited.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) *Specific forms of age discrimination.* The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) *Exceptions to the rules against age discrimination.* (1) A recipient is permitted to take an action, otherwise prohibited by this section, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(i) Age is used as a measure or approximation of one or more other characteristics;

(ii) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(iii) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(iv) The other characteristic(s) are impractical to measure directly on an individual basis.

(2) A recipient is permitted to take an action otherwise prohibited by this section that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

(3) If a recipient operating a program or activity provides special benefits to the elderly or to children, such use of

age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of this subpart.

(4) Any age distinctions contained in a rule or regulation issued by USDA shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies, notwithstanding the provisions of this part.

§ 15c.4 Compliance, assurance, and notice requirements.

(a) USDA recipients have primary responsibility to ensure that their programs and activities are in compliance with the Age Act and this regulation and shall take steps to eliminate violations of the Age Act. Each recipient of Federal financial assistance from USDA shall sign a written assurance as specified by the Department that it shall comply with the Age Act and this regulation. Each recipient initially receiving funds from USDA that makes the funds available to a sub-recipient must notify the sub-recipient of its obligations under the Age Act.

(b) Each recipient shall make necessary information about the Age Act and this regulation available to its beneficiaries in order to inform them about the protections against discrimination provided by the Act and this regulation.

§ 15c.5 Information requirements.

Each recipient shall maintain records in a form and containing information which the agency determines may be necessary to ascertain whether the recipient is complying with the Age Act and this regulation. Each recipient shall provide the agency any information necessary to determine whether the recipient is in compliance with the Age Act and this rule. Each recipient shall also permit reasonable access to the agency of the books, records, accounts, and other facilities and sources of information to the extent necessary to determine whether a recipient is in compliance with the Age Act and this regulation.

§ 15c.6 Compliance reviews.

(a) USDA may conduct compliance reviews or use other similar procedures to review the activities of recipients to determine whether they are complying with the Age Act and this regulation and to investigate and address violations of the Age Act. USDA may conduct these reviews, at any time, even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Age Act or this regulation has occurred.

(b) If a compliance review indicates a violation of the Age Act or this regulation, USDA shall attempt to achieve voluntary compliance with the Age Act. USDA shall monitor and evaluate a recipient's efforts to remedy a violation to ensure compliance consistent with applicable civil rights requirements until compliance has been achieved. If voluntary compliance cannot be achieved, USDA shall undertake enforcement of the Age Act and this regulation.

§ 15c.7 Complaints.

(a) *Filing of complaints.* Any person who believes he/she or any specific class of individuals has been subject to discrimination by a recipient or believes that the recipient is otherwise in noncompliance with the provisions of the Age Act or this regulation may file a complaint with OASCR. The USDA Program Discrimination Complaint Form may be used to file a complaint.

(b) *Time and place of filing.* All age discrimination complaints alleging discrimination or noncompliance must be filed within 180 days of the last discriminatory act, to be timely. All complaints under this part shall be filed with the Office of the Assistant Secretary for Civil Rights, U.S. Department of Agriculture, Washington, DC 20250.

(c) *Notice of rights and responsibilities.* USDA shall provide notice to the complainant and the recipient of their:

(1) Rights and obligations under complaint procedures including their right to have a representative at all stages of the complaint process;

(2) Rights to contact the agency for information and assistance regarding the complaint resolution process; and

(3) Obligation to participate actively in efforts toward speedy resolution of the complaint.

(d) *Mediation of complaints.* All complaints that allege discrimination based on age shall be mediated in an attempt to resolve disputes at the earliest stage possible. The complainant and the recipient are required to participate in the mediation process. If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing.

(e) *Investigation of complaints.* If the parties are unable to reach a resolution, USDA shall investigate the complaint. During the investigation of the complaint, OASCR or an agency delegated complaint processing authority shall use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. USDA may seek the assistance of any involved State agency. If informal resolution efforts are unsuccessful, OASCR shall complete the investigation.

(f) *Final determination.* After a complete investigation, OASCR shall make a final determination as to the merits of the complaint. The complainant shall be notified of the final determination and provided notice of his or her right to file a civil action under the Age Act, 42 U.S.C. 6104(e), and 15c.10 of this part.

(g) *Voluntary compliance.* If OASCR or an agency delegated complaint processing authority finds that age discrimination has occurred, USDA shall attempt to obtain voluntary compliance. The recipient shall take any remedial action which USDA may require to overcome the effects of discrimination. If USDA cannot obtain voluntary compliance, it shall undertake enforcement of the Age Act and this regulation.

§ 15c.8 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Age Act; or

(b) Cooperates in any mediation, investigation, hearing, or other part of the agency's investigation, conciliation, and enforcement process.

§ 15c.9 Enforcement.

(a) If USDA finds that a recipient has committed a violation of the Age Act and determines that voluntary compliance cannot be obtained, the Department shall enforce the requirements of the Age Act and this regulation through the termination of a recipient's Federal financial assistance under the program or activity involved where the recipient has violated the Age Act or this regulation. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(1) Any termination under this paragraph (a) shall be limited to the particular recipient and particular program or activity receiving Federal financial assistance or portion thereof found to be in violation of the Age Act or this regulation.

(2) No action under this paragraph (a) may be taken until:

(i) OASCR, or designee, has advised the recipient of its failure to comply with the Age Act and this regulation, and has determined that voluntary compliance cannot be obtained; and

(ii) Thirty days have elapsed after the head of the agency involved has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the program or activity involved.

(3) An agency may defer granting new Federal financial assistance to a recipient when termination proceedings under this paragraph (a) are initiated.

(b) When an agency withholds funds from a recipient under this regulation, the Agency Head may disburse the withheld funds directly to any public or non-profit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to comply with this regulation and to achieve the goals of the Federal statute authorizing the Federal financial assistance.

(c) USDA may seek to achieve compliance with the Age Act and this regulation by any other means authorized by law.

§ 15c.10 Exhaustion of administrative remedies.

(a) A complainant may file a civil action, in a United States district court for the district in which the recipient is found or transacts business, following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the agency has made no finding with regard to the complaint; or

(2) The agency issues any finding in favor of the recipient.

(b) Before commencing the action, the complainant shall give 30 days' notice by registered mail to the Secretary of HHS, the Attorney General of the United States, the head of the granting USDA agency, and the recipient stating the alleged violation of the Age Act, the relief requested, the court in which the action will be brought, and whether or not attorney's fees are demanded in the event the complainant prevails.

(c) No action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States. A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint.

Appendix A to 7 CFR Part 15c—Age Distinctions in Federal Statutes or Regulations Affecting Financial Assistance Administered by the United States Department of Agriculture

Program	Statute	Section and age distinction	Regulation
		Farm Service Agency	
Farm Loan Programs ...	7 U.S.C. 1941 Persons Eligible For Loans.	Section 761.2 defines ''rural youth'' as meaning a person who has reached the age of 10 but has not reached the age of 21 and resides in a rural area or any city or town with a population of 50,000 or fewer people.	7 CFR part 761.
		Food and Nutrition Service	
Senior Farmer's Market Nutrition Program.	7 U.S.C. 3007 Senior Farmers' Market Nutrition Program.	Section 249.2 defines ''senior'' as meaning an individual 60 years of age or older, or as defined in § 249.6(a)(1). Section 249.6(a)(1) establishes categorical eligibility for the Senior Farmers' Market Nutrition Program. The categorical eligibility states that: ''participants must be not less than 60 years of age, except that State agencies may exercise the option to deem Native Americans who are 55 years of age or older as categorically eligible for SFMNP benefits. State agencies may, at their discretion, also deem disabled individuals less than 60 years of age who are currently living in housing facilities occupied primarily by older individuals where congregate nutrition services are provided, as categorically eligible to receive SFMNP benefits''.	7 CFR part 249.
Special Supplemental Nutrition Program for Women, Infants, and Children.	42 U.S.C. 1786	Section 246.2 defines ''children'' as meaning persons who have had their first birthday but have not yet attained their fifth birthday. Section 246.2 defines ''infants'' as meaning persons under 1 year of age. Section 246.10(e) establishes category and nutritional needs of the participant for each of the seven food packages available under the program. Food Packages I, II, and IV contain age distinctions. (e)(1) Food Package I—Infants birth through 5 months—(i) Participant category served. This food package is designed for issuance to infant participants from birth through age 5 months who do not have a condition qualifying them to receive Food Package III. (ii) Infant feeding categories—(A) Birth to one month. Three infant feeding options are available during the first month after birth(B) . . . One through 5 months. Three infant feeding options are available from 1 month through 5 months . . . (2) Food Package II—Infants 6 through 11 months—(i) Participant category served. This food package is designed for issuance to infant participants from 6 through 11 months of age . . . (4) Food Package IV—Children 1 through 4 years—(i) Participant category served. This food package is designed for issuance to participants 1 through 4 years of age.	7 CFR part 246.

Program	Statute	Section and age distinction	Regulation
Commodity Supplemental Food Program.	Sec. 5, Pub. L. 93–86, 87 Stat. 249, as added by Sec. 1304 (b)(2), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); sec. 1335, Pub. L. 97–98, 95 Stat. 1293 (7 U.S.C. 612c note); sec. 209, Pub. L. 98–8, 97 Stat. 35 (7 U.S.C. 612c note); sec. 2(8), Pub. L. 98–92, 97 Stat. 611 (7 U.S.C. 612c note); sec. 1562, Pub. L. 99–198, 99 Stat. 1590 (7 U.S.C. 612c note); sec. 101(k), Pub. L. 100–202; sec. 1771(a), Pub. L. 101–624, 101 Stat. 3806 (7 U.S.C. 612c note); sec 402(a), Pub. L. 104–127, 110 Stat. 1028 (7 U.S.C. 612c note); sec. 4201, Pub. L. 107–171, 116 Stat. 134 (7 U.S.C. 7901 note); sec. 4221, Pub. L. 110–246, 122 Stat. 1886 (7 U.S.C. 612c note).	Section 247.1 defines ''children'' as meaning persons who are at least 1 year of age but have not reached their sixth birthday. Section 247.1 defines ''elderly persons'' as meaning persons at least 60 years of age. Section 247.1 defines ''infants'' as meaning persons under 1 year of age.	7 CFR part 247.
Food Stamp and Food Distribution Program.	7 U.S.C. 2011–2036 ...	Section 271.2 defines ''elderly or disabled member'' as meaning a member of a household who: (1) Is 60 years of age or older. Section 271.2 defines ''Thrifty food plan'' as meaning the diet required to feed a family of four persons consisting of a man and a woman 20 through 50, a child 6 through 8, and a child 9 through 11 years of age, determined in accordance with the Secretary's calculations. Section 273.1 defined ''Elderly and disabled persons'' as meaning an otherwise eligible member of a household who is 60 years of age or older and is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or a non-disease-related, severe, permanent disability may be considered. Section 273.1(b) outlines special household requirements. (b) Special household requirements—(1) Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.(i) Spouses; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult. Section 273.1(d) outlines head of household requirements. When designating the head of household, the State agency shall allow the household to select an adult parent of children (of any age) living in the household, or an adult who has parental control over children (under 18 years of age) living in the household, as the head of household provided that all adult household members agree to the selection.	7 CFR part 271 7 CFR part 273

Program	Statute	Section and age distinction	Regulation
		Section 273.4(a)(4)(iii) outlines household members meeting citizenship or alien status requirements. An unmarried dependent child of such Hmong or Highland Laotian who is under the age of 18 or if a full-time student under the age of 22; an unmarried child under the age of 18 or if a full time student under the age of 22 of such a deceased Hmong or Highland Laotian provided the child was dependent upon him or her at the time of his or her death; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday. For purposes of this paragraph (a)(4)(iii), child means the legally adopted or biological child of the person described in paragraph (a)(4)(i) of this section, Section 273.4(a)(5)(ii) outlines household members meeting citizenship or alien status requirements which includes an alien who has been subjected to a severe form of trafficking in persons and who is under the age of 18, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA; Section 273.4(a)(5)(iii) outlines household members meeting citizenship or alien status requirements which includes the spouse, child, parent or unmarried minor sibling of a victim of a severe form of trafficking in persons under 21 years of age, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA. Section 273.4(a)(5)(iv) outlines household members meeting citizenship or alien status requirements which includes the spouse or child of a victim of a severe form of trafficking in persons 21 years of age or older, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA. Section 273.4(a)(6)(ii)(A) outlines the criteria for a qualified alien which includes an alien age 18 or older lawfully admitted for permanent residence under the INA who has 40 qualifying quarters as determined under Title II of the SSA, including qualifying quarters of work not covered by Title II of the SSA, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased. Section 273.4(a)(6)(ii)(G)(3) outlines the criteria for a qualified alien with military connections which includes the spouse and unmarried dependent children of a person described in paragraph (a)(6)(ii)(G)(1) or (2) of this section, including the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. An unmarried dependent child for purposes of this paragraph (a)(6)(ii)(G)(3) is: a child who is under the age of 18 or, if a full-time student, under the age of 22; such unmarried dependent child of a deceased veteran provided such child was dependent upon the veteran at the time of the veteran's death; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the veteran prior to the child's 18th birthday. For purposes of this paragraph (a)(6)(ii)(G)(3), child means the legally adopted or biological child of the person described in paragraph (a)(6)(ii)(G)(1) or (2) of this section. Section 273.4(a)(6)(ii)(I) outlines the criteria for a qualified alien which includes an individual who on August 22, 1996, was lawfully residing in the U.S., and was born on or before August 22, 1931. Section 273.4(a)(6)(ii)(J) outlines the criteria for a qualified alien which includes an individual who is under 18 years of age. Section 273.4(a)(6)(iii)(A) outlines qualified aliens that must be in a qualified status for 5 years before being eligible to receive food stamps which includes an alien age 18 or older lawfully admitted for permanent residence under the INA. Section 273.4(c)(3)(vi) outlines exempt aliens which includes a sponsored alien child under 18 years of age of a sponsored alien. Section 273.4(c)(3)(vii)) outlines exempt aliens which includes a citizen child under age 18 of a sponsored alien. Section 273.5 (b)(1) outlines criteria for student eligibility for the program which includes be age 17 or younger or age 50 or older. Section 273.5(b)(8) outlines criteria for student eligibility for the program which includes a person who is responsible for the care of a dependent household member under the age of 6.	

Program	Statute	Section and age distinction	Regulation
		Section 273.5(b)(9) outlines criteria for student eligibility for the program which includes a person who is responsible for the care of a dependent household member who has reached the age of 6 but is under age 12. Section 273.5(b)(10) outlines criteria for student eligibility for the program which includes a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12. Section 273.5(b)(4) states that if the household is unable to provide an SSN or proof of application for an SSN at its next recertification within 6 months following the baby's birth, the State agency shall determine if the good cause provisions of paragraph (d) of this section are applicable. Section 273.7(b)(1)(i) outlines exemptions from work requirements which includes a person younger than 16 years of age or a person 60 years of age or older and a person age 16 or 17 who is not the head of a household or who is attending school, or is enrolled in an employment training program, on at least a half-time basis, is also exempt. If the person turns 16 (or 18 under the preceding sentence) during a certification period, the State agency must register the person as part of the next scheduled recertification process, unless the person qualifies for another exemption. Section 273.9(b)(1)(v) defines income which includes the phrase this provision does not apply to household members under 19 years of age who are under the parental control of another adult member, regardless of school attendance and/or enrollment. Section 273.9(d)(4) outlines income deduction which include dependent care stating the maximum monthly dependent care deduction amount households shall be granted under this provision is $200 a month for each dependent child under two (2) years of age and $175 a month for each other dependent. Section 273.10(e)(2)(i)(A) outlines eligibility benefits states households which contain an elderly or disabled member as defined in § 271.2. Section 273.10(e)(2)(i)(B) outlines eligibility benefits which states in addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with paragraph (e)(1)(i)(A) of this section, compared to the gross monthly income standards defined in § 273.9(a)(1). Section 273.10(e)(2)(i)(D) outlines eligibility benefits which states if a household contains a member who is 59 years old on the date of application, but who will become 60 before the end of the month of application, the State agency shall determine the household's eligibility in accordance with paragraph (e)(2)(i)(A) of this section. Section 273.24(c)(1) outlines exceptions for when the time limit does not apply to an individual which include a person under 18 or 50 years of age or older. Section 273.24(c)(3) outlines exceptions for when the time limit does not apply to an individual which include a parent (natural, adoptive, or step) of a household member under age 18, even if the household member who is under 18 is not himself eligible for food stamps. Section 273.24(c)(4) outlines exceptions for when the time limit does not apply to an individual which include a person residing in a household where a household member is under age 18, even if the household member who is under 18 is not himself eligible for food stamps.	

Program	Statute	Section and age distinction	Regulation
National School Lunch Program.	42 U.S.C. 1751–1760, 1779.	Section 210.2 defines ''Child'' as meaning a (a) a student of high school grade or under as determined by the State educational agency, who is enrolled in an educational unit of high school grade or under as described in paragraphs (a) and (b) of the definition of ''School,'' including students who are mentally or physically disabled as defined by the State and who are participating in a school program established for the mentally or physically disabled; or (b) a person under 21 chronological years of age who is enrolled in an institution or center as described in paragraph (c) of the definition of ''School;'' or (c) For purposes of reimbursement for meal supplements served in afterschool care programs, an individual enrolled in an afterschool care program operated by an eligible school who is 12 years of age or under, or in the case of children of migrant workers and children with disabilities, not more than 15 years of age. Section 12(d) defines ''Child'' as meaning an individual, regardless of age, who—(i) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have one or more disabilities; and (ii) is attending any institution, as defined in section 17(a), or a nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with disabilities.	7 CFR part 210.
School Breakfast Program.	42 U.S.C. 1773, 1779	Section 220.2 defines ''Child'' as meaning a (1) A student of high school grade or under as determined by the State educational agency, who is enrolled in an educational unit of high school grade or under as described in paragraphs (1) and (2) of the definition of ''School'', including students who are mentally or physically disabled as defined by the State and who are participating in a school program established for the mentally or physically disabled; or (2) a person under 21 chronological years of age who is enrolled in an institution or center as described in paragraph (3) of the definition of School in this section.	7 CFR part 220.
Child and Adult Care Food Program.	42 U.S.C. 1766	Section 1766 outlines that reimbursement may be provided under this section only for supplements served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child. Section 1766(a)(3) and 7 CFR 226.2 outlines that reimbursement are permitted for meals served to children through the age of 12, children of migrant workers through the age of 15, and persons with disabilities, in child care centers and day care homes. Section 1766(o)(1) and 7 CFR 226.2 outlines that adult day care centers receive reimbursement for meals served to enrolled adults who are functionally impaired or age 60 and older. Section 1766(t)(5); and 7 CFR 226.2 outlines that reimbursement are permitted for emergency shelters for up to three meals served each day to residents age 18 and younger. Section 1766(r) and 7 CFR 226.17a(c) outlines that reimbursement are permitted in at-risk afterschool care programs for meals served during the regular school year to children through the age of 18.	7 CFR part 226.
Summer Food Service Program.	42 U.S.C. 1761	Section 1761(a)(1)(B) and 7 CFR 225.2 outlines that Children age 18 and under may receive meals through SFSP. A person 19 years of age and over who has a mental or physical disability (as determined by a State of local educational agency) and who participates during the school year in a public or private non-profit school program (established for the mentally or physically disabled) is also eligible to receive meals. In certain circumstances, pregnant women who receive Early Head Start services are also eligible to receive meals through SFSP if they are age 18 or under. To establish eligibility, prospective mothers must be enrolled in Early Head Start and be eligible to receive school meals through the NSLP or another child nutrition program.	7 CFR part 225.
Forest Service			
National Parks and Federal Recreational Lands Pass.	16 U.S.C. 6808h	Section 6808h(b)(1) AGE DISCOUNT.—The Secretary shall make the National Parks and Federal Recreational Lands Pass available, at a cost of $10.00, to any United States citizen or person domiciled in the United States who is *62 years of age or older,* if the citizen or person provides adequate proof of such age and such citizenship or residency.	None.

Program	Statute	Section and age distinction	Regulation
		Natural Resources Conservation Service	
Agriculture Conservation Experienced Services (ACES).	16 U.S.C. 3851	Section 1252 authorizes and directs the Secretary to ''establish a conservation experienced services program (in this section referred to as the ''ACES Program'') for the purpose of utilizing the talents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary.''	None.
		Rural Development	
Section 504 Origination Loans and Grants.	42 U.S.C. 1474	Section 504 loans and grants are intended to help very low-income owner-occupants in rural areas repair their properties. Section 3550.103 provides that ''to be eligible for grant assistance, an application must be 62 years of age or older at the time of the application.''	7 CFR 3550.101 *et seq.*
Section 515 Rural Rental Housing Loans Program Section 521 Rental Assistance Program.	42 U.S.C. 1490a	Under the Direct Multi-Family Housing Loan and Grants, Section 515 Rural Rental Housing program supplies apartments for elderly and disabled people that are equipped with special amenities. USDA provides assistance through the separately appropriated Section 521 Rental Assistance Program, which brings tenants' rent down to 30 percent of their adjusted incomes. Section 3560 defines ''elderly person'' as ''a person who is at least 62 years old.''	7 CFR part 3560.
		National Institute of Food and Agriculture	
Secondary Education, Two-Year Postsecondary Education, and Agriculture in the K–12 Classroom Challenge Grants Program.	7 U.S.C. 3152(j)	Section 1417(j) directs the Secretary to ''promote complementary and synergistic linkages among secondary, 2-year postsecondary, and higher education programs in the food and agricultural sciences in order to promote excellence in education and encourage more young Americans to pursue and complete a baccalaureate or higher degree in the food and agricultural sciences.'' The Act further empowers the Secretary to make competitive or noncompetitive grants to public secondary schools, institutions of higher education that award an associate's degree, other institutions of higher education, and nonprofit organizations [to] . . . (C) to interest young people in pursuing higher education in order to prepare for scientific and professional careers in the food and agricultural sciences; . . . and (G) to support current agriculture in the classroom programs for grades K–12.	None.
Hispanic-Serving Institutions—Competitive Grants Program for Hispanic Agricultural Workers and Youth.	7 U.S.C. 3243, as amended.	Section 1456(e)(1), as amended by the Agricultural Act of 2014, states that the ''Secretary shall establish a competitive grants program . . . (B) to award competitive grants to Hispanic-serving agricultural colleges and universities to provide for training in the food and agricultural sciences of Hispanic agricultural workers and Hispanic youth working in the food and agricultural sciences.	7 CFR part 3434.
Girl Scouts of the United States of America, the Boy Scouts of America, the National 4–H Council, and the National FFA Organization.	7 U.S.C. 7630, as amended.	Section 410(d). Grants for Youth Organizations of the Agricultural, Research, Extension and Education Reform Act of 1998, directs the Secretary to make grants available to the designated youth organizations for the organizations' establishment of pilot projects to expand their programs in rural areas and small towns. Eligibility is limited to the four statutorily-identified youth organizations.	None.
Youth Farm Safety and Education Certification (YFSEC).	7 U.S.C. 341, *et seq.;* 7 U.S.C. 343(d).	The primary purpose of program is to develop a coordinated approach to agricultural safety and health education for youth. YFSEC Program notices define ''youth'' as ''children or adolescents who have reached their 12th birthday; but not their 20th birthday.''	29 CFR part 570, subpart E–1.
Expanded Food and Nutrition Education Program (EFNEP).	7 U.S.C. 3175	Section 1425 authorizes a national education program to enable low-income individuals and families. Through EFNEP, the Department delivers several ''youth'' programs that offer education on nutrition, food preparation, and food safety.	7 CFR part 15, subpart A.

Program	Statute	Section and age distinction	Regulation
The Children, Youth, and Families At-Risk Sustainable Community Projects (CYFAR SCP).	7 U.S.C. 341, *et seq.;* 7 U.S.C. 343(d).	Section 3(d) of the Smith-Lever Act authorizes the Department to administer the CYFAR SCP. Per Program notices, CYFAR SCP supports community educational programs for at-risk children, youth, and families which are based on locally identified needs, soundly grounded in research, and which lead to the accomplishment of one of four CYFAR National Outcomes; and (2) [t]o integrate CYFAR programming into ongoing Extension programs for children, youth, and families—insuring that at-risk, low income children, youth, and families continue to be part of Extension and/or 4–H programs and have access to resources and educational opportunities.	7 CFR part 3015, 7 CFR part 3019, 7 CFR part 3430.
Risk Management Agency			
Federal Crop Insurance Program.	7 U.S.C. 1501	Per the Crop Insurance Handbook, which provides the official FCIC approved underwriting standards for policies administered by Approved Insurance Providers under the Common Crop Insurance Policy Basic Provisions, 7 CFR part 457 including the Catastrophic Risk Protection Endorsement, 7 CFR part 402, and the Actual Production History Regulation 7 CFR part 400 Subpart G for the 2014 and succeeding crop years, to be eligible for crop insurance the applicant must be of ''legal majority.'' Legal majority is defined as ''where the individual has reached 18 years old or was conferred legal majority by a court. (1) For individuals less than 18 years of age or where legal majority has not been conferred by a court, to be eligible for crop insurance: (a) A minor must provide evidence an insurable share exists; and (b) a court-appointed guardian or parent must co-sign the application. (2) When a court-appointed guardian or parent cosigns the application: (a) An acknowledgement guaranteeing payment of the annual premium must be included with the application; and (b) a written statement describing the farming operation and the insurable share must be provided. (3) For CAT coverage only, a minor who is competent to enter into a binding contract, may insure a crop at CAT level without a cosigner; however, if not competent to enter into a binding contract, a court-appointed guardian or parent must sign the application.''	7 CFR parts 400, 402, 457.

Dated: November 17, 2014.

Thomas J. Vilsack,

Secretary.

[FR Doc. 2014–28452 Filed 12–9–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2000–N–0011 (Formerly Docket No. 2000N–1596)]

Uniform Compliance Date for Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is establishing January 1, 2018, as the uniform compliance date for food labeling regulations that are issued between January 1, 2015, and December 31, 2016. We periodically announce uniform compliance dates for new food labeling requirements to minimize the economic impact of label changes. On November 28, 2012, we established January 1, 2016, as the uniform compliance date for food labeling regulations issued between January 1, 2013, and December 31, 2014.

DATES: This rule is effective December 10, 2014. Submit electronic or written comments by February 9, 2015.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *Mail/Hand delivery/Courier* (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No. (FDA–2000–N–0011) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michael Ellison, Center for Food Safety and Applied Nutrition (HFS–24), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2093.

SUPPLEMENTARY INFORMATION:

I. Background

We periodically issue regulations requiring changes in the labeling of food. If the effective dates of these labeling changes were not coordinated, the cumulative economic impact on the food industry of having to respond

separately to each change would be substantial. Therefore, we periodically have announced uniform compliance dates for new food labeling requirements (see, *e.g.,* the **Federal Register** of October 19, 1984 (49 FR 41019); December 24, 1996 (61 FR 67710); December 27, 1996 (61 FR 68145); December 23, 1998 (63 FR 71015); November 20, 2000 (65 FR 69666); December 31, 2002 (67 FR 79851); December 21, 2006 (71 FR 76599); December 8, 2008 (73 FR 74349); December 15, 2010 (75 FR 78155); and November 28, 2012 (77 FR 70885)). Use of a uniform compliance date provides for an orderly and economical industry adjustment to new labeling requirements by allowing sufficient lead time to plan for the use of existing label inventories and the development of new labeling materials.

We have determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all 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, and other advantages; distributive impacts; and equity). We believe that this final rule is not a significant regulatory action under Executive Order 12866.

The establishment of a uniform compliance date does not in itself lead to costs or benefits. We will assess the costs and benefits of the uniform compliance date in the regulatory impact analyses of the labeling rules that take effect at that date.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. Because the final rule does not impose compliance costs on small entities, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2013) Implicit Price Deflator for the Gross Domestic Product. We do not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we have concluded that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

This action is not intended to change existing requirements for compliance dates contained in final rules published before January 1, 2015. Therefore, all final rules published by FDA in the **Federal Register** before January 1, 2015, will still go into effect on the date stated in the respective final rule. We generally encourage industry to comply with new labeling regulations as quickly as feasible, however. Thus, when industry members voluntarily change their labels, it is appropriate that they incorporate any new requirements that have been published as final regulations up to that time.

In rulemaking that began with publication of a proposed rule on April 15, 1996 (61 FR 16422), and ended with a final rule on December 24, 1996, we provided notice and an opportunity for comment on the practice of establishing uniform compliance dates by issuance of a final rule announcing the date. Receiving no comments objecting to this practice, FDA finds any further advance notice and opportunity for comment or delayed effective date unnecessary for establishment of the uniform compliance date. We have previously invited comment on the practice of establishing uniform compliance dates by issuing a final rule, and interested parties will have an opportunity to comment on the compliance date for each individual food labeling regulation as part of the rulemaking process for that regulation. Nonetheless, under 21 CFR 10.40(e)(1), we are providing an opportunity for comment on whether the uniform compliance date established by this final rule should be modified or revoked.

The new uniform compliance date will apply only to final FDA food labeling regulations that require changes in the labeling of food products and that publish after January 1, 2015, and before December 31, 2016. Those regulations will specifically identify January 1, 2018, as their compliance date. All food products subject to the January 1, 2018, compliance date must comply with the appropriate regulations when initially introduced into interstate commerce on or after January 1, 2018. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2018, we will determine for that regulation an appropriate compliance date, which will be specified when the final regulation is published.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: December 4, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28829 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0123; FRL–9920–13–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 17, 2014, direct final rule approving a revision to the Illinois State Implementation Plan (SIP) to phase out the requirements of the Stage II Vapor Recovery program.

DATES: The direct final rule published at 79 FR 62352 on October 17, 2014, is withdrawn effective December 10, 2014.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061, *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: The Illinois Environmental Protection Agency submitted this revision as a modification to the SIP for gasoline vapor recovery requirements. In the direct final rule, EPA stated that if adverse comments were submitted by November 17, 2014, the rule would be withdrawn and not take effect. On October 20, 2014, EPA received an adverse comment and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on October 17, 2014. EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Oxides of nitrogen, Ozone, Volatile organic compounds.

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

Dated: November 24, 2014.

Susan Hedman,

Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Accordingly, the amendment to 40 CFR 52.720 published in the **Federal Register** on October 17, 2014 (79 FR 62352) on page 62356 is withdrawn effective December 10, 2014.

[FR Doc. 2014–28803 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0480; FRL–9919–76–Region 9]

Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust and abrasive blasting. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on February 9, 2015 without further notice, unless EPA receives adverse comments by January 9, 2015. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0480, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov.*

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

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resource Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
AVAQMD	403	Fugitive Dust	04/20/10	07/20/10
SCAQMD	1140	Abrasive Blasting	08/02/85	11/12/85

On May 12, 1986 and August 25, 2010, EPA determined that the submittal for SCAQMD Rule 1140 and AVAQMD Rule 403, respectively, met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review. We recognize that we are acting on Rule 1140 many years after California's submittal of the rule to EPA. SCAQMD, CARB and EPA staff uncovered the outstanding submittal as part of a broader review of California submittals in general. Despite the age of this submittal, SCAQMD, CARB and EPA staff preliminarily determined that it is still a legitimate submittal and, as discussed below, appropriate to incorporate into the SIP.

B. Are there other versions of these rules?

We approved an earlier version of Rules 403 and 1140 into the SIP on June 14, 1978 and September 28, 1981, respectively. The AVAQMD adopted revisions to the SIP-approved version of Rule 403 on November 8, 1992, July 9, 1993 and February 14, 1997, but they were not submitted to us.

C. What is the purpose of the submitted rule revisions?

PM, including particulate matter of ten microns or less (PM_{10}) and particulate matter of 2.5 microns or less ($PM_{2.5}$), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. AVAQMD Rule 403 is revised to establish a general 20 percent opacity limit and requirements during high wind conditions, as well as to conform the rule to AVAQMD's attainment status and to clarify rule requirements. SCAQMD Rule 1140 limits particulate discharge, including PM_{10} and $PM_{2.5}$, into the atmosphere from abrasive blasting activities and sets standards for the abrasives that may be used in different blasting operations.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM_{10} nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM_{10} nonattainment areas (see CAA sections 189(a)(1) and 189(b)(1)). The AVAQMD does not regulate any $PM_{2.5}$ or PM_{10} nonattainment areas, so AVAQMD Rule 403 is not subject to RACM requirements at this time. The SCAQMD regulates a $PM_{2.5}$ nonattainment area classified as moderate (see 40 CFR 81.305), so the RACM requirement applies to this area.[1]

Guidance and policy documents that we use to evaluate enforceability and RACM/RACT or BACM/BACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, (revised January 11, 1990) (the Bluebook).
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.
6. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

[1] EPA generally takes action on a RACM demonstration as part of our action on the State's attainment demonstration for the relevant NAAQS, based on an evaluation of the control measures submitted as a whole and their overall potential to advance the applicable attainment date in the area.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACM, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations to Further Improve the Rules

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by January 9, 2015, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on February 9, 2015. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the

provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: November 3, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(165)(i)(B)(*2*) and (c)(381)(i)(G)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(165) * * *

(i) * * *

(B) * * *

(*2*) Rule 1140, ''Abrasive Blasting,'' amended on August 2, 1985.

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(381) * * *

(i) * * *

(G) * * *

(*3*) Rule 403, ''Fugitive Dust,'' amended on April 20, 2010.

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[FR Doc. 2014–28802 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA–R05–OAR–2012–0989; FRL 9920–14-Region 5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment of the 2008 Eight-Hour Ozone Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is disapproving a December 5, 2012, request from the state of Indiana to redesignate Lake and Porter Counties to attainment of the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) because Indiana has not demonstrated that the Chicago-Naperville, Illinois-Indiana-Wisconsin (IL-IN-WI) ozone nonattainment area (Chicago nonattainment area), which includes Lake and Porter Counties, has attained this NAAQS. EPA is also disapproving Indiana's ozone maintenance plan and Motor Vehicle Emission Budgets (MVEBs) for Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X), submitted with Indiana's ozone redesignation request.

DATES: This final rule is effective January 9, 2015.

ADDRESSES: EPA has established a docket for this action: Docket ID No. EPA EPA–R05–OAR–2012–0989. All

documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

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I. What is the background for this action?

The background for this action is discussed in detail in EPA's June 30, 2014, proposed rule (79 FR 36692). In that proposed rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2008 ozone standard is violated when the three-year average of the annual fourth-highest daily maximum eight-hour ozone concentrations at any monitoring site in the subject area [1] is greater 0.075 parts per million parts of air (ppm). See 77 FR 30088 (May 21, 2012) for further information regarding area designations for the 2008 ozone standard and 77 FR 34221 (June 11, 2012) for information regarding the designation of the Chicago-Naperville, IL-IN-WI area for the 2008 ozone standard. See 40 CFR 50.15 and appendix P to 40 CFR part 50 regarding the ozone data requirements for a determination of whether an area has attained the 2008 ozone standard. Under section 107(d)(3)(E) of the Clean Air Act (CAA), EPA may redesignate a nonattainment area (or a portion thereof) to attainment if sufficient complete, quality-assured data are available to demonstrate that the nonattainment area as a whole has attained the standard and if all other requirements of section 107(d)(3)(E) have been met.

The Indiana Department of Environmental Management (IDEM) submitted a request for the redesignation of Lake and Porter Counties to attainment of the 2008 ozone standard on December 5, 2012. The redesignation request included summarized ozone data for all monitors in the Chicago-Naperville, IL-IN-WI ozone nonattainment area along with other information specific to Lake and Porter Counties to demonstrate that all requirements of section 107(d)(3)(E) of the CAA have been satisfied. The June 30, 2014, proposed disapproval provides a detailed discussion of the ozone data for the period of 2006 through 2013 (see tables 1 and 2 in the June 30, 2014, proposed rule at 79 FR 36694), which show a violation of the 2008 ozone standard in the Chicago-Naperville, IL-IN-WI area based on current, quality-assured ozone data. It does not, however, discuss in detail other components of Indiana's submittal because EPA believes that Indiana failed to meet the most basic requirement for redesignation, a demonstration that the Chicago-Naperville, IL-IN-WI ozone nonattainment area has attained the 2008 ozone standard. We proposed to disapprove Indiana's ozone redesignation request based on the violation of the 2008 ozone standard, but we proposed no action on Indiana's MVEBs and ozone maintenance demonstration for the 2008 ozone standard.

II. What comments did we receive on the proposed rule?

During the public comment period for the June 30, 2014, proposed rule, we received two sets of comments, which we summarize and address here. One set of comments was submitted by IDEM and the other set was submitted by an industrial corporation with a facility in Gary, Indiana.

Comment 1: Both commenters objected to EPA's proposed disapproval of Indiana's ozone redesignation request based on violations of the 2008 ozone standard at several monitoring sites in the Chicago-Naperville, IL-IN-WI ozone nonattainment area, but outside of Lake and Porter Counties (no violations of the 2008 ozone standard were recorded in Lake and Porter Counties), during the period of 2011–2013 (the most recent three-year period with quality-assured, state-certified ozone monitoring data).[2] These objections are based on the commenters' view that section 107(d)(3)(E) of the CAA provides for the redesignation of a portion of a nonattainment area as well as for the entire nonattainment area. Both commenters contend that, since all monitors in Lake and Porter Counties have monitored attainment of the 2008 ozone standard and since Indiana's ozone redesignation request only applies to Lake and Porter Counties, EPA has erred in its interpretation of section 107(d)(3)(E) and in its insistence of judging Indiana's redesignation request based on the current ozone data for all ozone monitors in the Chicago-Naperville, IL-IN-WI nonattainment area.

IDEM makes two additional points in support of this comment. First, IDEM asserts that the plain language of section 107(d)(3)(E) does not mandate that EPA use as a prerequisite for approval of a redesignation request that all monitors in a nonattainment area show attainment of the NAAQS. IDEM contends that EPA misreads section 107(d)(3)(E) with regard to the word ''area'' contained in subsection 107(d)(3)(E)(i). IDEM argues that this subsection cannot be parsed from section 107(d)(3)(E) as a whole, and that a reading of section 107(d)(3)(E) as a whole shows that the word ''area'' in subsection 107(d)(3)(E)(i) may apply to a portion of the nonattainment area, as covered by the state's redesignation request, in this case Lake and Porter Counties, since other subsections of section 107(d)(3)(E) and the lead-in clauses of section 107(d)(3)(E) (of general applicability to all of section 107(d)(3)(E) and its subsections) can apply to a portion of the nonattainment area.[3] IDEM cites two cases, *Kokoszka* v.

[1] In this case, the Chicago-Naperville, IL-IN-WI ozone nonattainment area for the 2008 eight-hour ozone NAAQS. This area is composed of Lake and Porter Counties in Indiana; Cook, DuPage, Kane, Lake, McHenry, and Will Counties, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County in Illinois; and the area east of and including the Interstate 94 corridor in Kenosha County in Wisconsin.

[2] As noted in the June 30, 2014, proposed rule, Chicago-Naperville, IL-IN-WI ozone nonattainment area has experienced a violation of the 2008 ozone standard for every three-year period from 2009 to 2013.

[3] The leading clauses of section 107(d)(3)(E) refer to the ''nonattainment area (or portion thereof).'' In addition, the term ''area'' in subsections 107(d)(3)(E)(ii), (iv), and (v) can be applied to a sub-portion of a nonattainment area, generally to a state's portion of a multi-state nonattainment area.

Bellford, 417 U.S. 642, 650 (1974), and *Dada* v. *Mukasey,* 544 U.S. 1 (2008), for the principle that ''When interpreting a statute, the court will not look merely to a particular clause in which general words may be used, but will take in connection with it the whole statute . . .''. IDEM argues that this legal principle supports its view that interpretation of ''the area'' in subsection 107(d)(3)(E)(i) must be informed and modified by ''a nonattainment area (or portion thereof)'' as provided in the lead-in clauses of section 107(d)(3)(E).

Second, IDEM cites EPA's approval of the redesignation of Kentucky's portion of the Cincinnati-Hamilton, Ohio-Kentucky (OH-KY) nonattainment area to attainment of the 1990 ozone standard in further support of its position. IDEM notes that EPA approved a redesignation request for the Kentucky portion even though the Ohio portion of this ozone nonattainment area was denied redesignation. IDEM points out that in doing so, EPA interpreted the term ''area'' in subsection 107(d)(3)(E)(ii) to mean a portion of the nonattainment area, rather than the nonattainment area as a whole. Similarly, IDEM notes that, in EPA's subsequent final rule approving the redesignation of the Kentucky portion of the nonattainment area, EPA said that it had the authority to redesignate the Kentucky portion of the nonattainment area independent of whether Ohio had met all of the requirements for a fully approved State Implementation Plan (SIP) for its portion of the nonattainment area. IDEM believes that EPA's interpretation of ''area'' in subsection 107(d)(3)(E)(ii) in the redesignation of the Kentucky portion of the Cincinnati-Hamilton, OH-KY nonattainment area is the correct interpretation and should apply to subsection 107(d)(3)(E)(i) to support the approval of Indiana's ozone redesignation request for Lake and Porter Counties.

Response 1: Section 107(d)(3)(E) of the CAA specifies five criteria for evaluating the adequacy of a state's redesignation request. A key element of these criteria is contained in subsection 107(d)(3)(E)(i), which requires that the Administrator (EPA) determine that ''the area has attained the national ambient air quality standard.'' EPA has consistently interpreted ''area'' in this subsection to mean the entire nonattainment area and has required that all monitors in the subject nonattainment area have monitored attainment of the subject air quality standard. This is true for multi-state nonattainment areas, such as the Chicago-Naperville, IL-IN-WI nonattainment area, and for single state nonattainment areas. See, *e.g.,* 77 FR 6743, February 9, 2012, (proposed redesignation of the Illinois portion of the Chicago-Gary-Lake County, IL-IN nonattainment area for the 1997 ozone standard); 76 FR 79579, December 22, 2011, (proposed redesignation of the Illinois portion of the St. Louis, Missouri-Illinois nonattainment area for the 1997 ozone standard); 72 FR 26759, May 11, 2007, (proposed redesignation of the Kentucky portion of the Huntington-Ashland, Kentucky-West Virginia nonattainment area for the 1997 ozone standard); 72 FR 1474, January 12, 2007, (proposed redesignation of the West Virginia portion of the Parkersburg-Marietta, West Virginia-Ohio nonattainment area for the 1997 ozone standard); and 75 FR 12090, March 12, 2010, (proposed redesignation of the Indiana portion of the Chicago-Gary-Lake County, Illinois-Indiana nonattainment area for the 1997 ozone standard).

The commenters assert that section 107(d)(3)(E) criteria allow the redesignation of a portion of a nonattainment area. We agree with these commenters that EPA can, and has under certain circumstances, redesignated portions of a nonattainment area to attainment of the NAAQS while leaving other portions of the nonattainment area designated as nonattainment. See the above list of proposed rules for proposed partial area redesignations. However, regardless of whether EPA considers a redesignation of a part of a nonattainment area or the redesignation of an entire nonattainment area, EPA considers the air quality data for the entire nonattainment area to establish compliance with the air quality requirements of subsection 107(d)(3)(E)(i). EPA has consistently taken this approach because to do otherwise could result in the stripping of source areas that are otherwise attaining the NAAQS away from the remainder of a nonattainment area that continues to violate the NAAQS. This would clearly undermine the CAA's intent for nonattainment areas to include both the violating areas and the source areas that contribute to the violations of the NAAQS, as expressed in subsection 107(d)(1)(A)(i) of the CAA. Redesignating portions of nonattainment areas when the areas, as wholes, are not attaining the NAAQS would also interfere with the CAA's emission control requirements that are designed to bring the nonattainment areas back into attainment of the NAAQS by controlling emissions in source areas within the nonattainment areas.

EPA disagrees with IDEM that the CAA compels EPA to interpret the word ''area'' in subsection 107(d)(3)(E)(i) to mean a nonattainment area or a portion of a nonattainment area. The language of section 107(d)(3)(E) and its subsections, read with the CAA as a whole, does not lend itself to a clear and unambiguous interpretation of the term ''area'' in subsection 107(d)(3)(E)(i).

IDEM argues that EPA must interpret ''area'' in subsection 107(d)(3)(E)(i) in light of the CAA as a whole. EPA agrees, and believes that, contrary to IDEM's position, this legal principle supports EPA's reading of the statute. As noted above, if EPA were to interpret ''area'' in subsection 107(d)(3)(E)(i) to permit the agency to approve a redesignation where the air quality standard was not being attained in all portions of the nonattainment area, the agency would contravene Congress' intent that nonattainment areas include not only areas that do not meet the air quality standard but also areas ''that contribute [ ] to ambient air quality in a nearby area that does not meet'' the standard. 42 U.S.C. 7407(d)(1)(A)(i). Interpreting the statute in the manner suggested by IDEM would allow a portion of a nonattainment area, which itself is not violating the NAAQS but is contributing to nonattainment in that area, to be redesignated to attainment immediately after being designated as part of the nonattainment area under CAA subsection 107(d)(1)(A)(i) if the state could demonstrate compliance with the provisions of subsections 107(d)(3)(E)(ii)–(v). This is not a reasonable reading of the statute, and thus EPA disagrees with IDEM that, in reading the statute as a whole, the word ''area'' in subsection 107(d)(3)(E)(i) should be interpreted to include ''a portion of the nonattainment area.''

In fact, the requested redesignation at issue illustrates precisely the hypothetical example set out above. On June 11, 2012, EPA finalized its designation of Lake and Porter Counties as part of the Chicago-Naperville, IL-IN-WI ozone nonattainment area (77 FR 34221). EPA explained in that rule that Lake and Porter Counties were included in the ozone nonattainment area designation based on their emissions and contribution to high ozone concentrations in other parts of the nonattainment area. See EPA's final technical support document (TSD) for the designation of the Chicago-Naperville, IL-IN-WI area (available at *http://www.epa.gov/ozonedesignations/2008standards/documents/*

R5_Chicago_TSD_Final.pdf). In particular, in the TSD, EPA noted that Lake and Porter Counties account for 10.4 percent of the total VOC emissions and 18.8 percent of the total NO_X emissions for the entire Chicago consolidated statistical area. *Id.* at 9. In the TSD, EPA also noted that other county-specific factors, including population levels, traffic levels (vehicle miles of travel), and meteorology during high ozone days in the Chicago-Naperville, IL-IN-WI area also supported the inclusion of Lake and Porter Counties in the Chicago-Naperville, IL-IN-WI ozone nonattainment area for the 2008 ozone standard.

In the designations process, Indiana objected to the inclusion of Lake and Porter Counties in the ozone nonattainment area, and EPA responded to those comments. See EPA's ''ADDENDUM to Response to Significant Comments on the State and Tribal Designation Recommendations for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) for Section 3.2.5.1. Chicago-Naperville, IL-IN-WI area'' (RTC Addendum), (available at *http://www.epa.gov/ozonedesignations/2008standards/documents/20120531chicagortc.pdf*). In both the TSD and the RTC Addendum, EPA discussed ozone modeling analyses conducted by the Lake Michigan Air Directors Consortium (LADCO) that demonstrate that Lake and Porter Counties' ozone precursor emissions significantly contributed to high ozone levels at the Zion, Illinois monitoring site (the worst-case ozone design value monitoring site considered during ozone designation process for the Chicago-Naperville, IL-IN-WI area) during the high ozone days modeled by LADCO (TSD at 17–19 and RTC Addendum at 10–12).

EPA's inclusion of Lake and Porter Counties as part of the Chicago-Naperville, IL-IN-WI ozone nonattainment area for the 2008 ozone standard is also consistent with section 107(d)(1) of the CAA and EPA's interpretation of the statute as it pertains to ozone designations as expressed in a December 4, 2008, EPA policy memorandum (''Area Designations for the 2008 Revised Ozone National Ambient Air Quality Standards,'' from Robert J. Meyers, Principal Deputy Assistant Administrator, to Regional Administrators, Regions I–X). As noted in that memorandum, because ''[g]round-level ozone and ozone precursor emissions are pervasive and readily transported . . . EPA believes it is important to examine ozone-contributing emissions across a relatively broad geographic area.'' *Id.* at 3.

Indiana requested redesignation of the Lake and Porter Counties portion of the Chicago-Naperville, IL-IN-WI nonattainment area in December 2012, six months after the initial designation of the nonattainment area was finalized. The state's request is based on the same years of air quality data that were used to designate the area nonattainment. Thus, interpreting ''area'' in section 107(d)(3)(E) as IDEM suggests would have the effect of immediately reversing the designation of the nonattainment area, an outcome that Congress could not have intended. Indiana has objected to the inclusion of Lake and Porter Counties in the Chicago nonattainment area and it has filed a petition for judicial review of that decision.[4] The redesignation process, however, is not the proper forum in which to challenge EPA's designation decisions.

IDEM's assertion that EPA's redesignation of the Kentucky portion of the Cincinnati-Hamilton, OH-KY nonattainment area for the 1990 ozone standard is inconsistent with EPA's action here is also mistaken. In that redesignation, EPA clearly considered ozone data for all ozone monitoring sites in the entire Cincinnati-Hamilton nonattainment area, and not just for the portion of the area that was being redesignated, in determining that the Kentucky portion of the area had met the criteria for redesignation. 65 FR 3630 (January 24, 2000) and 65 FR 37879 (June 19, 2000). IDEM accurately notes that EPA interpreted the word ''area'' for purposes of subsection 107(d)(3)(E)(ii) to mean the state-specific portion of the nonattainment area in the Cincinnati-Hamilton redesignation, consistent with EPA's long-standing interpretation of that provision.

EPA acknowledges that the meaning of the word ''area'' in section 107(d)(3)(E) is ambiguous. In the Cincinnati-Hamilton redesignation cited by IDEM, and in other actions, EPA has consistently interpreted the word ''area'' in subsections 107(d)(3)(E)(ii), (iv), and (v) to include the single-state portions of multi-state nonattainment areas in addition to entire nonattainment areas seeking redesignation. Subsection 107(d)(3)(E)(ii) requires that an area have a fully approved applicable SIP, subsection 107(d)(3)(E)(iv) requires that an area have a fully approved maintenance plan, and subsection 107(d)(3)(E)(v) requires an area to have met all applicable requirements under section 110 and part D. These subsections are distinguishable from subsection 107(d)(3)(E)(i) in that interpreting ''area'' in these subsections to include a single-state portion of a multi-state area does not interfere with any other requirement of the CAA. Furthermore, EPA interprets ''area'' in subsections 107(d)(3)(E)(ii), (iv), and (v) to include portions of nonattainment areas because those provisions all relate to SIP revision requirements, and each state is independently responsible for obtaining approval of the applicable SIP provisions for redesignation.

EPA does not think it is necessary to require one state to wait for another state to complete its SIP actions before becoming eligible for redesignation if the nonattainment area as a whole is attaining the NAAQS. On the other hand, although EPA will determine that a state containing a portion of a multi-state nonattainment area has satisfied subsection 107(d)(3)(E)(iv) where only that state has submitted a fully approved maintenance plan, EPA requires as a matter of course that the state communicate with the other states governing the multi-state nonattainment area and demonstrate projected maintenance of the NAAQS in the other portions of the nonattainment area, even in the absence of fully approved maintenance plans from those other states. EPA has, therefore, been consistent in interpreting ''area'' in 107(d)(3)(E) to mean the entire nonattainment area with respect to air quality concerns, even where the Agency has interpreted the term ''area'' to include single-state portions of multi-state nonattainment areas when the requirement is limited to SIP submission and processing.

In conclusion, EPA believes that interpreting the word ''area'' in subsection 107(d)(3)(E)(i) to mean a portion of a nonattainment area contravenes the CAA mandate in subsection 107(d)(1)(A)(i) for the nonattainment area to include both the violating areas and the source areas that contribute to the violations of the NAAQS. Even if EPA believed that it could redesignate a portion of an area when another portion of the area is violating the NAAQS, we would decline to take that approach as a policy matter because we believe that our current interpretation of subsection 107(d)(3)(E)(i) is most protective of human health and the environment.

Comment 2: IDEM requests that EPA re-evaluate Indiana's December 5, 2012, redesignation request in total, after consideration of its arguments as summarized in comment 1, to determine

[4] *Mississippi Commission on Environmental Quality, et al.* v. *EPA* (D.C. Cir. No. 12–1309 and consolidated cases).

whether the request as a whole conforms to the requirements of section 107(d)(3)(D).

Response 2: As explained in response to Comment 1 above, we disagree with IDEM's interpretation of ''area'' in subsection 107(d)(3)(E)(i) and have determined that this subsection requires attainment of the 2008 ozone standard in the entire Chicago-Naperville, IL-IN-WI nonattainment area. Since the 2008 ozone standard has not been attained in the entire nonattainment area, as evidenced by the ozone monitoring data summarized in the June 30, 2014, proposed rule (see tables 1 and 2 at 79 FR 36692, 36694–36695), we conclude that the Chicago-Naperville, IL-IN-WI area and Indiana's ozone redesignation request for Lake and Porter Counties have not met the most basic requirement for redesignation, attainment of the 2008 ozone NAAQS.

Since attainment of the NAAQS is a prerequisite for development of an acceptable attainment emissions inventory (and the MVEBs derived thereof) and for demonstrations of maintenance, we cannot approve these components of Indiana's ozone redesignation request for Lake and Porter Counties. In our June 30, 2014, proposed rule, we explained that rather than acting on these components of Indiana's redesignation request, which would almost certainly have resulted in proposed disapproval on the grounds of the failure of the Chicago-Naperville, IL-IN-WI area to attain the 2008 ozone standard, we chose to take no action on these components (79 FR 36692, 36696). In so doing, we explained that an approvable ozone maintenance plan must contain an ozone attainment emissions inventory documenting VOC and NO_X emissions for the period in which the area has attained the ozone standard. We concluded that ''[s]ince the Chicago ozone nonattainment area continues to violate the 2008 eight-hour ozone standard, we cannot conclude that Indiana has developed an acceptable attainment year emissions inventory. This means that the ozone maintenance demonstration portion of the ozone maintenance plan is unacceptable.'' *Id.* Similarly, with regard to Indiana's proposed MVEBs for VOCs and NO_X, we explained that ''since the estimation of the VOC and NO_X MVEBs depends on the determination of mobile source emissions that, along with other emissions in the nonattainment area, provide for attainment of the ozone standard, and since the Chicago nonattainment area continues to violate the 2008 eight-hour ozone standard, we conclude that Indiana's estimates of the VOC and NO_X MVEBs are also not acceptable.'' *Id.*

Subsequently, IDEM submitted its comment requesting that we take action on the remaining components of its submittal in light of our re-evaluation of our interpretation of ''area'' in subsection 107(d)(3)(E)(i). We had proposed to take no action on those remaining components; but based on our earlier findings that those components are not approvable and on IDEM's comment urging us to take action on its request as a whole, we now conclude that we cannot approve the remaining portions of Indiana's request—its maintenance plan and its proposed MVEBs. As a result, we are in this action disapproving these remaining portions of Indiana's submission. We believe this disapproval is a logical outgrowth of our proposal, because we included in that notice not only our explanation for why these elements were not approvable, but also indicated that ''if we were to propose actions on these ozone redesignation request elements, we would find it necessary to propose disapproval.'' 79 FR 36692, 36696. We believe this alerted commenters that we were considering disapproval of the maintenance plan and MVEBs. Therefore, we are determining that the MVEBs and ozone maintenance plan included with Indiana's ozone redesignation request must be disapproved on the basis that the Chicago-Naperville, IL-IN-WI area continues to violate the 2008 ozone NAAQS.

Comment 3: The corporate commenter asserted that EPA's failure to redesignate the portions of nonattainment areas that meet the NAAQS unnecessarily burdens economic development in such areas. The commenter objected to the implementation of (nonattainment) New Source Review (NSR) requirements in these areas on the basis that such implementation unjustly burdens the sources in these areas.

Response 3: Since the Chicago-Naperville, IL-IN-WI area continues to violate the 2008 ozone standard, it is imperative that NSR continue to be applied in all parts of the nonattainment area to avoid exacerbation of the existing ozone air quality problem. The ''attainment'' portions of nonattainment areas that the commenter refers to are in this case source areas contributing to violations of the NAAQS in other portions of the nonattainment area. See also our response to Comment 1, above. Therefore, it is inappropriate to redesignate the attaining portions of the nonattainment areas and to remove NSR requirements, including new source offsets, in these attaining portions while violations of the NAAQS continue in other portions of the nonattainment areas.

III. What action is EPA taking?

We are disapproving a December 5, 2012, request from the state of Indiana to redesignate Lake and Porter Counties to attainment of the 2008 ozone NAAQS because Indiana has not demonstrated that the Chicago-Naperville, IL-IN-WI ozone nonattainment area, which includes Lake and Porter Counties, has attained this NAAQS, as required by subsection 107(d)(3)(E)(i) of the CAA. EPA is also disapproving Indiana's ozone maintenance plan and MVEBs, submitted with Indiana's ozone redesignation request, because Indiana has failed to successfully present MVEBs and an ozone maintenance plan which reflect attainment and maintenance of the 2008 ozone standard in the Chicago-Naperville, IL-IN-WI ozone nonattainment area as evidenced by the continued violation of this ozone standard in this ozone nonattainment area.

IV. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

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

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

This action merely disapproves state law as not meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule disapproves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as

described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely disapproves a state rule, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it disapproves a state rule.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

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

National Technology Transfer Advancement Act

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely disapproves certain state requirements for inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898.

Congressional Review Act

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: November 25, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.777 is amended by adding paragraph (ss), to read as follows:

§ 52.777 Control strategy: photochemical oxidents (hydrocarbons).

* * * * *

(ss) *Disapproval.* EPA is disapproving Indiana's December 5, 2012, ozone redesignation request for Lake and Porter Counties for the 2008 ozone standard. EPA is also disapproving Indiana's motor vehicle emission budgets and ozone maintenance plan submitted with the redesignation request.

[FR Doc. 2014–28799 Filed 12–9–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0601; FRL–9918–88]

Alpha-cypermethrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of alpha-cypermethrin in or on food

commodities/feed commodities in food/feed handling establishments. BASF on behalf of Whitmire Micro-Gen Research Laboratories requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 10, 2014. Objections and requests for hearings must be received on or before February 9, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0601, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0601 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 9, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0601, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of September 5, 2014 (79 FR 53009) (FRL–9914–98), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3F8189) by BASF on behalf of Whitmire Micro-Gen Research Laboratories, 3568 Tree Court Industrial Blvd., St. Louis, MO 63122–6682. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide alpha-cypermethrin, in or on food/feed handling establishments at 0.05 parts per million (ppm). That document referenced a summary of the petition prepared by BASF on behalf of Whitmire Micro-Gen Research Laboratories, the registrant, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

EPA has corrected the proposed commodity definition to read food commodities/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on

aggregate exposure for alpha-cypermethrin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with alpha-cypermethrin follows.

Alpha-cypermethrin is an enriched isomer of the pyrethroid insecticide cypermethrin. In addition, zeta-cypermethrin is also an enriched isomer of cypermethrin. The toxicology database for the cypermethrins includes studies with cypermethrin and both of its enriched isomers, and is considered complete for the purpose of risk assessment. When considering alpha-cypermethrin the EPA also considers potential exposures from the other registered cypermethrins (*i.e.,* cypermethrin and zeta-cypermethrin), since the 3 active ingredients are essentially the same active from the mammalian toxicity perspective. The recommended tolerance of 0.05 ppm associated with the food handling establishment use of alpha-cypermethrin is at the same level as the one currently established for zeta-cypermethrin. Based on the available alpha-cypermethrin residue data submitted for the food handling establishment use, this use will not result in alpha-cypermethrin residues higher than 0.05 ppm and is the same as the existing tolerance of 0.05 ppm established to support the food handling establishment uses for zeta-cypermethrin. The existing dietary and aggregate risk assessments already account for the impact of the existing zeta-cypermethrin food handling establishment use (*i.e.* 100% crop treated for all commodities without an existing tolerance). Therefore, the addition of the food handling establishment use for alpha-cypermethrin will have no impact on the dietary risk estimates, as they are already covered in the existing dietary and aggregate risk assessments.

In the **Federal Register** of February 1, 2013 (78 FR 7266) (FRL–9376–1), the EPA published a final rule to establish tolerances for residues of the insecticide alpha-cypermethrin in or on alfalfa, hay at 15 ppm; citrus, dried pulp at 1.8 ppm; citrus fruit, Group 10 at 0.35 ppm; citrus, oil at 4.0 ppm; corn, grain; cottonseed; cucurbit vegetables, Group 9; dried shelled pea and bean, except soybean, subgroup 6C; edible podded legume vegetable, subgroup 6A; fruiting vegetables, Group 8; head and stem Brassica, subgroup 5A at 2.0 ppm; leafy vegetable, except Brassica, Group 4 at 10 ppm; pop-corn; rice, grain at 1.5 ppm; root and tuber vegetables, Group 1 at 0.1 ppm; sorghum, grain at 0.5 ppm; soybeans; succulent shelled pea and bean, subgroup 6B; sugar beet, roots at 0.05 ppm; sugar beet, tops; sweet corn; tree nuts, Group 14; and wheat, grain at 0.2 ppm. Since the publication of the February 1, 2013 final rule, the toxicity profile of alpha-cypermethrin has not changed and since the food handling establishment use for alpha-cypermethrin will have no impact on the dietary or aggregate risk estimates, the risk assessments that supported the establishment of those alpha-cypermethrin tolerances published in the February 1, 2013 **Federal Register** remain valid. Therefore, EPA is relying on those risk assessments in order to support the new food handling tolerance for alpha-cypermethrin.

For a detailed discussion of the aggregate risk assessments and determination of safety for the food handling tolerance, please refer to the February 1, 2013 **Federal Register** document and its supporting documents, available at *http://www.regulations.gov* in Docket ID number EPA–HQ–OPP–2010–0234. EPA relies upon those supporting risk assessments and the findings made in the **Federal Register** document in support of this final rule.

Based on the risk assessments and information described above, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to alpha-cypermethrin residues. Further information can also be found in the document, ''Alpha-Cypermethrin—Human Health Risk Assessment for Two New Proposed Products for Use in Commercial/Residential Settings'' in docket ID number EPA–HQ–OPP–2014–0601.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate tolerance-enforcement methods are available in Pesticide Analytical Manual (PAM) Volume II for determining residues of cypermethrin, zeta-cypermethrin and alpha-cypermethrin in plant (Method I) and livestock (Method II) commodities. Both methods are gas chromatographic methods with electron-capture detection (GC/ECD), and have undergone successful Agency petition method validations (PMVs). Method I has a limit of detection (LOD) of 0.01 ppm, and Method II has LODs of 0.005 ppm in milk, and 0.01 ppm in livestock tissues. These methods are not stereospecific; thus no distinction is made between residues of cypermethrin (all eight stereoisomers), zeta-cypermethrin (enriched in four isomers) and alpha-cypermethrin (two isomers).

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

There is no Codex MRL for residues of alpha-cypermethrin in or on food commodities/feed commodities (other than those covered by a higher tolerance as a results of use on growing crops) in food/feed handling establishments.

C. Response to Comments

The EPA received 4 comments in response to this Notice of Filing. Two commenters were opposed to increasing the amount of pesticides being used and did not approve of the proposal. The Agency understands the commenter's concerns and recognizes that some individuals believe that certain pesticide chemicals should not be permitted in our food. However, the existing legal framework provided by section 408 of the FFDCA states that tolerances may be set when EPA determines that aggregate exposure to that pesticide is safe, *i.e.,* that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. When making this determination, EPA considers the toxicity, including any potential carcinogenicity, of the pesticide and all anticipated dietary exposures and all other exposures for which there is reliable information. EPA also gives special consideration to the potential susceptibility and exposures of infants and children to the pesticide

chemical residue when making this determination. For alpha-cypermethrin, the Agency has considered all the available data, including all available data concerning the potential for carcinogenicity and concluded after conducting a risk assessment, that there is a reasonable certainty that no harm will result from aggregate human exposure to alpha-cypermethrin.

Two additional commenters raised concerns regarding exposure to bees. However, the proposed use is for pesticide applications to be made indoors to food/feed handling establishments and therefore, there should be no exposure to bees from the proposed application.

V. Conclusion

Therefore, the tolerance is established for residues of alpha-cypermethrin, in or on food commodities/feed commodities (other than those covered by a higher tolerance as a results of use on growing crops) in food/feed handling establishments at 0.05 ppm.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 26, 2014.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.418, revise the section heading and add alphabetically the following commodity to the table in paragraph (a)(3) to read as follows:

§ 180.418 Cypermethrin and isomers alpha-cypermethrin and zeta-cypermethrin; tolerances for residues.

(a) * * *

(3) * * *

Commodity	Parts per million
* * * * * * *	
Food commodities/feed commodities (other than those covered by a higher tolerance as a results of use on growing crops) in food/feed handling establishments	0.05
* * * * * * *	

* * * * *

[FR Doc. 2014–28934 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0774; FRL–9919–69]

Hexythiazox; Pesticide Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of hexythiazox in or on sugar beet root. This action is associated with the utilization of a crisis exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sugar beets. This regulation establishes a maximum permissible level for residues of hexythiazox in or on sugar beet root. The time-limited tolerance expires on December 31, 2019.

DATES: This regulation is effective December 10, 2014. Objections and requests for hearings must be received on or before February 9, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0774, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0774 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 9, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0774, by one of the following methods:

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

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

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6), 21 U.S.C. 346a(e) and 346a(1)(6), is establishing a time-limited tolerance for residues of hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, calculated as the stoichiometric equivalent of hexythiazox, in or on sugar beet root at 0.15 parts per million (ppm). This time-limited tolerance expires on December 31, 2019.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.,* without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all

other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Hexythiazox on Sugar Beet Root and FFDCA Tolerances

The Idaho and Oregon State Departments of Agriculture (the States) reported that two-spotted spider mite infestations at above-normal levels have caused severe losses in the past several years in sugar beet fields. Based upon activity observed in the early spring of 2014, they projected similar mite population levels for the 2014 season as well. The States claimed that alternative controls and practices would not provide adequate control with high infestations and would not prevent significant economic losses from occurring. The States also noted concern that some of the alternative pesticides may be harmful to beneficial insects which help control mites, and to bees pollinating crops in the area. The applicants asserted that an emergency condition existed in accordance with the criteria for approval of an emergency exemption, and utilized crisis exemptions under FIFRA section 18 which allowed the use of hexythiazox on sugar beet root for control of two-spotted spider mites in the Idaho and Oregon. After having reviewed the submissions, EPA concurred that an emergency condition existed.

As part of its evaluation of the emergency exemption applications, EPA assessed the potential risks presented by residues of hexythiazox in or on sugar beet root. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in FFDCA section 408(l)(6). Although this time-limited tolerance expires on December 31, 2019, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amount specified in the tolerance remaining in or on sugar beet root after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this time-limited tolerance at the time of that application. EPA will take action to revoke this time-limited tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this time-limited tolerance is being approved under emergency conditions, EPA has not made any decisions about whether hexythiazox meets FIFRA's registration requirements for use on sugar beets or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of hexythiazox by a State for special local needs under FIFRA section 24(c). Nor does this tolerance by itself serve as the authority for persons in any State other than Idaho and Oregon to use this pesticide on sugar beets under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for hexythiazox, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of these emergency exemption requests and the time-limited tolerance for residues of hexythiazox in or on sugar beet root at 0.15 ppm. EPA's assessment of exposures and risks associated with establishing the time-limited tolerance follows.

A. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for hexythiazox used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of February 8, 2013 (78 FR 9322) (FRL–9376–9).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to hexythiazox, EPA considered exposure under the time-limited tolerance established by this action as well as all existing hexythiazox tolerances in 40 CFR 180.448. EPA assessed dietary exposures from hexythiazox in food as follows:

i. *Acute exposure.* No adverse acute effects were identified in the toxicological studies for hexythiazox; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the U.S. Department of Agriculture's 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA used tolerance level residues, assumed 100 percent crop treated (PCT) and incorporated default processing factors from EPA's Dietary Exposure Evaluation Model when processing data were not available.

iii. *Cancer.* EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Cancer risk is quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or nonlinear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized.

Based on the toxicological endpoints for hexythiazox used for human risk assessment discussed in Unit III.B. of the February 8, 2013 **Federal Register** final rule, EPA has concluded that hexythiazox should be classified as ''Likely to be Carcinogenic to Humans'' and that a nonlinear RfD approach is appropriate for assessing cancer risk. Cancer risk was therefore assessed using the chronic RfD and the chronic exposure estimates as discussed in Unit IV.B.1.ii. of this document.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for hexythiazox. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for hexythiazox in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of hexythiazox. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), the estimated drinking water concentration (EDWC) of hexythiazox for chronic exposures for non-cancer and cancer assessments is estimated to be 4.31 parts per billion (ppb) for surface water. Since surface water residue values greatly exceed groundwater EDWCs, surface water residues were used in the dietary risk assessments. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Hexythiazox is currently registered for the following uses that could result in residential exposures: Ornamental plantings, turf, and fruit and nut trees in residential settings. EPA assessed residential exposure using the following assumptions: Residential handler exposures are expected to be short-term (1 to 30 days) via either the dermal or inhalation routes of exposure. Since no dermal hazards were identified for hexythiazox, MOEs were calculated for the inhalation route of exposure only. Both adults and children may be exposed to hexythiazox residues from contact with treated lawns or treated residential plants. Adult post-application exposures were not assessed for hexythiazox because no dermal hazards were identified, and inhalation exposures are typically negligible in outdoor settings. The post-application exposures were assessed for children from incidental oral exposure resulting from transfer of residues from the hands or objects to the mouth, and from the incidental ingestion of soil. Post-application hand-to-mouth and object-to-mouth exposures are expected to be short-term (1 to 30 days) in duration due to the intermittent nature of applications in residential settings. Given the long half-life of hexythiazox in soil, intermediate-term (1 to 6 months) exposure is also possible from incidental ingestion of soil. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at: *http://www.epa.gov/pesticides/science/USEPA-OPP-HED_Residential%20SOPs_Oct2012.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and'' other substances that have a common mechanism of toxicity.''

EPA has not found hexythiazox to share a common mechanism of toxicity with any other substances, and hexythiazox does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that hexythiazox does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

C. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The prenatal and postnatal toxicology database indicates no increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to hexythiazox.

3. *Conclusion.* EPA has determined that reliable data show that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for hexythiazox is complete.

ii. There is no indication that hexythiazox is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that hexythiazox results in increased susceptibility of *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to hexythiazox in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by hexythiazox.

D. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified. Therefore, hexythiazox is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to hexythiazox from food and water will utilize 82% of the cPAD for children 1 to 2 years of age, the population group receiving the greatest exposure. Based on the explanation in this document in the unit regarding residential use patterns, chronic residential exposure to residues of hexythiazox is not expected. Because the cPAD utilized for the most vulnerable population group is below 100%, aggregate exposure to hexythiazox is not expected to cause chronic risks of concern.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Hexythiazox is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to hexythiazox.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 9,600 (adult females), 9,100 (adult males), and 1,300 for children. Because EPA's level of concern for hexythiazox is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Hexythiazox is currently registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to hexythiazox.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 9,800 (adult females), 9,300 (adult males), and 1,500 for children. Because EPA's level of concern for hexythiazox is an MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* EPA's classification of hexythiazox as ''Likely to be Carcinogenic to Humans'' is based upon increased benign and malignant liver tumors in high-dose female mice, and benign mammary tumors in high-dose male rats. EPA determined that a nonlinear RfD quantitative estimation of human cancer risk is appropriate, based on the following: The liver tumors observed are very common in that species of mice and were only seen in high dose female mice; the mammary tumors observed were benign and only occurred in the high-dose male rats; no mutagenic effects were observed in mammalian somatic and germ cell studies; and the chronic NOAEL used for determining the RfD is 65 times lower than the lowest dose at which tumors were observed. Therefore, the nonlinear chronic RfD approach is protective of all chronic effects including potential carcinogenicity of hexythiazox. As a result, the expected aggregate exposure to hexythiazox does not present cancer risks of concern.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to hexythiazox residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography method with ultraviolet detection (HPLC/UV)) is available for enforcement of tolerances for residues of hexythiazox and its metabolites containing the PT–1–3 moiety in crop and livestock commodities. This method is listed in the ''EPA Index of Residue Analytical Methods'' under hexythiazox as Method AMR–985–87.

B. International Residue Limits

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

The Codex has not established an MRL for hexythiazox in or on sugar beet root.

VI. Conclusion

Therefore, a time-limited tolerance is established for residues of hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, calculated as the stoichiometric equivalent of

hexythiazox, in or on beet, sugar, root at 0.15 ppm. This tolerance expires on December 31, 2019.

VII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA sections 408(e) and 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, 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) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: December 3, 2014.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.448, revise paragraph (b) to read as follows:

§ 180.448 Hexythiazox; tolerance for residues.

* * * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance specified in the following table is established for residues of hexythiazox and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety, calculated as the stoichiometric equivalent of hexythiazox, in or on the specified agricultural commodity, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. The tolerance expires on the date specified in the table.

Commodity	Parts per million	Expiration date
Beet, sugar, root ...	0.15	12/31/19

* * * * *

[FR Doc. 2014–28935 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0695; FRL–9919–34]

Diisopropanolamine; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of diisopropanolamine when used as an inert ingredient (neutralizer or stabilizer) at no more than 10% in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. United Phosphorus, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of diisopropanolamine.

DATES: This regulation is effective December 10, 2014. Objections and requests for hearings must be received on or before February 9, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0695, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan T. Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone

number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0695 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 9, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0695, by one of the following methods:

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

II. Petition for Exemption

In the **Federal Register** of August 1, 2014 (79 FR 44729) (FRL–9911–67), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10626) by United Phosphorus, Inc., 630 Freedom Business Center Suite 402, King of Prussia, PA 19406. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of diisopropanolamine (CAS Reg. No. 110–97–4) when used as an inert ingredient neutralizer or stabilizer in pesticide formulations applied to growing crops or raw agricultural commodities after harvest at not more than 10% by weight in a pesticide formulation. That document referenced a summary of the petition prepared by Pyxis Regulatory Consulting, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for

diisopropanolamine including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with diisopropanolamine follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by diisopropanolamine as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The acute oral toxicity of diisopropanolamine is low. The acute oral Lethal Dose $(LD)_{50}$s in rats are all >2,000 milligram/kilogram body weight (mg/kg bw). The acute dermal toxicity in rats and rabbits is >8,000 mg/kg bw. Diisopropanolamine is an eye irritant based on a primary eye irritation study in rabbits. Diisopropanolamine is dermally irritating based on a primary skin irritation study in rabbits with erythema after 24 hours and scaling after 8 days. Diisopropanolamine is not a dermal sensitizer.

Two subchronic oral toxicity studies using diisopropanolamine on rats were available. In the 14-day study the no-observed-adverse-effect-level (NOAEL) was 600 mg/kg/day in males and females based on decreased body weight gain and relative kidney weight increases at 1,200 mg/kg/day. In the 90-day study the NOAEL was 100 mg/kg/day (males) based on increased absolute and relative kidney weights at 500 mg/kg/day and 500 mg/kg/day (females) based on increases in absolute and relative kidney weights at 1,000 mg/kg/day. There was also a 28-day dermal toxicity study with diisopropanolamine in which the NOAEL was the limit dose of 750 mg/kg/day for systemic effects.

In a developmental toxicity study in rats with diisopropanolamine, no observed adverse effects were seen at the limit dose of 1,000 mg/kg/day for both maternal and developmental toxicity.

In an *in vitro* mammalian cell gene mutation test, two bacterial reverse mutation tests and an *in vitro* mammalian chromosomal aberration test, results for mutagenicity and genotoxicity were negative for diisopropanolamine.

In a carcinogenicity study in rats dosed at 1% (~1,000 mg/kg/day) diisopropanolamine for 94 weeks, no increase in incidence of tumors over controls was observed under the conditions of the study.

No immunotoxicity or neurotoxicity studies on diisopropanolamine were available in the database. However, evidence of immunotoxicity or neurotoxicity was not observed in the submitted studies.

A dermal metabolism and dermal absorption study on diisopropanolamine were provided. Based on the study, i.v. administration of radioactive labeled diisopropanolamine rapidly decreased in plasma and was undetectable at 18 and 24 hours. 96.8% of the administered dose of diisopropanolamine was excreted in urine and none was detectable in the feces. The dermal administration portion of the study determined that ~20% was absorbed within 48 hours. Most of the radiolabeled diisopropanolamine was excreted in urine. The application site contained 49% of the applied diisopropanolamine. Little diisopropanolamine was observed in the feces. The total recovered dose was 69.2%. The absolute dermal absorption of diisopropanolamine was calculated to be 12%.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors (U/SF) are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for diisopropanolamine used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DIISOPROPANOLAMINE FOR USE IN HUMAN RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	An acute effect was not found in the database therefore an acute dietary assessment is not necessary.		
Chronic dietary (All populations)	NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 100 mg/kg/day. cPAD = 1.0 mg/kg/day	90-day oral toxicity—rat. LOAEL = 500 mg/kg/day based on based on increase in relative and absolute kidney weight.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DIISOPROPANOLAMINE FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure/scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Incidental oral short-term (1 to 30 days).	NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	90-day oral toxicity—rat. LOAEL = 500 mg/kg/day based on based on increase in relative and absolute kidney weight.
Incidental oral intermediate-term (1 to 6 months).	NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	90-day oral toxicity—rat. LOAEL = 500 mg/kg/day based on increase in relative and absolute kidney weight.
Dermal short- and intermediate-term.	Dermal exposure was not assessed because no systemic toxicity was identified at the limit dose of 750 mg/kg/day in a dermal toxicity study.		
Inhalation short-term (1 to 30 days).	oral study NOAEL = 100 mg/kg/day (inhalation absorption rate = 100%). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	90-day oral toxicity—rat. LOAEL = 500 mg/kg/day based on based on increase in relative and absolute kidney weight.
Inhalation (1 to 6 months)	oral study NOAEL = 100 mg/kg/day (inhalation absorption rate = 100%). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	90-day oral toxicity—rat. LOAEL = 500 mg/kg/day based on based on increase in relative and absolute kidney weight.
Cancer (Oral, dermal, inhalation).	Based on the lack of increased incidence of tumor formation compared to controls in a carcinogenicity study and the lack of mutagenicity, diisopropanolamine is considered not likely to be carcinogenic.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to diisopropanolamine, EPA considered exposure under the proposed exemption from the requirement of a tolerance (40 CFR 180.910 as an inert ingredient used in pesticide formulations applied to growing crops). EPA assessed dietary exposures from diisopropanolamine in food as follows:

Because an acute endpoint of concern was not identified, an acute dietary exposure assessment is unnecessary. The chronic dietary exposure assessment for this inert ingredient utilizes the Dietary Exposure Evaluation Model Food Commodity Intake Database (DEEM–FCID), Version 3.16, EPA, which includes food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, ''What We Eat in America'', (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. In the absence of actual residue data, the inert ingredient evaluation is based on a highly conservative model which assumes that the residue level of the inert ingredient would be no higher than the highest established tolerance for an active ingredient on a given commodity. Implicit in this assumption is that there would be similar rates of degradation between the active and inert ingredient (if any) and that the concentration of inert ingredient in the scenarios leading to these highest of tolerances would be no higher than the concentration of the active ingredient. The model assumes 100 percent crop treated (PCT) for all crops and that every food eaten by a person each day has tolerance-level residues. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts.'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for diisopropanolamine, a conservative drinking water concentration value of 100 parts per billion (ppb) based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Diisopropanolamine is used as an inert ingredient in pesticide products that could result in short- and intermediate-term residential exposure,

and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short- and intermediate-term residential exposures to diisopropanolamine. Possible routes of exposure include dermal and/or inhalation exposure to outdoor lawn and turf use (*i.e.* low pressure handwand, hose end sprayer and trigger sprayers).

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found diisopropanolamine to share a common mechanism of toxicity with any other substances, and diisopropanolamine does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that diisopropanolamine does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Fetal susceptibility was not observed in developmental studies with rats administered diisopropanolamine. Treatment with diisopropanolamine had no effect on body weight gain or food consumption during the dosing period, kidney or liver weights, gravid uterine weight, number of corpora lutea, implantations or resorptions, percent pre- and post-implantation loss, mean fetal weight or males or females, fetal sex ratio or the number of viable fetuses. There were no statistically significant increases in abnormalities (external, visceral or skeletal) in any treatment group compared to the control.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for diisopropanolamine contains the following acceptable studies: Subchronic, developmental, and chronic/carcinogenicity studies, several mutagenicity studies, and a dermal metabolism and absorption study. No repeated dose inhalation toxicity study is available in the database, however all inhalation MOEs, which are based on the POD from the 90-day oral toxicity study, are greater than 15,000. The Agency does not believe that any inhalation study would provide a POD so substantially different from the POD in the 90-day oral toxicity study to result in a risk of concern from inhalation exposure; therefore, there is no need to include an additional uncertainty factor to account for the lack of inhalation data.

ii. There is no indication that diisopropanolamine is a neurotoxic chemical. Although no neurotoxicity studies were available in the database, no clinical signs of neurotoxicity were observed in the available subchronic and chronic studies. Therefore, there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. Based on the discussion above, there is no concern that diisopropanolamine results in increased susceptibility in the prenatal developmental studies.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to diisopropanolamine in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by diisopropanolamine.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, diisopropanolamine is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to diisopropanolamine from food and water will utilize 14.1% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Diisopropanolamine is currently used as an inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to diisopropanolamine.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 2,600 for both adult males and females respectively. EPA has concluded the combined short-term aggregated food, water, and residential exposure results in an aggregate MOE of 680 for children. Children's residential exposure includes total exposures associated with contact with treated surfaces (hand-to-mouth exposure). Because EPA's level of concern for diisopropanolamine is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic

exposure to food and water (considered to be a background exposure level). Diisopropanolamine is currently used as an inert ingredient in pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to diisopropanolamine.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 2,600 for adult males and females. EPA has concluded the combined intermediate-term aggregated food, water, and residential exposures result in an aggregate MOE of 690 for children. Children's residential exposure includes total exposures associated with contact with treated surfaces (hand-to-mouth exposure). Because EPA's level of concern for diisopropanolamine is a MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in adequate rodent carcinogenicity study, diisopropanolamine is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to diisopropanolamine residues.

V. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 for diisopropanolamine (CAS Reg. No. 110–97–4) when used as an inert ingredient (neutralizer or stabilizer) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest at not more than 10% by weight in pesticide formulations.

VII. Statutory and Executive Order Reviews

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

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination With Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 26, 2014.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.910, add alphabetically the inert ingredient to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* * *	* *
Diisopropanolamine (CAS Reg. No. 110–97–4)	Not to exceed 10% by weight of pesticide formulation ..	Neutralizer or stabilizer.
* * *	* * *	* *

[FR Doc. 2014–28955 Filed 12–9–14; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0122; FRL–9919–40]

C.I. Pigment Yellow 1; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of C.I. Pigment Yellow 1 (butanamide, 2- (4-methyl-2-nitrophenyl) azo -3-oxo-N-phenyl-) when used as an inert ingredient as a colorant in seed treatment formulations not to exceed 10% weight(wt)/wt under 40 CFR 180.920. Exponent Inc. on behalf of Clariant Corporation, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of C.I. Pigment Yellow 1.

DATES: This regulation is effective December 10, 2014. Objections and requests for hearings must be received on or before February 9, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0122, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan T. Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0122 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 9, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0122, by one of the following methods:

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

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

II. Petition for Exemption

In the **Federal Register** of October 24, 2014 (79 FR 63594) (FRL–9916–03), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10661) by Exponent, Inc. (1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036) on behalf of Clariant Corporation (4000 Monroe Road, Charlotte, NC 28205). The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of C.I. Pigment Yellow 1 (butanamide, 2- (4-methyl-2-nitrophenyl) azo -3-oxo-N-phenyl-) (CAS Reg. No. 2512–29–0) when used as an inert ingredient as a colorant in pesticide formulations applied as a seed treatment not to exceed 10% wt/wt. That document referenced a summary of the petition prepared by Exponent, Inc., the petitioner, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit V.C.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents;

and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for C.I. Pigment Yellow 1 including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with C.I. Pigment Yellow 1 follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by C.I. Pigment Yellow 1 as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The acute oral lethal dose $(LD)_{50}$ of C.I. Pigment Yellow 1 in rat was greater than 10,000 milligram/kilogram (mg/kg). The acute dermal LD_{50} of C.I. Pigment Yellow 1 in rats was greater than 2,000 mg/kg. In a primary skin and eye irritation study in rabbits, C.I. Pigment Yellow 1 was not irritating to the skin or eyes of rabbits. C.I. Pigment Yellow 1 was not a sensitizer as determined by mouse Local Lymph Node Assay (LLNA)/Redfern Contract Consultants (LLNA/RCC) cytotest cell assay.

In a repeated dose toxicity study with a reproduction/developmental toxicity screening test, C.I. Pigment Yellow 1 was administered orally to groups of 11 male and female Wistar rats at dose levels of up to 1,000 mg/kg/day. Parental systemic toxicity, functional observation battery (FOB) parameters, locomotor activity, reproductive function and performance, and offspring viability and growth were assessed in this study. Over the entire treatment period, weight gain was decreased by 11% and 16% in mid- and high-dose group males, respectively, however, the absolute body weights were not affected. The parental systemic toxicity, reproductive toxicity and offspring toxicity NOAEL for C.I. Pigment Yellow 1 was 1,000 mg/kg/day (the limit dose).

C.I. Pigment Yellow 1 was negative for mutagenicity in a reverse gene mutation assay and in an *in vitro* mammalian cell gene mutation assay using Chinese hamster cells.

No studies investigating the carcinogenic potential of C.I. Pigment Yellow 1 are available. A Deductive Estimation of Risk from Existing Knowledge (DEREK) evaluation of the toxicity of C.I. Pigment Yellow 1 indicated structural alerts based on the aromatic nitrogen structure and included plausible outcome for mutagenicity *in vitro* and plausible outcomes for carcinogenicity and hepatoxicity. However, based on the lack of target organ toxicity at the limit dose, lack of mutagenicity, limited solubility and limited bioavailability, C.I. Pigment Yellow 1 is not expected to be carcinogenic.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which the NOAEL and the LOAEL are identified. Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

The available data suggest low acute oral toxicity. There was no evidence systemic toxicity in the reproductive and developmental study at the limit dose. There were no effects on reproductive, developmental and offspring toxicity at the limit dose of 1,000 mg/kg/day. It was negative for mutagenicity in two *in vitro* assays. In addition, based on its limited water solubility of C.I. Pigment Yellow 1 is not expected significantly via oral and dermal routes. Based on above consideration, EPA concluded that it is not necessary to conduct quantitative dietary risk as well as risk from exposure via dermal and inhalation.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary

exposure to C.I. Pigment Yellow 1, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from C.I. Pigment Yellow 1 in food as follows:

Dietary exposure can occur from eating foods containing residues of C.I. Pigment Yellow 1. Because no hazard endpoint of concern was identified for the acute and chronic dietary assessment (food and drinking water), a quantitative dietary exposure risk assessment was not conducted.

2. *Dietary exposure from drinking water.* C.I. Pigment Yellow 1 residues may be found in drinking water. However, since an endpoint of concern was not identified for the dietary assessment (food and drinking water), a quantitative dietary exposure risk assessment was not conducted.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). C.I. Pigment Yellow 1 is used as an inert ingredient in pesticide products that could result in short- and intermediate-term residential exposure. However, based on the lack of toxicity, a quantitative exposure assessment from residential exposures was not performed.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found C.I. Pigment Yellow 1 to share a common mechanism of toxicity with any other substances, and C.I. Pigment Yellow 1 does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that C.I. Pigment Yellow 1 does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on an assessment of C.I. Pigment Yellow 1, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children, and has conducted a qualitative assessment. As part of its qualitative assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

Based on the lack of any endpoints of concern, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to C.I. Pigment Yellow 1 residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

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

The Codex has not established a MRL for C.I. Pigment Yellow 1.

C. Response to Comments

One comment was received for a notice of filing from a private citizen who opposed the authorization to sell any pesticide that leaves a residue on food. The Agency understands the commenter's concerns and recognizes that some individuals believe that no residue of pesticides should be allowed. However, under the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by the statute.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for C.I. Pigment Yellow 1 (2512–29–0) when used as an inert ingredient colorant in seed treatment formulations not to exceed 10% wt/wt.

VII. Statutory and Executive Order Reviews

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

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 26, 2014.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.920, add alphabetically the inert ingredient in the table to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * * * *		
C.I. Pigment Yellow 1 (CAS Reg. No. 2512–29–0).	Not to exceed 10% (weight/weight) in pesticide formulation	Colorant.
* * * * * * *		

[FR Doc. 2014–28936 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 13–39; FCC 14–175]

Rural Call Completion

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document affirms the Commission's commitment to ensuring that high quality telephone service must be available to all Americans. In the underlying Order, the Commission established rules to combat extensive problems with successfully completing calls to rural areas, and created a framework to improve the ability to monitor call problems and take appropriate enforcement action. In the Order on Reconsideration, the Commission denies several petitions for reconsideration that, if granted, would impair the Commission's ability to monitor, and take enforcement action against, call completion problems. The Commission does, however, grant one petition for reconsideration because the Commission finds that modifying its original determination will significantly lower providers' compliance costs and burdens without impairing the Commission's ability to obtain reliable and extensive information about rural call completion problems.

DATES: Effective January 9, 2015, except for amendments to §§ 64.2101, 64.2103, and 64.2105, which contain new or modified information collection requirements that will not be effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Claude Aiken, Wireline Competition Bureau, Competition Policy Division, (202) 418–1580, or send an email to *claude.aiken@fcc.gov*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in WC Docket No. 13–39, adopted and released November 13, 2014. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the

Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

Summary

1. In the Order on Reconsideration, October 28, 2013, the Commission adopted the *Rural Call Completion Order,* WC Docket No. 13–39, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 (2013), *Rural Call Completion Order* or (*Order*). That Order established rules to combat extensive problems with successfully completing calls to rural areas, and created a framework to improve the ability to monitor call problems and take appropriate enforcement action. The *Rural Call Completion Order* reflected the Commission's commitment to ensuring that high quality telephone service must be available to all Americans. In this Order on Reconsideration, we affirm that commitment. We deny several petitions for reconsideration that, if granted, would impair the Commission's ability to monitor, and take enforcement action against, call completion problems. We do, however, grant one petition for reconsideration because we find that modifying our original determination will significantly lower providers' compliance costs and burdens without impairing the Commission's ability to obtain reliable and extensive information about rural call completion problems.

2. Specifically, we grant the petition filed by USTelecom and ITTA. In doing so, we modify rules adopted in the *Order* so that the recordkeeping, retention, and reporting requirements adopted in the *Order* do not apply to a limited subset of calls: intraLATA toll calls that are carried entirely over the covered provider's network, and intraLATA toll calls that are handed off by the covered provider directly to the terminating local exchange carrier (LEC) or to the tandem that the terminating LEC's end office subtends. The decision to grant reconsideration reflects a focused analysis of the costs of applying the rules to this limited set of traffic, the fact that this traffic represents a small portion of total toll traffic, and the modest incremental benefit that such data would likely yield.

3. We deny the petitions for reconsideration filed by Carolina West and COMPTEL, deny and dismiss the petition for reconsideration filed by Sprint Corporation, as described below, and dismiss the petition for reconsideration filed by Transcom Enhanced Services, Inc.

I. Background

4. In a February 2013 Notice of Proposed Rulemaking (*NPRM*), the Commission sought comment on how to address rural call completion issues and sought comment on proposed rules. In October 2013, the Commission adopted recordkeeping, retention, reporting, and ring signaling rules designed to help the Commission and communications providers ensure that long-distance calls to rural Americans are completed.

5. The recording, retention, and reporting rules we adopted in the *Rural Call Completion Order* apply to providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of the providers' affiliates. These ''covered providers'' must record and retain specific information about each call attempt to a rural operating company number (OCN) from subscriber lines for which the providers make the initial long-distance call path choice. This information must be stored in a readily retrievable form and must include the six most recent complete calendar months. Covered providers must submit to the Commission, on a quarterly schedule, a certified report containing information on long-distance call attempts from subscriber lines for which the covered providers make the initial call path choice. The reports must separate out call attempts by month. The Commission adopted a safe harbor to reduce certain qualifying providers' reporting obligations and reduce their data retention obligations from six months to three months. Further, the Commission adopted a process enabling covered providers that have taken additional steps, beyond the safe harbor requirements, to ensure that calls to rural areas are being completed to receive a waiver of the data reporting and retention obligations. The Commission also adopted a rule prohibiting false audible ringing that applies to all originating long-distance voice service providers and intermediate providers. This ring signaling rule prohibits providers from causing audible ringing to be sent to the caller before the terminating provider has signaled that the called party is being alerted to the existence of an inbound call.

6. The Commission received five petitions for reconsideration of portions of the *Rural Call Completion Order.* Various parties filed comments in support of or in opposition to the petitions.

II. Discussion

A. USTelecom/ITTA Petition: IntraLATA Toll Calls

7. The requirements described above apply to ''intraLATA toll traffic and interLATA traffic carried on [the covered provider's] own network and handed off directly by the originating provider to the terminating LEC.'' The Commission initially declined to exclude this traffic, ''[e]ven if [such traffic] would incur fewer call completion issues,'' because data on this traffic would ''provide[] an important benchmark for issue-free performance,'' especially ''where a provider may be using both on-net and off-net routes to deliver calls to the same terminating provider.

8. In their petition for reconsideration, USTelecom and ITTA (USTelecom/ITTA or Petitioners) request that the Commission reconsider the decision to require recordkeeping, retention, and reporting of ''on-network'' intraLATA interexchange/toll calls. Specifically, Petitioners seek reconsideration of application of the recordkeeping, retention, and reporting rules adopted in the *Order* for ''intraLATA interexchange/toll calls that are either carried entirely over the originating LEC's network (that is, originated and terminated by the same carrier) or handed off by the originating LEC directly to the terminating LEC.''

9. We remain committed to both the goals of the *Rural Call Completion Order,* and the rules the Commission adopted therein to identify and address rural call completion and call quality problems. Excluding on-net intraLATA toll traffic from the recordkeeping, retention, and reporting requirements will reduce the burden of compliance without undermining these goals. Based on new information that was not available to the Commission when the *Rural Call Completion Order* was adopted, we conclude that the burdens associated with applying our rules to on-net intraLATA toll calls exceed the marginal benefit of obtaining this limited incremental information. Accordingly, we grant USTelecom/ITTA's petition for reconsideration.

10. Excluding on-net intraLATA toll traffic from the scope of these rules will not undermine the goals of the *Rural Call Completion Order* and will not impair the Commission's ability to

monitor and address problems associated with completing calls to rural areas. First, the Commission will continue to have access to information about on-net interLATA toll traffic, as well as all off-net traffic, and this traffic comprises the significant majority of all calls. Petitioners assert that the volume of on-network intraLATA toll traffic is relatively small—less than three percent of the total traffic on the network of one of USTelecom's largest members. CenturyLink estimates that less than one percent of its traffic is on-net intraLATA toll traffic. Although the data samples available to establish on-net delivery benchmarks will be slightly reduced by removing the intraLATA toll component, we are persuaded both by new evidence from Petitioners and supporting commenters and by the nature of these on-net intraLATA toll calls that on-net delivery benchmarks will not significantly change. Covered providers remain obligated to follow our recordkeeping, retention, and reporting rules for all interLATA and off-net intraLATA toll traffic. Second, the Commission will still be able to use on-net interLATA traffic as a benchmark for assessing off-net traffic performance, which was the stated reason for requiring providers to record, retain and report on-net traffic data. Because the vast majority of on-net long distance traffic is interLATA traffic, the Commission will continue to have an effective benchmark by which to compare off-net long distance call failure rates for a particular carrier.

11. The cost of including on-net intraLATA toll traffic in the recording and reporting requirements exceeds the limited incremental benefit from collecting this data. After analyzing the requirements of the *Rural Call Completion Order,* USTelecom/ITTA and Verizon provided new information regarding the compliance costs of applying the recordkeeping, retention, and reporting obligations to on-net intraLATA toll traffic and the compliance cost reductions associated with excluding on-net intraLATA toll traffic from these requirements. Petitioners explain that their members currently lack the ability to capture call attempt information for this traffic because their members generally only collect data for billable calls and consequently had no reason to record this information. While this category of traffic reportedly represents a relatively small percentage of Petitioner's traffic, Petitioners estimate that, industry-wide, implementing such capability into legacy networks to comply with recordkeeping, retention, and reporting requirements for this traffic would take ''at least 18 to 24 months and cost in excess of $100 million.'' In comments supporting the USTelecom/ITTA Petition, Verizon states that it would cost in excess of $20 million and take two years to collect and report data for intraLATA interexchange/toll traffic. As explained above, the Commission can establish an on-net benchmark against which to compare off-net performance without on-net intraLATA toll traffic data. Therefore, we find that at this time the compliance costs for reporting information on this small category of calls are not justified. We are committed to balancing the costs and benefits of regulatory obligations in the public interest.

12. The Commission considered and denied a broader request to exclude both intraLATA and interLATA on-net information in the Rural Call Completion Order; USTelecom/ITTA's reconsideration request is much narrower and does not seek exclusion of on-net interLATA call data. Moreover, when it made that decision, the Commission did not have the benefit of data regarding the costs and benefits specifically associated with retaining and reporting on on-net intraLATA toll traffic. As a result, the new evidence regarding both: (1) The compliance cost reductions associated with excluding on-net intraLATA toll traffic from our rules; and (2) the fact that on-net intraLATA toll traffic is only a small fraction of on-network traffic, are relevant to our decision to reconsider and we find that consideration of this data is in the public interest.

13. Petitioners also assert that on-net intraLATA toll traffic is unlikely to be a source of call completion problems. Petitioners report that the on-network intraLATA toll traffic for which they seek relief in their petition does not involve the use of intermediate providers and that, rather than having multiple carriers in the call completion path, these calls are typically carried by a single provider on its own network or are handed off directly to the terminating LEC. We need not and do not decide whether on-net traffic might ever present concerns about call quality or completion. Our decision to exclude on-network intraLATA toll traffic from our recordkeeping, retention, and reporting requirements reflects an overall balancing of the costs and benefits, including consideration of the small portion of traffic that is on-net intraLATA toll traffic. Moreover, our rules remain in effect for the remainder of covered provider traffic, which includes on-net interLATA toll traffic, as well as off-net intraLATA toll traffic and off-net interLATA traffic.

14. We implement the exclusion discussed above by amending the recordkeeping, retention, and reporting rules adopted in the *Order* to exclude their applicability to intraLATA toll calls carried entirely over the covered provider's network or handed off by the covered provider directly to the terminating LEC or directly to the tandem switch serving the terminating LEC's end office. We also amend the definition of ''long-distance voice service'' in section 64.2101 of our rules to include intraLATA toll voice services. We make this amendment to harmonize the rule language with the Commission's intent expressed in the *Order,* where it defined ''long-distance voice service provider'' for purposes of the *Order* as any person engaged in the provision of specific voice services, including intraLATA toll voice services.

15. Some entities argue that the Commission should not make these changes to its new call completion rules until it collects and analyzes a year's worth of call data or opens an inquiry into the matter. As explained above, the industry-wide costs of compliance are substantial, and exceed the potential value of the incremental data we would collect. A large portion of the costs associated with complying with the recordkeeping, retention and reporting would occur at the outset, because providers would have to develop and implement systems to collect this information. Having concluded that the potential value of the data is outweighed by the significant burden of compliance, we cannot conclude that such costs are justified on a one-time or short-term basis. While we decline to impose the burden of collecting and reporting data on such traffic on a temporary basis, we can revisit this decision if evidence later suggests that on-net intraLATA calls to rural areas are not being completed properly. For example, we will continue to monitor information and complaints submitted about call completion problems and will be attentive to the jurisdictional nature about such complaints.

16. All parties generally agree that any relief granted should be limited to calls carried on-network or handed off directly from the originating carrier to the terminating carrier. USTelecom/ITTA and Verizon assert that the relief should encompass calls delivered directly to the terminating tandem, as well as to the terminating carrier. USTelecom/ITTA and Verizon state that many rural LECs can only be reached through these tandems, and that covered providers have no involvement in the

selection or performance of these tandems. USTelecom/ITTA note that these tandems exist largely due to the legacy structure of the networks and are the equivalent of a direct network connection. They note that the Commission declined to count the tandem as an additional intermediate provider for purposes of safe harbor eligibility. The Rural Associations did not specifically address whether any relief granted on reconsideration should include calls delivered directly to the terminating tandem. We find Petitioner's arguments compelling and grant the request for relief from the recordkeeping, retention, and reporting requirements for intraLATA toll calls that are delivered by the covered provider directly to the tandem that the terminating LEC's end office subtends.

17. The Rural Associations also assert that any relief should be limited to ''only the intraLATA traffic that is originated by the LEC's retail customers.'' The Rural Associations did not, however, provide any reasons for limiting relief to retail traffic. Verizon opposes such limitation, arguing that it ''has wholesale arrangements through which it provides intraLATA interexchange/toll service in the same manner as it carries traffic for its [retail] customers'' and that the same implementation obstacles exist for this traffic. In the absence of specific or substantiated arguments to support limiting relief to calls originated by retail customers, we decline to do so.

B. COMPTEL Petition: Smaller Covered Provider Exception

18. COMPTEL seeks reconsideration of the smaller covered provider exception. As noted above, in the *Order,* the Commission concluded that it should require only providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines to comply with the recording, retention, and reporting rules. COMPTEL argues, on various grounds, that the Commission should reconsider this conclusion, so that more providers qualify for the smaller provider exception. For the reasons set forth below, we deny COMPTEL's Petition.

1. Administrative Procedure Act

19. COMPTEL asserts that the Commission violated the Administrative Procedure Act (APA) because the Commission (1) did not provide an explanation for the change in the smaller covered provider exception from the proposal in the NPRM that referred to ''subscribers'' to the rule ultimately adopted that instead refers to ''subscriber lines,'' and (2) did not give adequate notice and opportunity to comment on the definition of smaller provider adopted in the *Rural Call Completion Order.* We find these arguments to be without merit.

20. *Reasoned Explanation.* The rule that the Commission adopted to except smaller providers from recordkeeping and reporting requirements was reasonable, and the Commission's decision to base the exception on the number of a provider's subscriber lines for which the provider makes the initial long-distance call path choice, rather than the number of its subscribers, was also reasonable. The purpose of the exception, as COMPTEL recognized in its petition for reconsideration, was to exempt smaller providers from the record-keeping and reporting requirements. In the notice, the Commission asked commenters about ways to minimize burdens on smaller providers, ''without compromising the goals of [the] rules.'' The rule that the Commission selected was a reasonable means of achieving this balance. Although COMPTEL objects to the decision to adopt an exception based on the number of subscriber lines, it does not assert that the adoption of such an exception will compromise the Commission's goals when implementing these rules.

21. Excepting providers on the basis of subscriber lines, rather than subscribers, is reasonably designed to minimize burdens on smaller providers without compromising the effectiveness of the rules. The number of lines better reflects a provider's size and share of traffic than does the number of subscribers. For example, a provider that serves a modest number of very large business customers (each with hundreds of subscriber lines) may handle a substantial portion of traffic to rural areas. Thus, excepting providers on the basis of subscribership would not have been as well suited, relative to an exclusion based on subscriber lines, to ensure that only smaller covered providers are subject to the exception. In addition, the Commission noted that the 100,000 subscriber-line threshold should capture as much as 95 percent of all callers. Thus, the exception will not compromise the effectiveness of the rules.

22. Additionally, the use of ''subscriber lines'' is easier to administer than a subscriber-based exception would be. The Commission collects data, via FCC Form 477, on subscriber lines. The Commission does not routinely collect data that provides an equally reliable count of ''subscribers.'' By defining the smaller covered provider exception in terms consistent with the Commission's Form 477 collection of voice telephony data, the Commission will be able to verify that entities claiming the exception are in fact eligible for it.

23. COMPTEL argues that far more smaller providers will be required to comply with the adopted recordkeeping, retention, and reporting requirements, and that compliance will be expensive and burdensome for providers to implement, especially smaller providers. We recognize that, as a result of the change from subscribers to subscriber lines, some additional providers will need to expend the resources necessary to comply with these rules. However, we find that the importance of obtaining the data necessary to address rural call completion problems and the benefits described above of the adopted exception outweigh the burden these providers will encounter. We note that only providers that actually make the initial call path choice for more than 100,000 subscriber lines are required to comply with the rules. Additionally, in the *Order,* the Commission reduced the compliance burden, relative to the proposed rules, in a number of ways. We further reduce compliance burdens today by excluding intraLATA on-net toll traffic from the recordkeeping, retention, and reporting requirements. Finally, although COMPTEL argues that far more providers will be required to comply with the recordkeeping, retention, and reporting requirements as a result of the change from ''subscribers'' to ''subscriber lines'' we believe that the number of affected providers will be more modest. COMPTEL's assertion is premised on an erroneous interpretation of Paperwork Reduction Act of 1995 (PRA) filings. While suggesting that there could be more, COMPTEL has identified only four entities affected by this change.

24. *NPRM.* COMPTEL alleges that the Commission's decision to exclude from the requirements providers that make the initial long-distance call path choice for 100,000 or fewer subscriber lines, rather than adopting the specific proposal set forth in the *NPRM,* failed to provide adequate notice and opportunity to comment. COMPTEL asserts that no commenter advocated adoption of a rule that defined smaller provider based on ''subscriber lines,'' and that far fewer providers are eligible for the exception as a result of the change.

25. We disagree that the Commission failed to provide adequate notice and an opportunity to comment. We find that

the smaller covered provider exception adopted in the *Order* is a logical outgrowth of the smaller provider exception proposed in the *NPRM* and is well within the scope of the inquiry initiated by the *NPRM.* As discussed below, the Commission determined that a smaller covered provider exception, albeit a revised version of the originally proposed exception, is warranted.

26. Section 553(b) and (c) of the APA requires agencies to give public notice of a proposed rulemaking that includes ''either the terms or substance of the proposed rule or a description of the subjects and issues involved'' and to give interested parties an opportunity to submit comments on the proposal. The notice ''need not specify every precise proposal which [the agency] may ultimately adopt as a rule''; it need only ''be sufficient to fairly apprise interested parties of the issues involved.'' In particular, the APA's notice requirements are satisfied where the final rule is a ''logical outgrowth'' of the actions proposed. As long as parties could have anticipated that the rule ultimately adopted was possible, it is considered a ''logical outgrowth'' of the original proposal, and there is no violation of the APA's notice requirements.

27. The Commission provided the required notice by seeking comment on the proposed smaller covered provider exception. The Commission provided notice that it might exclude smaller providers, and proposed a threshold of 100,000 subscribers, but it also sought comment on whether the proposed exception would compromise the Commission's ability to monitor rural call completion problems. Among other things, the Commission explained that it was proposing rules to ''help [it] monitor originating providers' call-completion performance and ensure that telephone service to rural consumers is as reliable as service to the rest of the country.''

28. We find that it is a logical outgrowth of such notice that the Commission would, and did, adopt a rule that represents a compromise position. Interested parties could reasonably anticipate that the Commission might consider the pros and cons of excluding smaller carriers and adopt a narrower exception than the one specifically proposed. Indeed, numerous parties responded to this opportunity to comment, some supporting the exception as proposed, some opposing any exception, and some arguing for a narrower exception. In fact, two commenters specifically noted that the Commission could define the smaller covered provider exception using lines. These comments support our conclusion that relying on subscriber lines rather than subscribers represents an adjustment that parties reasonably could have anticipated.

29. As discussed above, beyond seeking comment on a proposed 100,000 subscriber cut-off, the Commission gave notice that it might not exclude *any* providers, or might only exclude some different universe of providers. Commenters were on notice that any exclusion would be designed to ensure that it did not ''compromise the Commission's ability to monitor rural call completion problems effectively.'' In the *Order,* the Commission made clear that it wanted ''a complete picture of the rural call completion problem'' in order to ''address it effectively.'' The 100,000 subscriber line threshold ultimately adopted better ensures ''the Commission's ability to monitor rural call completion problems effectively'' than the exclusion proposed in the *Notice* because a subscriber line-based threshold is more verifiable and administrable than a subscriber-based threshold. Moreover, the exclusion reflects and reasonably balances the range of views in the record regarding the scope of any exclusion—including some advocating no exclusion at all.

30. In short, the *Notice* contained sufficient notice to generate a full record on the smaller covered provider exception. The final rule, which reflects input from commenters, deviated from the proposal in the *Notice* only in ways specifically designed to ensure that the exemption did not ''compromise the Commission's ability to monitor rural call completion problems effectively.'' The exception adopted in the *Order* was thus a logical outgrowth of the original proposal in the *Notice.* There is no violation of the APA's notice requirements and thus, contrary to COMPTEL's assertion, no need for an additional round of comments on the smaller covered provider exception.

2. Regulatory Flexibility Act

31. For many of the same reasons it challenged the Commission's decision to adopt a smaller covered provider exception based on 100,000 subscriber lines instead of 100,000 subscribers, COMPTEL argues that the Commission failed to comply with section 604 of the Regulatory Flexibility Act. COMPTEL asserts that the FRFA attached to the *Rural Call Completion Order* did not include a statement of the factual, policy or legal reasons for selecting the 100,000 subscriber line threshold or explain why the 100,000 subscriber threshold proposed in the *Notice* was rejected. As discussed below, the FRFA complies with the Regulatory Flexibility Act.

32. The Commission has complied with the Regulatory Flexibility Act, and COMPTEL's argument on this issue is without merit. We therefore deny COMPTEL's Petition. In the FRFA, the Commission specifically noted that ''[t]o the extent we received comments raising general small business concerns during this proceeding, those comments are discussed throughout the Order.'' Subsection E of the FRFA specifically addresses steps taken to minimize the significant economic impact on small entities, and references the smaller covered provider exception as one factor that reduces the economic impact of the rules on small entities.

33. As addressed above, the Commission provided an explanation for the smaller covered provider exception adopted in the *Order,* and we respond to further relevant comments regarding that exception. The Commission noted that some commenters argued that the threshold should be lowered, that the 100,000 subscriber-line threshold should capture as much as 95 percent of all callers, and that many providers that have fewer than 100,000 subscriber lines would not be covered providers even without the smaller provider exception because they are reselling long-distance service from other providers that make the initial long-distance call path choice. The Commission also noted that exclusion of smaller providers should not compromise our ability to monitor rural call completion problems effectively.

34. Accordingly, the Commission did provide factual, policy, and legal reasons for selecting the 100,000 subscriber line threshold over the proposal in the *Notice* for the smaller covered provider exception. COMPTEL's Regulatory Flexibility Act argument amounts essentially to a restatement of its earlier argument that the Commission failed to provide an adequate explanation for the threshold it adopted.

C. Sprint Petition

35. Sprint raises several issues in its Petition. First, Sprint asks us to reconsider the Commission's decision ''to use the required call completion reports as the basis for subsequent enforcement action. Second, Sprint asserts that the Commission largely relied on summaries of surveys performed by the RLECs and urges the Commission to make the RLEC surveys available in their entirety for independent review. Finally, Sprint argues that the Commission's compliance burden estimate is too low.

For the reasons discussed below, we deny Sprint's Petition.

1. Use of Call Completion Reports for Enforcement Action

36. Sprint argues that the Commission should reconsider its decision ''to use the required call completion reports as the basis for subsequent enforcement action,'' asserting that the Commission ''has provided no guidance as to what behaviors by covered carriers it considers unreasonable, or what performance results are actionable and therefore could trigger enforcement action.'' Sprint suggests that the Commission should ''make public a list of call completion practices it deems acceptable.'' For the reasons discussed below, we deny Sprint's Petition on this issue.

37. First we note that, although the Commission adopted the recordkeeping, retention, and reporting rules to ''substantially increase [its] ability to monitor and redress problems associated with completing calls to rural areas,'' the *Order* did not suggest that the reports covered providers file with the Commission would constitute the sole basis for an enforcement action. Rather, the *Order* stated that the recording, retention, and reporting requirements may ''aid[],'' ''enhance,'' and ''inform'' enforcement actions. This language makes clear that the reports are intended as a means for identifying possible areas for further inquiry, not for forming the sole basis for enforcement actions. Any action initiated by the Enforcement Bureau would offer providers the evidentiary opportunities afforded in any enforcement proceeding. Furthermore, the *Order* emphasizes that enforcement actions are not the only reason for adopting the rules; the rules will also help the providers themselves identify and correct call completion problems. The *Order* explains that, once providers begin collecting call completion data under the rural call completion rules, ''many will have greater insight into their performance and that of their intermediate providers than they have had in the past.''

38. Second, the Commission has provided ample guidance regarding what it considers unacceptable call completion practices. The Wireline Competition Bureau has issued two declaratory rulings clarifying that carriers are prohibited from blocking, choking, reducing, or restricting traffic in any way, including to avoid termination charges, and clarifying the scope of the Commission's longstanding prohibition on blocking, choking, reducing, or restricting telephone traffic, which may violate section 201 or 202 of the Act. The failure of a carrier to investigate evidence of a rural call delivery problem or to correct a problem of degraded service about which it knows or should know also may lead to enforcement action. In the 2011 *USF/ICC Transformation Order,* the Commission addressed the prohibition on call blocking and, *inter alia,* made clear that the prohibition applies to VoIP-to-PSTN traffic and providers of interconnected VoIP and ''one-way'' VoIP services. We thus reject Sprint's assertion that the Commission has not adequately identified prohibited practices.

39. Finally, Sprint asserts that the required reports will not, in many cases, identify the reason a call failed to complete, and there are multiple factors that cause rural call completion failures, many of which are beyond the control of the long-distance provider. As we have explained, any enforcement action would give a covered provider an opportunity to provide exculpatory evidence. Furthermore, Sprint's assertion that the rules impose ''the burden of an investigation, and the threat of enforcement action, entirely on long distance carriers'' is incorrect. On the contrary, the Order emphasized that while the recording, retention, and reporting requirements do not apply to intermediate providers, ''the Enforcement Bureau continues to have the authority to investigate and collect additional information from intermediate providers when pursuing specific complaints and enforcement actions.'' The Commission also encouraged rural ILECs to report specific information and sought comment on whether the Commission should adopt or encourage additional rural ILEC reporting. For all of these reasons, we decline to reconsider our recognition of the potential use of call completion reports in enforcement actions, and we deny Sprint's Petition on this issue.

2. Availability of RLEC Surveys for Independent Review

40. Sprint argues that, to justify adopting the recording, retention, and reporting rules, the Commission relied largely on summaries of surveys of RLECs' call completion experiences filed with the Commission by NTCA. It asserts that the Commission should make these surveys available in their entirety for independent review. Sprint also asserts that the Commission should reconsider whether a more limited data collection, such as one-time sample studies, would be a more appropriate first step to address rural call completion problems.

41. Sprint's Petition overstates the Commission's reliance on the RLEC surveys. The Commission based its decision to promulgate rural call completion rules on a broad array of information filed in this proceeding and in predecessor dockets. This base of information included, among other things, numerous comments and filings in the docket and preceding dockets, the Commission's experience with and investigations of rural call completion complaints, and the information gained from a workshop held at the Commission which addressed rural call completion problems. The Commission found comments and *ex parte* letters filed with the Commission by the Rural Associations and the Commission's state partners to be especially persuasive, ''given their direct experience with complaints about call completion performance.'' The Commission did rely, in part, on the results of a test conducted by NECA in two of the Rural Association filings, but these results were only one piece of information that the Commission relied upon as a basis for adopting the *Order.* Other entities also filed comments noting the existence of call completion problems in rural areas. The Commission also relied on its own significant experience receiving and investigating informal call completion complaints. Rather than being critical factual information on which our decision hinged, the information submitted about the RLEC surveys was supplementary data that confirmed the various other pieces of evidence in the record. Even absent these surveys, we would find a strong basis in the record to adopt the recording, retention, and reporting rules. For these reasons, we are not persuaded that we should revisit the Commission's use of NECA's summaries of its RLEC surveys, the availability of the NECA RLEC survey results for independent review, or the implementation of a new data sample before the rules take effect. We also separately affirm our conclusion that ongoing data collection, rather than a one-time collection, is more likely to address call completion problems, which have been ongoing and extensive. We therefore deny Sprint's petition on this issue.

3. Industry Compliance Costs

42. Sprint reiterates arguments about the burden of compliance that it made during the pendency of the rulemaking. These arguments do not warrant consideration by the Commission because Sprint relies on arguments that the Commission considered and rejected

in the *Order.* Accordingly, we dismiss this part of Sprint's Petition.

43. Evaluating Sprint's arguments on the merits, however, we find that reconsideration of the Commission's burden analysis is not warranted and deny this part of Sprint's Petition. In the *Order,* the Commission determined that the benefits of these rules outweigh the burdens. Sprint asserts that the Commission should re-evaluate the estimated industry-wide compliance costs these rules impose on covered providers. Sprint asserts that insufficient data has been submitted to calculate the total on-going costs likely to be incurred by covered providers to comply with the new rules. It argues that numerous carriers currently do not collect at least some of the information required under the new rules and at least three carriers have estimated that it would cost each of them millions of dollars to comply with those rules.

44. As explained further below, the Commission adopted the *Order* only after carefully weighing the costs and benefits of the new requirements, including record evidence alleging compliance costs on the part of covered providers. Sprint nonetheless contends that the Commission should ''assess factually the relative costs and benefits of its data collection retention and reporting rules.'' Pursuant to the Paperwork Reduction Act of 1995 (PRA), the Commission will conduct a careful analysis of any reporting and recordkeeping requirements imposed on the public. The Commission has begun that analysis, and five entities have submitted comments, including Sprint and HyperCube. The recordkeeping, retention, and reporting requirements adopted in the *Order* will not become effective until an announcement is published in the **Federal Register** of the Office of Management and Budget (OMB) approval and an effective date of the rules. While we deny Sprint's Petition, several of the concerns raised by Sprint, XO and HyperCube will be addressed in the context of the PRA analysis.

45. Sprint contends that industry compliance costs will exceed $100 million and that it has updated its burden analysis to reflect new compliance cost information and the impact of the rules adopted. Much of the information Sprint provides to support these assertions, including its own cost estimates, are not new and were submitted prior to the Commission's adoption of the rules in the *Order.* This information includes estimates of compliance costs that do not take into account ways the Commission reduced the burden of the proposed rules in the *Order.* For example, the Commission changed the rule requiring retention of call detail records to apply only to call attempts to rural ILECs, a relatively small percentage of total call attempts, and determined that call attempts to nonrural incumbent LECs need not be retained. Sprint also refers to a cost estimate in a request for waiver filed by Midcontinent Communications after the *Order* was released, but that estimate is consistent with or less than other estimates already considered by the Commission. Moreover, the changes we adopt in this Reconsideration Order will reduce providers' costs. The USTelecom/ITTA cost estimate that Sprint refers to includes the cost of collecting, retaining, and reporting data for on-net intraLATA interexchange toll traffic that we now exempt from the rules.

46. Sprint states that the Commission's PRA analysis estimates that 225 entities will be required to file the new call completion reports, all of those entities will incur some compliance costs, some will need to make system and/or staffing changes to comply with the new rules, and covered providers will continue to incur recurring compliance costs for years to come. Sprint over-estimates the number of entities required to comply with the new rules. It misunderstands the PRA analysis, which, as noted above, includes voluntary quarterly reporting by RLECs of a reduced set of data. The majority of the 225 entities are RLECs that may voluntarily file and that may have this information readily available.

47. Finally, Sprint states that the information provided pursuant to the new rules will provide limited information on the root cause of any call termination problems and, if the likely costs exceed the anticipated benefits, the Commission should adopt more limited measures, such as allowing covered providers to perform a statistically significant sample study or to retain fewer months of data. These arguments were fully addressed and disposed of in the Order, and Sprint provides no new information warranting reconsideration. XO and HyperCube support Sprint's Petition and argue that not all providers collect the information required, but neither provides new information or arguments warranting reconsideration.

48. HyperCube asserts that the Commission ''overlooked the substantial burden imposed on many providers to determine whether they are in fact 'covered providers' and, as a result, has also greatly underestimated the number of burdened providers.'' We disagree. The Commission recognized the burden of determining if a provider is a covered provider. In the *Order,* the Commission attempted to minimalize any such burden, by providing examples of how to determine whether a provider is a covered provider and noting that some providers will need to segregate originated traffic from intermediary traffic. HyperCube's assertions that we underestimated the number of burdened providers because we did not include the substantial burden imposed on many providers just to determine whether they are in fact ''covered providers'' is more appropriately addressed in the PRA context. HyperCube filed comments regarding the Commission's specific burden estimate in the PRA context and these matters will be addressed in the context of that Paperwork Reduction Analysis.

49. HyperCube also argues that the Commission did not consider the possibility that providers could be covered providers even if they operate primarily as intermediate providers. Although the Commission did not apply these rules to entities acting exclusively as intermediate providers, it did apply the rules to providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines. The Commission recognized that such providers might also serve as intermediate providers and in fact stated that ''a covered provider that also serves as an intermediate provider for other providers may—but need not—segregate its originated traffic from its intermediary traffic in its recording and reporting, given the additional burdens such segregation may impose on such providers.'' Accordingly, the Commission did not overlook the fact that providers that may be intermediate providers in some instances and covered providers in other instances.

50. For all of these reasons, we decline to reconsider the Commission's finding that the benefits of these rules outweigh the burdens of compliance. Burden arguments raised in the PRA context will be considered and addressed in compliance with the PRA.

D. Transcom Petition: Application of Ring Signaling Rule to Intermediate Providers That Are Not Common Carriers

51. In the *Order,* the Commission adopted a rule that prohibits ''originating and intermediate providers . . . from causing audible ringing to be sent to the caller before the terminating provider has signaled that the called party is being alerted.'' The Commission applied this rule to, among others,

''intermediate providers that are not common carriers.'' Transcom requests reconsideration of this rule ''insofar as [it] applies to 'intermediate providers' that are not common carriers,'' arguing that the Commission exceeded its legal authority by extending the rule to such providers. For the reasons discussed below, we dismiss Transcom's Petition.

52. As an initial matter, we must determine whether consideration of Transcom's petition is procedurally appropriate under section 1.429(b) of the Commission's rules. As Transcom notes, it did not submit comments in response to the *Notice* or conduct any *ex parte* meetings in this docket. Thus Transcom did not previously present any of the facts or arguments in its Petition to the Commission, and our review of the record indicates that no party to the proceeding raised facts or arguments relating to the Commission's authority to require intermediate providers that are not common carriers to comply with the ring signaling rule. Transcom asserts that another entity presented the relevant legal issue in an *ex parte* letter and that the Commission thus considered and addressed the matter in the *Order.* However, the *ex parte* letter from the VON Coalition that Transcom cites did not present the same issues that Transcom now presents. Neither the VON Coalition's letter cited by Transcom nor its comments and reply comments in this proceeding, which the letter references, raised any facts or arguments relating to the Commission's authority to require intermediate providers that are not common carriers to comply with the ring signaling rule.

53. Section 1.429(b) of the Commission's rules provides that a petition for reconsideration that relies on facts or arguments which have not previously been presented to the Commission will be granted only if: (1) The facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; (2) the facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity; or (3) the Commission determines that consideration of the facts or arguments relied on is required in the public interest. Because Transcom's Petition ''relies on facts or arguments which have not previously been presented to the Commission,'' we may grant the Petition only if one of the three criteria described above is met.

54. Transcom makes no effort in its Petition to argue that its reconsideration request meets the requirements of section 1.429(b). In its reply to an opposition filed by the Rural Associations, however, Transcom argues that the United States Court of Appeals for the District of Columbia Circuit's recent decision in *Verizon* v. *FCC* constitutes an ''intervening event'' that justifies consideration of its Petition under section 1.429(b)(1). We disagree. Transcom reads *Verizon* to hold that ''the Commission cannot use Title I to justify imposing common carrier duties on non-common carriers.'' But the idea that the Commission cannot regulate services that have not been classified as common carrier services in a way that result in *per se* common carriage did not originate in the *Verizon* opinion; the courts and the Commission have long recognized that concept. The *Verizon* court merely applied this precedent to the Commission's Open Internet rules and found that parts of those rules impermissibly required *per se* common carriage in that context. For this reason, the fact that the *Verizon* court discussed limitations on the Commission's ability to regulate non-common carriers does not make the *Verizon* opinion an ''event[ ] which [has] occurred or circumstance[ ] which [has] changed since the last opportunity to present such matters to the Commission'' for purposes of section 1.429(b)(1).

55. In this same set of reply comments, Transcom also argues that reconsideration is appropriate under section 1.429(b)(2) because the legal question was presented by the VON Coalition and disposed in the *Order.* As we have explained, Transcom's assertion that the relevant legal issue was raised in the record prior to adoption of the *Order* is incorrect. Even if it were correct, however, whether or not ''the legal question was presented and disposed'' is irrelevant to whether a petition satisfies section 1.429(b)(2), which applies only where ''the facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission.'' Transcom makes no argument based on the requirements of section 1.429(b)(2); accordingly, this argument also fails.

56. Transcom further argues that consideration of its petition is required by the public interest and thus warrants consideration under section 1.429(b)(3). But Transcom does not support this assertion except to say that the *Verizon* decision ''directly undercuts the primary rationale'' for the ring signaling rule. As we have explained, the *Verizon* opinion did not change the law in any way bearing on the Commission's decision to apply the ring signaling rule to intermediate providers that are not common carriers. Moreover, we independently discern no other fact or argument set forth in the Transcom Petition that would require its petition to be considered. Accordingly, consideration of Transcom's petition is not ''required in the public interest.'' Because Transcom's Petition fails to satisfy any of the criteria of section 1.429(b), we dismiss the Petition.

57. Carolina West asks us to modify the definition of ''covered provider'' as it applies to the smaller covered provider exception to our recordkeeping, retention, and reporting rules. Specifically, Carolina West proposes that we replace ''aggregated over all of the provider's affiliates'' in the definition of covered provider with ''aggregated over all entities under common control with such provider'' Carolina West argues that, when determining whether a provider makes the initial call path choice for more than 100,000 subscriber lines, a provider should not have to include ''lines served by non-controlling minority owners.'' In support of its petition, Carolina West states that it is ''common for rural wireless carriers to have passive investors who are themselves carriers that provide long-distance service'' and that these investors ''do not and cannot make the ultimate determination regarding the call routing practices of the providers in which they hold such passive investments.'' Carolina West reports that, although it serves fewer than 100,000 subscriber lines, it ''believes that it would be subject to the full scope of the new retention and reporting requirements because one or more of its minority investors provide long-distance service and make the initial call path decision for enough customer lines such that, in the aggregate, [Carolina West] and its 'affiliates' would exceed the 100,000 line *de minimis* threshold.''

58. In the *Order,* the Commission concluded that the recordkeeping, retention, and reporting rules should apply to ''covered providers,'' *i.e.,* providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, including lines served by the providers' affiliates. The 100,000 line threshold forms a basis for the ''exception for smaller covered providers'' adopted in the *Order.* In adopting this exception, the Commission noted that the recordkeeping, retention, and reporting requirements would still ''capture as

much as 95 percent of all callers'' and that ''a covered provider qualifies for this exception only if it and all its affiliates, as defined in section 3(2) of the Act . . . together made the initial long-distance call path choice for 100,000 or fewer total business or residential subscriber lines.''

59. We acknowledge Carolina West's concerns about the burdens on small providers associated with complying with the rule. On the record before us, however, we are unable to conclude that the Commission's goals would continue to be met if we changed our rules to exempt additional providers from compliance. For example, the Commission noted that it was not ''compromis[ing] our ability to monitor rural call completion problems effectively'' in creating the exemption because we could continue to capture ''as much as 95% of all callers.'' But the record here does not reveal how many providers or how much call completion data would be lost if we modified the rule as Carolina West proposes. In addition, while Carolina West argues that minority investors cannot dictate call routing for the carriers in which they invest, this argument fails to take into account, for example, the variety of stock classes and attendant voting rights that may allow a minority investor to in fact to dictate call routing for an affiliate because the affiliate may be relying on the minority investor to handle its long distance traffic. Thus, a categorical decision to consider the lines of only affiliates under common control could create a loophole exempting carriers under common influence in their routing decisions, making it more difficult for the Commission to identify the sources of problems in rural call completion. Therefore, the record does not persuade us to modify our rules as Carolina West requests, and we deny their petition.

60. We do, however, recognize that there are burdens associated with compliance with these rules, and there may be particular circumstances that make application of the rules to Carolina West inequitable or contrary to the public interest. We invite Carolina West and other carriers to file waiver requests if they believe that the public interest would be better served by not counting the lines of some or all of their affiliates towards the 100,000 line threshold.

III. Procedural Matters

A. Paperwork Reduction Act

61. This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

62. In this present document, we have assessed the effects of various requirements adopted in the *Rural Call Completion Order* and determined that certain recordkeeping, retention, and reporting requirements should not apply to intraLATA toll calls that are carried entirely over the covered provider's network or that are handed off by the covered provider directly to the terminating LEC or its terminating tandem switch. We find that these actions are in the public interest because they reduce the burdens of these recordkeeping, retention, and reporting requirements without undermining the goals and objectives behind the requirements. The amendments we adopt today will reduce the burden on businesses with fewer than 25 employees.

B. Supplemental Final Regulatory Flexibility Analysis

63. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis (FRFA) relating to the Order on Reconsideration.

64. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (Notice) in WC Docket No. 13–39. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. The Commission subsequently incorporated a Final Regulatory Flexibility Analysis (FRFA), as well as a supplemental IRFA, in the Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 13–39. This Supplemental FRFA conforms to the RFA and incorporates by reference the FRFA in the Order. It reflects changes to the Commission's rules arising from the Order on Reconsideration.

C. Need for, and Objectives of, the Order on Reconsideration

65. The Order on Reconsideration affirms the Commission's commitment to ensuring that high quality telephone service must be available to all Americans. In the underlying Order, the Commission established rules to combat extensive problems with successfully completing calls to rural areas, and created a framework to improve the ability to monitor call problems and take appropriate enforcement action. In this Order on Reconsideration, the Commission denies several petitions for reconsideration that, if granted, would impair the Commission's ability to monitor, and take enforcement action against, call completion problems. The Commission does, however, grant one petition for reconsideration because the Commission finds that modifying its original determination will significantly lower providers' compliance costs and burdens without impairing the Commission's ability to obtain reliable and extensive information about rural call completion problems.

66. Specifically, in the Order on Reconsideration, the Commission grants the petition for reconsideration of the *Rural Call Completion Order* filed by USTelecom and ITTA. In doing so, the Commission modifies rules adopted in the *Rural Call Completion Order* so that the recordkeeping, retention, and reporting requirements adopted in the *Rural Call Completion Order* do not apply to a limited subset of calls: intraLATA toll calls that are carried entirely over the covered provider's network, and intraLATA toll calls that are handed off by the covered provider directly to the terminating local exchange carrier (LEC) or to the tandem that the terminating LEC's end office subtends. The decision to grant reconsideration reflects a focused analysis of the costs of applying the rules to this limited set of traffic, the fact that this traffic represents a small portion of total toll traffic, and the modest incremental benefit that such data would likely yield. Most notably, these limited rule modifications will reduce the burdens on small business entities resulting from compliance with the rules adopted in WC Docket No. 13–39.

D. Summary of Significant Issues Raised by Public Comments in Response to the IRFA and the Rural Call Completion Order

67. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA that was incorporated in the Notice.

68. In a petition for reconsideration of the *Rural Call Completion Order,* COMPTEL argued that the Commission's decision to adopt in the *Rural Call Completion Order* a smaller covered provider exception to the reporting rules, based on 100,000 subscriber lines rather than 100,000 subscribers, failed to comply with section 604 of the RFA. In the Order on Reconsideration, the Commission denies COMPTEL's petition. The Commission finds that the FRFA incorporated in the *Rural Call Completion Order* complies with the RFA. Specifically, the Commission recounts how section E of the FRFA specifically addresses steps taken to minimize the significant economic impact on small entities, and references the smaller covered provider exception as one factor that reduces the economic impact of the rules on small entities, and that in the *Rural Call Completion Order,* the Commission provided an explanation for the smaller covered provider exception adopted therein.

E. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

69. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

F. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

70. 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, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. 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.

71. As noted, a FRFA was incorporated into the *Rural Call Completion Order.* In that analysis, the Commission described in detail the various small business entities that may be affected by the final rules. Those entities consist of: Wired telecommunications carriers; LECs; incumbent LECs; competitive LECs, competitive access providers, shared-tenant service providers, and other local service providers; interexchange carriers; prepaid calling card providers; local resellers; toll resellers; other toll carriers; wireless telecommunications carriers (except satellite); cable and other program distribution; cable companies and systems; and all other telecommunications. In this present Order on Reconsideration, the Commission is amending the final rules adopted in the *Rural Call Completion Order* and the small business entities described in the underlying FRFA are the same that may be affected by this present Order on Reconsideration. This Supplemental FRFA incorporates by reference the description and estimate of the number of small entities from the FRFA in this proceeding.

G. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

72. In Section D of the FRFA incorporated into the *Rural Call Completion Order,* the Commission described in detail the projected recording, recordkeeping, reporting and other compliance requirements for small entities arising from the rules adopted in the Rural Call Completion Order. This Supplemental FRFA incorporates by reference the requirements described in Section D of the FRFA. In the Order on Reconsideration, however, the Commission modifies rules adopted in the *Rural Call Completion Order* so that the recordkeeping, retention, and reporting requirements adopted in the *Rural Call Completion Order* do not apply to a limited subset of calls: intraLATA toll calls that are carried entirely over the covered provider's network, and intraLATA toll calls that are handed off by the covered provider directly to the terminating LEC or to the tandem that the terminating LEC's end office subtends. The effect of such modifications is to reduce the compliance requirements for this subset of small entities that carry intraLATA toll traffic.

H. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

73. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed 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 and reporting requirements under the rules for such 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 such small entities.'' In Section E of the FRFA incorporated into the *Rural Call Completion Order,* the Commission described in detail the steps taken to minimize the significant economic impact on small entities, and the significant alternatives considered in the *Rural Call Completion Order.* This Supplemental FRFA incorporates by reference the steps taken and alternatives described in Section E of the FRFA.

74. The Commission considered the economic impact on small entities in reaching its final conclusions and taking action in the *Rural Call Completion Order,* and it likewise does so here. While declining to disturb the majority of the findings and conclusions in the underlying *Rural Call Completion Order,* this Order mitigates burdens for smaller entities that carry intraLATA toll traffic. By excluding intraLATA toll calls that are carried entirely over the covered provider's network, and intraLATA toll calls that are handed off by the covered provider directly to the terminating LEC or to the tandem that the terminating LEC's end office subtends, the Commission reduces burden of the recordkeeping, retention, and reporting requirements it adopted in the *Rural Call Completion Order.*

I. Report to Congress

75. The Commission will send a copy of the Order on Reconsideration, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order on Reconsideration, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order on Reconsideration and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

J. Congressional Review Act

76. The Commission will send a copy of the Order on Reconsideration in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

IV. Ordering Clauses

77. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 405, and sections 1.1 and 1.429 of the Commission's rules, 47 CFR 1.1, 1.429, that the Order on Reconsideration IS ADOPTED, effective January 9, 2015.

78. IT IS FURTHER ORDERED that part 64 of the Commission's rules, 47 CFR part 64, IS AMENDED as set forth in Appendix A, and that such rule amendments SHALL BE EFFECTIVE after announcement in the **Federal Register** of Office of Management and Budget (OMB) approval of the rules, and on the effective date announced therein.

79. IT IS FURTHER ORDERED that the Petition of USTelecom and ITTA for Reconsideration or, in the Alternative, for Waiver or Extension of Time to Comply IS GRANTED to the extent described herein and otherwise DISMISSED AS MOOT.

80. IT IS FURTHER ORDERED that the Petitions for Reconsideration filed by Carolina West and COMPTEL ARE DENIED.

81. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by Sprint Corporation IS DENIED, as to Sections I and II.A of the Petition. The Petition for Reconsideration filed by Sprint Corporation is DISMISSED and DENIED on an independent and alternative basis, as to Section II.B of the Petition.

82. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by Transcom Enhanced Services, Inc. is DISMISSED.

83. IT IS FURTHER ORDERED that the Petition for Waiver filed by AT&T Services, Inc., IS DISMISSED AS MOOT, as to the portion of the Petition requesting relief for on-net intraLATA toll traffic.

84. IT IS FURTHER ORDERED that the Petition for Waiver filed by CenturyLink, Inc. IS DISMISSED AS MOOT, as to Section III.C.ii of the Petition.

85. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of the Order on Reconsideration to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). Part 64 of the Commission's rules ARE GRANTED to the extent set forth herein, and this Order on Reconsideration SHALL BE EFFECTIVE upon release.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 to read as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, and 620 unless otherwise noted.

■ 2. Amend § 64.2101 by revising paragraph (f) to read as follows:

§ 64.2101 Definitions.

* * * * *

(f) *Long-distance voice service.* For purposes of subparts V and W, the term ''long-distance voice service'' includes interstate interLATA, intrastate interLATA, interstate interexchange, intrastate interexchange, intraLATA toll, inter-MTA interstate and inter-MTA intrastate voice services.

■ 3. Amend § 64.2103 by redesignating paragraph (e) as paragraph (f) and adding new paragraph (e) as follows.

§ 64.2103 Retention of Call Attempt Records.

* * * * *

(e) IntraLATA toll calls carried entirely over the covered provider's network or handed off by the covered provider directly to the terminating local exchange carrier or directly to the tandem switch serving the terminating local exchange carrier's end office (terminating tandem), are excluded from these requirements.

* * * * *

■ 4. Amend § 64.2105 by adding paragraph (e) to read as follows:

§ 64.2105 Reporting requirements.

* * * * *

(e) IntraLATA toll calls carried entirely over the covered provider's network or handed off by the covered provider directly to the terminating local exchange carrier or directly to the tandem switch that the terminating local exchange carrier's end office subtends (terminating tandem), are excluded from these requirements.

[FR Doc. 2014–28898 Filed 12–9–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 14–1610]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Audio Division amends the FM Table of Allotments to reinstate seven vacant FM allotments in various communities in Oregon, Missouri, Texas, and Washington. These vacant allotments have previously undergone notice and comment rule making, but they were inadvertently removed from the FM Table. Therefore, we find for good cause that further notice and comment are unnecessary.

DATES: Effective December 10, 2014.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Report and Order, DA 14–1610, adopted November 5, 2014, and released November 6, 2014. The full text of this document is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text of this document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com.* The Commission will not send a copy of this Report and Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any 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).

List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part as follows:

PART 73—RADIO BROADCASTING SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Missouri is amended by adding Columbia, Channel 252C2.

■ 3. Section 73.202(b), the Table of FM Allotments under Oregon is amended by adding Moro, Channel 283C2.

■ 4. Section 73.202(b), the Table of FM Allotments under Texas is amended by adding Eden, Channel 294A; by adding O'Donnell, Channel 249A; by adding Premont, Channel 264C3; and by adding Roma, Channel 278A.

■ 5. Section 73.202(b), the Table of FM Allotments under Washington is amended by adding Trout Lake, Channel 236A.

[FR Doc. 2014–28997 Filed 12–9–14; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 79, No. 237
Wednesday, December 10, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 430 and 534

RIN 3206–AM48

Managing Senior Executive Performance

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend subpart C of part 430 of title 5, Code of Federal Regulations, to help agencies design performance appraisal systems for senior executives that support a consistent approach for managing senior executive performance, incorporate OPM policies, and reorganize information for ease of reading. We are also amending part 534 to make technical corrections to the recently published final regulation on pay for senior level and scientific and professional positions.

DATES: Comments must be received on or before February 9, 2015.

ADDRESSES: You may submit comments, identified by ''RIN 3206–AM48,'' using any of the following methods:

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. All submissions received through the Portal must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

Email: Send to *sespolicy@opm.gov*. Include ''RIN 3206–AM48'' in the subject line of the message.

Fax: Send to (202) 606–4264.

Mail, Hand Deliver/Courier comments: Address to Mr. Stephen T. Shih, Deputy Associate Director, Senior Executive Services and Performance Management, Suite 7412, 1900 E Street NW., Washington, DC 20415–9700.

FOR FURTHER INFORMATION, CONTACT: Nikki Johnson by telephone at (202) 606–8046, by FAX at (202) 606–4264, or by email at *nikki.johnson@opm.gov*.

SUPPLEMENTARY INFORMATION: On January 4, 2012, OPM and the U.S. Office of Management and Budget (OMB) announced the design and issuance of a basic Senior Executive Service (SES) performance appraisal system. Drawing from leading practices in Federal agencies and the private sector, a working group of agency representatives—including SES members—provided input to OPM on the system development to meet the SES performance management needs of Executive Branch agencies and their SES members. The system was designed to improve Governmentwide performance management of the SES by providing a consistent and uniform framework for agencies to communicate expectations and evaluate the performance of SES members, particularly centering on the role and responsibility of SES members to achieve results through effective executive leadership. The system also provides the necessary flexibility and capability for appropriate customization to better meet the needs of agencies. In addition to promoting greater consistency, the system will promote greater clarity, transferability, and equity in the development of performance plans, the delivery of feedback, the derivation of ratings, and the link to compensation. The proposed regulations are primarily revised to include the requirements of the basic SES performance appraisal system.

Approach

The proposed regulations provide an updated framework and system standards for agencies to use in designing their SES performance management systems. Section 4312 of title 5, United States Code, provides authority for OPM to establish system standards. As proposed, these standards balance the need for a Governmentwide approach to SES performance management with agency flexibility. Agencies maintain the ability to tailor their SES performance management systems to meet their mission needs and organizational climates.

The proposed regulations require critical elements in each executive's performance plan to be based on the OPM-defined executive core qualifications (ECQs). ECQ-based critical elements provide a balanced emphasis on strategic leadership and results and enhance the consistency and equity of SES performance management systems within and across agencies.

Furthermore, the proposed regulations define and identify the difference between performance standards and performance requirements. These terms are often misunderstood. A performance standard is a description of performance that must be met to be rated at a given level of performance. A performance requirement is a statement of performance expected for a critical element. These requirements should be measurable, understandable, verifiable, equitable, and achievable. Performance standards are associated with performance rating levels and performance requirements are associated with critical elements. When planning, monitoring, and appraising performance of SES members, supervisors must develop performance requirements using performance standards as a benchmark.

- The following is an example of a performance standard describing performance at Level 5: This is a level of rare, high-quality performance. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. The employee has produced an exceptional quantity of work, often ahead of established schedules. In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations.

- The following is an example of a performance requirement: 90% of cost-recovery cases are addressed within statutory deadlines, including prudently-incurred expenses to safeguard and enhance the reliability, security and safety of the energy infrastructure.

The proposed regulations also reinforce the importance of agency Performance Review Boards (PRB) by expanding their functions. Each PRB is required to consider agency performance during the review process and make recommendations on pay adjustments.

Structure

The subpart is restructured to establish two new sections and to logically organize the material. ''Details and job changes'' currently addressed in ''Appraising Performance'' are removed and established as a new section. ''Performance Management Systems'' is also established as a new section to outline the system standards that must be incorporated into an agency's SES performance management system.

Key Changes

A savings provision is added to authorize continued agency operation of appraisal systems approved prior to the issuance of the requirements of this new subpart. Within two years of the effective date of this subpart, agencies that have not implemented the basic SES appraisal system will be required to have designed, obtained OPM approval for, and implemented systems conforming to the requirements of this subpart.

An oversight official is added to ensure each agency has designated an official to oversee the performance management system and issue performance appraisal guidelines.

Performance appraisal guidelines are added to ensure the consideration of agency organizational performance assessments when appraising and rating executives.

Evaluation of performance management systems is expanded to ensure agency evaluations address both effectiveness and compliance with relevant laws, regulations, and OPM policies.

OPM review of agency systems is modified to clarify OPM will review agency systems for compliance with the requirements in the subpart, including those relating to system standards.

Summary performance level requirements are modified to require the following five rating levels: Outstanding; exceeds fully successful; fully successful; minimally satisfactory; and unsatisfactory. The current requirement of a three-level minimum (*i.e.,* one or more fully successful, minimally satisfactory, and unsatisfactory) is removed.

Performance Review Board functions are expanded to ensure PRBs consider agency performance during the review process and make written recommendations on pay adjustments. Additionally, as required in 5 CFR 534.405, recommendations on performance awards is now included as a PRB function.

The requirements for ''critical elements'' are expanded so critical elements will be based on OPM's ECQs and reflect individual and organizational performance applicable to each executive's respective area of responsibility.

A definition of ''performance standard'' is added as the description of performance that must be met to be rated at a given level of performance.

The definition of ''performance requirements'' is expanded to clarify that performance requirements must be described at the fully successful level and may be described at other performance levels.

A definition for ''System standards'' is added as the OPM-established requirements for performance management systems. The standards are identified in a new section of the proposed regulations.

Table of Changes

The following table lists all the proposed changes to the current regulations. The ''current rule'' column lists the regulations in the current subpart C. The ''proposed rule'' column indicates where matters addressed in the current regulation are addressed in the proposed regulation and where new material is being added. The third column explains each change.

Current rule	Proposed rule	Explanation of change
430.301(a)	430.301(a)	Edits authority to streamline language.
430.301(b)	430.301(b)	Remains unchanged.
430.301(b)(1)	430.301(b)(1)	Edits section to better conform to 5-level rating system.
430.301(b)(2)	430.301(b)(2)	Edits section to update the items pertaining to alignment of executive performance plans.
430.301(b)(3)	430.301(b)(3)	Remains unchanged.
430.301(b)(4)	430.301(b)(5)	Moves and edits paragraph.
	430.301(b)(4)	Adds new paragraph addressing reporting on meeting organizational goals.
430.301(b)(5)	430.301(b)(6)	Moves and edits paragraph.
	430.301(c)	Adds new paragraph addressing savings provision for system approvals.
430.302	430.302	Revises format of ''Coverage'' section.
430.303	430.303	Adds new definitions for *Executive Core Qualifications, Oversight official, Performance standards,* and *System standards.* Deletes the definition of *Balanced measures* and *Other performance elements.* Revises the definitions of *Annual summary rating, Initial summary rating, Performance appraisal, Performance management system, Performance requirement, Senior executive performance plan,* and *Strategic planning initiatives*.
430.304(a)	430.304(a)	Adds new requirement that agency performance management systems must be in accordance with the system standards.
430.304(b)(1)	430.305(a)(2)	Moves requirement for linkage to new section on ''System standards for SES performance management systems'' and edits the requirement.
430.304(b)(2)	430.306(b)	Moves requirement for consultation to ''Planning and communicating performance'' and edits the requirement.
	430.304(b)(1)	Adds new requirement that agency performance management systems must identify the executives covered by the system.
430.304(b)(3)	430.304(b)(2)	Moves and edits the requirement for monitoring performance and broadens to include progress reviews.
430.304(b)(4)	430.305(a)(4)	Moves requirement to appraise annually to ''System standards for SES performance management systems'' and ''Appraising performance'' and edits the requirement.
	430.308(c)	
430.304(b)(5)	430.305(a)(8)	Moves requirement for using performance results to ''System standards for SES performance management systems'' and edits the requirement.
430.304(c)(1)	430.304(b)(3)	Moves requirement to establish an official appraisal period.
430.304(c)(1)(i)	430.304(b)(4)	Moves requirement for a minimum appraisal period.
430.304(c)(1)(ii)	430.304(b)(5)	Moves requirement for ending the appraisal period and broadens the requirement to address effectiveness.
	430.304(b)(6)	Adds new requirement to address criteria and procedures for executives who are on detail, temporarily reassigned, or transferred.

Current rule	Proposed rule	Explanation of change
430.304(c)(1)(iii)	430.309(b)	Moves restriction for appraising a career appointee within 120 days after the beginning of a new President's term of office to ''Rating performance.''
430.304(c)(2)	430.305(a)(6)	Moves requirement for summary levels to ''System standards for SES performance management systems'' and broadens it to increase the number of levels.
	430.305(a)(7)	Adds new requirement to include equivalency statements in system description.
430.304(c)(3)	430.305(a)(5)	Moves requirement for deriving annual summary ratings to ''System standards for SES performance management systems'' and edits the requirement.
	430.305	Adds new section on ''System standards for SES performance management systems.''
	430.305(a)(1)	Adds new requirement that critical elements must be based on the executive core qualifications and includes quality of executive performance as basis for evaluation.
	430.305(a)(3)	Adds new requirement addressing performance standards.
	430.305(b)	Adds new paragraph addressing development of agency performance management system.
	430.305(c)	Adds new paragraph addressing establishment of a basic performance management system for agency use.
430.305	430.306	Moves ''Planning and communicating performance'' to another section.
430.305(a)	430.306(a)	Moves requirements for a performance plan, consultation, and communication of the plan.
	430.306(b)	
430.305(b)(1)	430.306(c)(1)	Moves requirement for critical elements and broadens the requirement to include competencies and clarify the scope of organizational performance.
430.305(b)(2)	430.306(c)(2)	Moves requirements for performance requirements and standards and broadens the requirement to address performance requirements for levels other than Fully Successful and performance standards for each level at which an executive may be appraised and includes requirement for general measures.
	430.306(c)(3)	
430.305(b)(3)	430.306(c)(3)	Moves requirement for linking to strategic planning initiatives and edits the requirement.
	430.306(d)	Adds new paragraph addressing the option for agencies to require review of plans at the beginning of the appraisal period.
430.306	430.307	Moves ''Monitoring performance'' to another section.
430.306(a)	430.307	Moves requirement to monitor performance and edits the requirement.
430.306(b)	430.307	Moves requirement for progress reviews and broadens it to include discussion of available developmental opportunities.
430.307	430.308	Moves ''Appraising performance'' to another section.
430.307(a)	430.308(a)	Moves requirement for assigning an annual summary rating and broadens it to require assigning a summary rating at least annually.
430.307(a)(1)	430.308(b)	Moves requirement for appraisal of critical elements and edits the requirement.
430.307(a)(2)	430.308(c)	Moves requirement for basing appraisals on organizational performance and broadens it to include the scope of organizational performance.
430.307(a)(2)(i)	430.308(c)(1)	Moves taking results into account when appraising performance and edits it.
	430.308(c)(2)–(3)	Adds new paragraph addressing performance appraisal guidelines and quality of executive performance as factors that are taken into account when appraising performance.
430.307(a)(2)(ii)	430.308(c)(4)	Moves taking customer satisfaction into account when appraising performance and replaces customer satisfaction with customer perspectives.
430.307(a)(2)(iii)–(iv)	430.308(c)(5)–(6)	Moves taking remaining factors into account when appraising performance and updates language.
430.307(a)(2)(v)	430.308(c)(7)–(8)	Moves and updates language.
430.307(b)	430.310	Moves ''Details and job changes'' to another section.
430.307(b)(1)	430.310(a)	Moves requirement for appraising executives on a detail or temporarily reassigned and edits the requirement.
430.307(b)(2)	430.310(b)	Moves requirement for appraising executives who are changing jobs or transferring and edits the requirement.
430.307(b)(3)	430.310(c)	Moves requirement for providing appraisals and annual summary rating and clarifies the requirement.
430.308	430.309	Moves ''Rating performance'' to another section.
430.308(a)	430.309(e)(1)	Moves requirement for initial summary rating.
430.308(b)	430.309(e)(2)	Moves item pertaining to higher level review and expands the item.
430.308(c)	430.309(e)(3)	Moves requirement for PRB review and edits the requirement.
430.308(d)	430.309(e)(4)	Moves requirement for annual summary rating and edits the requirement.
430.308(e)	430.309(c)	Moves requirement for extending the appraisal period.
430.308(f)	430.309(d)	Moves item pertaining to appeals.
	430.309(a)(1) and (a)(2)	Adds new paragraphs addressing the criteria for rating performance.
430.309	430.312	Moves ''Using performance results'' to another section.
430.309(a)	430.312(a)	Moves requirement for using the results of performance appraisals and edits the requirement.
430.309(b)	430.312(b)	Moves and edits language to include pay.
430.309(c)	430.312(c)	Moves item pertaining to removal from the SES and edits the item.
430.310	430.311	Moves ''Performance Review Boards (PRBs)'' to another section.
430.310(a)(1)	430.311(a)(1)	Moves requirement for PRB membership and edits the requirement.
430.310(a)(2)	430.311(a)(2)	Moves requirement for PRB membership.
430.310(a)(3)	430.311(a)(3)	Moves and broadens the requirement to address membership when recommending performance-based pay adjustments for career appointees.
430.310(a)(4)	430.311(a)(4)	Moves requirement for publication of PRB appointments.
430.310(b)(1)	430.311(b)(1)	Moves and broadens the requirement to address agency performance and adds a condition for review of the initial summary rating.

Current rule	Proposed rule	Explanation of change
430.310(b)(2)	430.311(b)(2)	Moves and broadens the requirement for PRB recommendations to include pay adjustments and performance awards.
430.310(b)(3)	430.311(b)(3)	Moves and broadens requirement pertaining to PRB deliberations for PRB members to include pay adjustments and performance awards.
430.311	430.313	Moves ''Training and evaluation'' to another section.
430.311(a)	430.313(a)	Moves requirement for providing information and training and edits the requirement.
430.311(b)	430.313(b)	Moves requirement for evaluating performance management systems and expands item addressing evaluation.
430.311(c)	430.313(c)	Moves requirement for maintaining performance-related records and edits the requirement.
430.312	430.314	Moves OPM review of agency systems to another section.
430.312(a)	430.314(a)	Moves requirement for system approval and adds item addressing system standards and requirements.
430.312(b)	430.314(b)	Moves item on OPM review of agency systems and edits the item.
430.312(c)	430.314(c)	Moves requirement for corrective action and edits the requirement.

Pay for Senior Level and Scientific and Professional Positions

On March 5, 2014, OPM published final regulations (79 FR 12353) on pay for senior level and scientific and professional positions to implement Section 2 of the Senior Professional Performance Act of 2008 (Pub. L. 110–372, October 8, 2008). We find that paragraphs (c)(1)(ii) and (c)(1)(iii) of 5 CFR 534.505 of these regulations contain erroneous cross-references that we are correcting.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, because they will apply only to Federal agencies and employees.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

List of Subjects in 5 CFR Parts 430 and 534

Government employees.

U.S. Office of Personnel Management

Katherine Archuleta,

Director.

Accordingly, OPM is proposing to amend 5 CFR parts 430 and 534 as follows:

PART 430—PERFORMANCE MANAGEMENT

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. chapter 43 and 5307(d).

■ 2. Revise subpart C to read as follows:

Subpart C—Managing Senior Executive Performance

Sec.

Subpart C — Managing Senior Executive Performance

§ 430.301 General.

(a) *Statutory authority.* Chapter 43 of title 5, United States Code, provides for the establishment of Senior Executive Service (SES) performance appraisal systems and appraisal of senior executive performance. This subpart prescribes regulations for managing SES performance to implement the statutory provisions at 5 U.S.C. 4311–4315.

(b) *Purpose.* This subpart requires agencies to establish performance management systems that hold senior executives accountable for their individual and organizational performance in order to improve the overall performance of Government by—

(1) Encouraging excellence in senior executive performance;

(2) Aligning executive performance plans with the results-oriented goals required by the Government Performance and Results Act (GPRA) Modernization Act of 2010 or other strategic planning initiatives;

(3) Setting and communicating individual and organizational goals and expectations;

(4) Reporting on the success of meeting organizational goals;

(5) Systematically appraising senior executive performance using measures that balance organizational results with customer and employee perspectives, and other perspectives as appropriate; and

(6) Using performance appraisals as a basis for pay, awards, development, retention, removal, and other personnel decisions.

(c) Savings provisions. Agencies without OPM approval to use the basic SES appraisal system issued by U.S. Office of Personel Management (OPM) and the Office of Management and Budget on January 4, 2012, must design, obtain OPM approval for, and implement systems conforming with the requirements of this subpart no later than one year after [INSERT EFFECTIVE DATE OF THE REGULATION]. No provision of this subpart will affect any administrative proceedings related to any action initiated under a provision of this chapter before [INSERT EFFECTIVE DATE OF THE REGULATION].

§ 430.302 Coverage.

This subpart applies to—

(a) All senior executives covered by subchapter II of chapter 31 of title 5, United States Code; and

(b) Agencies identified in section 3132(a)(l) of title 5, United States Code.

§ 430.303 Definitions.

In this subpart—

Annual summary rating means the overall rating level that an appointing authority assigns at the end of the appraisal period after considering (1) the initial summary rating, (2) any input from the executive or a higher level review, and (3) the applicable Performance Review Board's recommendations. This is the official rating for the appraisal period.

Appointing authority means the department or agency head, or other official with authority to make appointments in the Senior Executive Service (SES).

Appraisal period means the established period of time for which a senior executive's performance will be appraised and rated.

Critical element means a key component of an executive's work that

contributes to organizational goals and results and is so important that unsatisfactory performance of the element would make the executive's overall job performance unsatisfactory.

Executive Core Qualifications (ECQs) means the overarching qualities, identified and validated by OPM, required of an individual to succeed in the SES.

Initial summary rating means an overall rating level the supervisor derives, from appraising the senior executive's performance during the appraisal period in relation to the critical elements and performance standards and requirements, and forwards to the Performance Review Board.

Oversight official means the agency head or the individual specifically designated by the agency head who provides oversight of the performance management system and issues performance appraisal guidelines.

Performance means the accomplishment of the work described in the senior executive's performance plan.

Performance appraisal means the review and evaluation of a senior executive's performance against critical elements and performance standards and requirements.

Performance management system means the framework of policies and practices that an agency establishes under subchapter II of chapter 43 of title 5, United States Code, subpart A, and this subpart for planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance and for using resulting performance information in making personnel decisions.

Performance requirement means a description of what a senior executive must accomplish, or the competencies demonstrated, for a critical element. A performance requirement establishes the criteria to be met to be rated at a specific level of performance and generally includes quality, quantity, timeliness, cost savings, manner of performance, or other factors.

Performance standard means a normative description of a single level of performance within five such described levels of performance ranging from unsatisfactory performance to outstanding performance. Performance standards provide the benchmarks for developing performance requirements against which actual performance will be assessed.

Progress review means a review of the senior executive's progress in meeting the performance requirements. A progress review is not a performance rating.

Senior executive performance plan means the written critical elements and performance requirements against which performance will be evaluated during the appraisal period by applying the established performance standards. The plan includes all critical elements, performance standards, and performance requirements, including any specific goals, targets, or other measures established for the senior executive.

Strategic planning initiatives means agency strategic plans as required by the GPRA Modernization Act of 2010, annual performance plans, organizational work plans, and other related initiatives.

System standards means the OPM-established requirements for performance management systems.

§ 430.304 SES performance management systems.

(a) To encourage excellence in senior executive performance, each agency must develop and administer one or more performance management systems for its senior executives in accordance with the system standards established in § 430.305.

(b) Performance management systems must provide for—

(1) Identifying executives covered by the system;

(2) Monitoring progress in accomplishing critical elements and performance requirements and conducting progress reviews at least once during the appraisal period, including informing executives on how well they are performing;

(3) Establishing an official performance appraisal period for which an annual summary rating must be prepared;

(4) Establishing a minimum appraisal period of at least 90 days;

(5) Ending the appraisal period at any time after the minimum appraisal period is completed, but only if the agency determines there is an adequate basis on which to appraise and rate the senior executive's performance and the shortened appraisal period promotes effectiveness; and

(6) Establishing criteria and procedures to address performance of senior executives who are on detail, temporarily reassigned, or transferred as described at § 430.312(c)(1), and for other special circumstances established by the agency.

§ 430.305 System standards for SES performance management systems.

(a) Each agency performance management system must incorporate the following system standards:

(1) Evaluation of executive leadership and results, including quality of performance, using critical elements based on the ECQs;

(2) Performance requirements aligned with agency mission and strategic planning initiatives;

(3) Performance standards for each of the summary rating performance levels, which also may be used for the individual elements or performance requirements being appraised;

(4) Appraising each senior executive's performance at least annually against performance requirements based on established performance standards and other measures;

(5) Deriving an annual summary rating through a mathematical method that ensures executives' performance aligns with level descriptors contained in performance standards that clearly differentiate levels above fully successful, while prohibiting a forced distribution of rating levels for senior executives;

(6) Five summary performance levels as follows:

(i) An outstanding level;

(ii) An exceeds fully successful level;

(iii) A fully successful level;

(iv) A minimally satisfactory level; and

(v) An unsatisfactory level; and

(7) Agencies using agency-specific terms for the five summary performance levels must include equivalency statements in the system description aligning them with the five performance levels required in § 430.305(a)(6); and

(8) Using performance appraisals as a basis to adjust pay, reward, retain, and develop senior executives or make other personnel decisions, including removals as specified in § 430.312.

(b) An agency may develop its own performance management system for senior executives in accordance with the requirements of this section.

(c) OPM may establish, and refine as needed, a basic performance management system incorporating all requirements of this section, which agencies may adopt, with limited adaptation for performance management of its senior executives.

§ 430.306 Planning and communicating performance.

(a) Each senior executive must have a performance plan that describes the individual and organizational expectations for the appraisal period that apply to the senior executive's area of responsibility.

(b) Supervisors must develop performance plans in consultation with senior executives and communicate the plans to them on or before the beginning of the appraisal period.

(c) A senior executive performance plan must include—

(1) *Critical elements.* ECQ-based critical elements must reflect individual performance results or competencies as well as organizational performance priorities within each executive's respective area of responsibility.

(2) *Performance standards.* Performance plans must include the performance standards describing each level of performance at which a senior executive's performance can be appraised. Performance standards describe the general expectations that must be met to be rated at each level of performance and provide the benchmarks for developing performance requirements.

(3) *Performance requirements.* At a minimum, performance requirements must describe expected accomplishments or demonstrated competencies for fully successful performance by the executive. An agency may establish performance requirements associated with other levels of performance as well. These performance requirements must align with agency mission and strategic planning initiatives. Performance requirements must contain measures of the quality, quantity, timeliness, cost savings, or manner of performance, as appropriate, expected for the applicable level of performance.

(d) Agencies may require a review of senior executive performance plans at the beginning of the appraisal period to ensure consistency of agency-specific performance requirements. Such reviews may be performed by the Performance Review Board (PRB) or another body of the agency's choosing.

§ 430.307 Monitoring performance.

Supervisors must monitor each senior executive's performance throughout the appraisal period and hold at least one progress review. At a minimum, supervisors must inform senior executives during the progress review about how well they are performing with regard to their performance plan. Supervisors must provide advice and assistance to senior executives on how to improve their performance. Supervisors and senior executives may also discuss available development opportunities for the senior executive.

§ 430.308 Appraising performance.

(a) At least annually, agencies must appraise each senior executive's performance in writing and assign an annual summary rating at the end of the appraisal period.

(b) Agencies must appraise a senior executive's performance on the critical elements and performance requirements in the senior executive's performance plan.

(c) Agencies must base appraisals of senior executive performance on both individual and oranizational performance as it applies to the senior executive's area of responsibility, taking into account factors such as—

(1) Results achieved in accordance with agency mission and strategic planning initiatives;

(2) Overall quality of performance rendered by the executive,

(3) Performance appraisal guidelines that must be based upon assessments of the agency's performance and are provided by the oversight official to senior executives, rating and reviewing officials, PRB members, and appointing authorities at the conclusion of the appraisial period;

(4) Customer perspectives;

(5) Employee perspectives;

(6) The effectiveness, productivity, and performance results of the employees for whom the senior executive is responsible;

(7) Leadership effectiveness in promoting diversity, inclusion and engagement as set forth, in part, under section 7201 of title 5, United States Code; and

(8) Compliance with the merit system principles set forth under section 2301 of title 5, United States Code.

§ 430.309 Rating performance.

(a) When rating senior executive performance, each agency must—

(1) Comply with the requirements of this section, and

(2) Establish a PRB as described at § 430.311.

(b) Each performance management system must provide that an appraisal and rating for a career appointee's performance may not be made within 120 days after the beginning of a new President's term.

(c) When an agency cannot prepare an annual summary rating at the end of the appraisal period because the senior executive has not completed the minimum appraisal period or for other reasons, the agency must extend the executive's appraisal period. Once the appropriate conditions are met, the agency will then prepare the annual summary rating.

(d) Senior executive performance appraisals and ratings are not appealable.

(e) Procedures for rating senior executives must provide for the following:

(1) *Initial summary rating.* The supervisor must develop an initial summary rating of the senior executive's performance, in writing, and share that rating with the senior executive. The senior executive may respond in writing.

(2) *Higher-level review.* The senior executive may ask for a higher-level official to review the initial summary rating before the rating is given to the PRB.

(i) The senior executive is entitled to one higher-level review, unless the agency provides for more than one review level. The higher-level official cannot change the supervisor's initial summary rating, but may recommend a different rating to the PRB.

(ii) Copies of the reviewer's findings and recommendations must be given to the senior executive, the supervisor, and the PRB.

(iii) When an agency cannot provide a higher-level review for an executive who reports directly to the agency head, the agency may provide for an alternative review process of the executive's initial summary rating.

(3) *PRB review.* The PRB must receive and review the initial summary rating, the senior executive's response to the initial rating if made, and the higher-level official's findings and recommendations if conducted, and make recommendations to the appointing authority, as provided in § 430.311.

(4) *Annual summary rating.* The appointing authority must assign the annual summary rating of the senior executive's performance, in writing, after considering the applicable PRB's recommendations. This rating is the official rating for the appraisal period.

§ 430.310 Details and job changes.

(a) When a senior executive is detailed or temporarily reassigned for 120 days or longer, the gaining organization must set performance goals and requirements for the detail or temporary assignment. The gaining organization must appraise the senior executive's performance in writing, and this appraisal must be considered when deriving the initial summary rating.

(b) When a senior executive is reassigned or transferred to another agency after completing the minimum appraisal period, the supervisor must appraise the executive's performance in writing before the executive leaves.

(c) The most recent annual summary rating and any subsequent appraisals must be transferred to the gaining

agency or organization. The gaining supervisor must consider the rating and appraisals when deriving the initial summary rating at the end of the appraisal period.

§ 430.311 Performance Review Boards (PRBs).

Each agency must establish one or more PRBs to make recommendations to the appointing authority on the performance of its senior executives.

(a) *Membership.* (1) Each PRB must have three or more members who are appointed by the agency head, or by another official or group acting on behalf of the agency head. Agency heads are encouraged to consider diversity and inclusion in establishing their PRBs.

(2) PRB members must be appointed in a way that assures consistency, stability, and objectivity in SES performance appraisal.

(3) When appraising a career appointee's performance or recommending a career appointee for a performance-based pay adjustment or performance award, more than one-half of the PRB's members must be SES career appointees.

(4) The agency must publish notice of PRB appointments in the **Federal Register** before service begins.

(b) *Functions.* (1) Each PRB must consider agency performance as communicated by the oversight official through the performance appraisal guidelines when reviewing and evaluating the initial summary rating, any senior executive's response, and any higher-level official's findings and recommendations on the initial summary rating. The PRB may conduct any further review needed to make its recommendations. The PRB may not review an initial summary rating to which the executive has not been given the opportunity to respond in writing.

(2) The PRB must make a written recommendation to the appointing authority about each senior executive's annual summary rating, performance-based pay adjustment, and performance award.

(3) PRB members may not take part in any PRB deliberations involving their own appraisals, performance-based pay adjustments, and performance awards.

§ 430.312 Using performance results.

(a) Agencies must use performance appraisals as a basis for adjusting pay, granting awards, retaining senior executives, and making other personnel decisions. Performance appraisals also will be a factor in assessing a senior executive's continuing development needs.

(b) Agencies are required to provide appropriate incentives and recognition (including pay adjustments and performance awards under part 534, subpart D) for excellence in performance.

(c) A career executive may be removed from the SES for performance reasons, subject to the provisions of part 359, subpart E, as follows:

(1) An executive who receives an unsatisfactory annual summary rating must be reassigned or transferred within the SES, or removed from the SES;

(2) An executive who receives two unsatisfactory annual summary ratings in any 5-year period must be removed from the SES; and

(3) An executive who receives less than a fully successful annual summary rating twice in any 3-year period must be removed from the SES.

§ 430.313 Training and evaluation.

(a) To assure effective implementation of agency performance management systems, agencies must provide appropriate information and training to agency leadership, supervisors, and senior executives on performance management, including planning and appraising performance.

(b) Agencies must periodically evaluate the effectiveness of their performance management system(s) and implement improvements as needed. Evaluations must provide for both assessment of effectiveness and compliance with relevant laws, OPM regulations, and OPM performance management policy.

(c) Agencies must maintain all performance-related records for no fewer than 5 years from the date the annual summary rating is issued, as required in 5 CFR 293.404(b)(1).

§ 430.314 OPM review of agency systems.

(a) Agencies must submit proposed SES performance management systems to OPM for approval. Agency systems must address the system standards and requirements specified in this subpart.

(b) OPM will review agency systems for compliance with the requirements of law, OPM regulations, and OPM performance management policy, including the system standards specified at § 430.305.

(c) If OPM finds that an agency system does not meet the requirements and intent of subchapter II of chapter 43 of title 5, United States Code, or of this subpart, OPM will identify the requirements that were not met and direct the agency to take corrective action, and the agency must comply.

PART 534—PAY UNDER OTHER SYSTEMS

■ 3. The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 3161(d), 5307, 5351, 5352, 5353, 5376, 5382, 5383, 5384, 5385, 5541, 5550a, sec. 1125 of the National Defense Authorization Act for FY 2004, Pub. L. 108–136, 117 Stat. 1638 (5 U.S.C. 5304, 5382, 5383, 7302; 18 U.S.C. 207); and sec. 2 of Pub. L. 110–372, 122 Stat. 4043 (5 U.S.C. 5304, 5307, 5376).

■ 4. In § 534.505, revise paragraphs (c)(1)(ii) and (c)(1)(iii) to read as follows:

§ 534.505 Written Procedures.

* * * * *

(c) * * *

(1) * * *

(ii) Multiply the amount derived in paragraph (c)(1)(i) of this section by 0.10 (in 2013, $60,146 × 0.10 = $6,015 if the applicable system is certified, or $45,746 × 0.10 = $4,575 if the applicable system is not certified or performance appraisal does not apply); and

(iii) Subtract the amount derived in paragraph (c)(1)(ii) of this section from the maximum rate of basic pay applicable under § 534.504 (in 2013, $179,700 − $6,015 = $173,685 if the applicable system is certified, or $165,300 − $4,575 = $160,725 if the applicable system is not certified or performance appraisal does not apply);

* * * * *

[FR Doc. 2014–28887 Filed 12–9–14; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

7 CFR Part 15c

RIN 0503–AA57

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From the U.S. Department of Agriculture

AGENCY: U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture (USDA) seeks to issue a Department-wide regulation to implement the Age Discrimination Act of 1975, as amended (''Age Act''), and the Government-wide age discrimination regulation promulgated by the U.S. Department of Health and Human Services (HHS). The Age Act and HHS regulations prohibit age discrimination in programs and activities receiving Federal financial assistance. The proposed rule intends to ensure compliance with the Age Act and HHS regulations and provide

guidance to USDA agencies, employees, recipients, and beneficiaries on Age Act requirements. In the final rule section of this issue of the **Federal Register**, USDA is publishing this action as a direct final rule without prior proposal because USDA views this as a non-controversial action and expects no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule, and the action will become effective at the time specified in the direct final rule. If USDA receives adverse comments, a timely document will be published withdrawing the direct final rule, and all public comments received will be addressed in a subsequent final rule based on this action.

DATES: Comments on this proposed action must be received by USDA or carry a postmark or equivalent no later than January 9, 2015.

ADDRESSES: Submit adverse comments on the proposed rule to Anna G. Stroman, Chief, Policy Division, by mail at Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250. You may also submit adverse comments on the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anna Stroman at *anna.stroman@ascr.usda.gov.*

SUPPLEMENTARY INFORMATION: See **SUPPLEMENTARY INFORMATION** in the direct final rule located in the Rules and Regulations section of this issue of the **Federal Register**.

Dated: November 17, 2014.

Thomas J. Vilsack,

Secretary.

[FR Doc. 2014–28453 Filed 12–9–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2013–BT–STD–0006]

RIN 1904–AC55

Energy Conservation Standards for Commercial and Industrial Fans and Blowers: Availability of Provisional Analysis Tools

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of data availability.

SUMMARY: The U.S. Department of Energy (DOE) has completed a provisional analysis that estimates the potential economic impacts and energy savings that could result from promulgating a regulatory energy conservation standard for commercial and industrial fans and blowers. At this time, DOE is not proposing an energy conservation standard for commercial and industrial fans and blowers. DOE is publishing this analysis and the underlining assumptions and calculations, which may be used to ultimately support a proposed energy conservation standard, for stakeholder review. DOE encourages stakeholders to provide any additional data or information that may improve the analysis.

DATES: *Comments:* DOE will accept comments, data, and information regarding this notice of data availability (NODA) no later than January 26, 2015.

ADDRESSES: The analysis is now publically available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/25.* Any comments submitted must identify the NODA for Energy Conservation Standards for commercial and industrial fans and blowers, and provide docket number EERE–2013–BT–STD–0006 and/or regulatory information number (RIN) number 1904–AC55. Comments may be submitted using any of the following methods:

1. *Federal Rulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: CIFB2013STD0006@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV, ''Public Participation.''

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0006.* The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket, including public comments. See section IV, ''Public Participation,'' for further information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Ron Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7935. Email: *CIFansBlowers@ee.doe.gov.*

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *peter.cochran@hq.doe.gov.*

For further information on how to submit a comment and review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. History of Energy Conservation Standards Rulemaking for Commercial and Industrial Fans and Blowers

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, et seq; ''EPCA''), Pub. L. 94–163, sets forth a variety of provisions designed to improve energy efficiency.[1]

[1] All references to EPCA in this document refer to the statute as amended through the American

Part C of title III establishes the ''Energy Conservation Program for Certain Industrial Equipment.'' [2]

EPCA specifies a list of equipment that constitutes covered commercial and industrial equipment. (*42 U.S.C. 6311*(1)(A)–(L)) The list includes 11 types of equipment and a catch-all provision for certain other types of industrial equipment classified as covered the Secretary of Energy (Secretary). EPCA also specifies the types of equipment that can be classified as covered in addition to the equipment enumerated in *42 U.S.C. 6311*(1). This equipment includes fans and blowers. (*42 U.S.C. 6311*(2)(B))

DOE initiated the current rulemaking by publishing a proposed coverage determination for commercial and industrial fans and blowers. 76 FR 37678 (June 28, 2011). This was followed by the publication of a Notice of Public Meeting and Availability of the Framework Document for commercial and industrial fans and blowers in the **Federal Register** on February 1, 2013. 78 FR 7306. DOE held a public meeting on February 21, 2013 at which it described the various analyses DOE would conduct as part of the rulemaking, such as the engineering analysis, the manufacturer impact analysis (MIA), the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA). DOE also solicited feedback from stakeholders. Representatives for manufacturers, trade associations, environmental and energy efficiency advocates, and other interested parties attended the meeting.[3] Comments received since publication of the Framework Document have helped DOE in the development of the initial analyses presented in this NODA.

II. Current Status

The analyses described in this NODA were developed to support a potential energy conservation standard for commercial and industrial fans and blowers. Using these analyses, DOE intends to move forward with its traditional regulatory rulemaking activities and develop a notice of proposed rulemaking (NOPR) for an energy conservation standard for commercial and industrial fans and blowers. The NOPR will include a Technical Support Document (TSD), which will contain a detailed written account of the analyses performed in support of the NOPR, which will include updates to the analyses made available in this NODA.

In this NODA, DOE is not proposing any energy conservation standards for commercial and industrial fans and blowers. DOE may revise the analysis presented in this NODA based on any new or updated information or data it obtains between now and the publication of any future NOPR proposing energy conservation standards for commercial and industrial fans and blowers. DOE encourages stakeholders to provide any additional data or information that may improve the analysis.

III. Summary of the Analyses Performed by DOE

As DOE has proposed to define blowers as a type of centrifugal fan,[4] the ensuing discussion uses fans to refer to both fans and blowers. DOE developed a fan energy performance metric and conducted provisional analyses of commercial and industrial fans in the following areas: (1) Engineering; (2) manufacturer impacts; (3) LCC and PBP; and (4) national impacts. The fan energy perfomrance metric and the tools used in preparing these analyses and their respective results are available at: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0006.* Each individual spreadsheet includes an introduction that provides an overview of the contents of the spreadsheet. These spreadsheets present the various inputs and outputs to the analysis and, where necessary, instructions. Brief descriptions of the fan energy performance metric, of the provisional analyses, and of the supporting spreadsheet tools are provided below. If DOE proposes an energy conservation standard for commercial and industrial fans in a future NOPR, then DOE will publish a TSD, which will contain a detailed written account of the analyses performed in support of the NOPR, which will include updates to the analyses made available in this NODA.

A. Energy Metric

Commercial and industrial fan energy performance is a critical input in the provisional analyses discussed in today's notice. For the purpose of this NODA, DOE developed a fan energy metric, the fan energy index (FEI), to represent fan performance and characterize the different efficiency levels analyzed. FEI is defined as the fan energy rating (FER_{STD}) of a fan that exactly meets the efficiency level being analyzed, divided by the fan energy rating (FER) of a given fan model. FER is defined as the weighted average electric input power of a fan over a specified load profile, in horsepower, and measured at a given speed. An FEI value less than 1.0 would indicate that the fan does not meet the efficiency level being analyzed, while a value greater than 1.0 would indicate that the fan is more efficient than the efficiency level being analyzed. The FEI is calculated as:

$$FEI = \frac{FER_{STD}}{FER}$$

For this analysis, DOE used the following load profile: 100 percent of the flow at best efficiency point (BEP), 110 percent of the flow at BEP, and 115 percent of the flow at BEP.[5] DOE calculated the FER of a given fan model, using the maximum of the following speeds included in the operating range of a given fan model: 850 RPM, 1150 RPM, 1750 RPM, and 3550 RPM.[6] In order to calculate the FER of a fan, DOE assumed default motor full load and part load efficiency values, as well as default belt losses [7] (where appropriate):

Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[3] Supporting documents from this public meeting, including presentation slides and meeting transcript, are available at: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0006*

[4] 76 FR 37678, 37679 (June 28, 2011).

[5] The efficiency of a fan is defined as the ratio of air output power to mechanical input power. Fan efficiency varies depending on the output flow and pressure. The best efficiency point or BEP represents the flow and pressure values at which the fan efficiency is maximized when operating at a given speed.

[6] Initially, DOE considered calculating the FEI at the maximum recommended speed of the fan. However, because the calculation of the FER requires fan performance to be combined with default motor performance data, which depend on the motor's synchronous speed (or pole configuration), DOE calculated the FER of a given fan at the speed corresponding to the highest electric motor synchronous speed configuration that exists within the fan's operational speed range. DOE subtracted 50 RPM from the synchronous speeds in order to reflect the motor's slip.

[7] These default losses assumptions are presented in the LCC spreadsheet, in the ''Default Losses'' worksheet.

$$FER = \sum_i \omega_i \left(\frac{P_{out,i}}{\eta_{fan,i} * \eta_{T,i}} + L_{M,i} \right)$$

Where:

ω_i = weighting at each load point (equal weighting);

$P_{out,i}$ = the output air power of the fan at load point i;

$\eta_{fan,i}$ = the total fan efficiency at each load point i;

$\eta_{T,i}$ = the default transmission losses at each load point i;

$L_{M,i}$ = the default motor losses at each load point i; and

i = the flow points of the load profile (100, 110, and 115 percent of the flow at BEP at the considered speed: 850 RPM, 1150 RPM, 1750 RPM, or 3550 RPM)

For the FER_{STD} calculation of a fan that exactly meets the efficiency level being analyzed, DOE used the same FER equation, except it used a default fan total efficiency unique to each fan model, expressed as a function of each fan model's flow and total pressure at BEP,[8] as well as a specified *C-Value*:[9]

$$\eta_{fans,STD} = [C + 10.2205 * \ln(Q) + 2.8085 * \ln(P) - 0.3932 * \ln(Q)^2 + 0.8530 * \ln(Q) * \ln(P) - 2.1379 * \ln(P)^2]/100$$

Where:

Q = flow at BEP adjusted to 85 percent maximum recommended speed[10] in cubic feet per minute at 60Hz,

P = total pressure at BEP adjusted to 85 percent maximum recommended speed in inches of water gauge at 60 Hz, and

C = an intercept that is set for the surface, which is set based on the fan group of the applicable fan model.

DOE considered different *C-Values* to establish efficiency levels that target the removal of 5 to 70 percent of existing fan models for different equipment groups. For reference, the two-variable polynomial of second degree equation, the percent of models removed from the market and the associated *C-Values* are presented in the engineering spreadsheet.[11] A detailed explanation of how the FEI is calculated is also available in the ''FEI Calculator'' worksheet of the engineering spreadsheet.

In October 2014 several representatives of fan manufacturers and energy efficiency advocates[12] presented an energy metric approach called ''Performance Based Efficiency Requirement'' (PBER) to DOE.[13] The PBER approach sets efficiency targets expressed as a function of pressure and flow. The combination of the PBER and default values for motors and transmissions allows the calculation of the electric input power of a fan that exactly meets the efficient target set by the PBER, similar to the calculation of the FER_{STD}. The PBER equation is as follows:

$$\eta_{fan,total} \geq \alpha \times \frac{Q}{(Q + \beta)} \times \frac{P}{(P + \gamma)}$$

Where:

Q = flow;

P = pressure; and

α, β, γ = constants

AMCA presented two possible approaches: (1) Use of the PBER equation to establish a minimum efficiency requirement at the BEP pressure and flow; (2) use of the PBER equation to establish minimum efficiency requirements across all operating points (pressure and flow points) specified by the manufacturer. Both the FEI approach presented by DOE and the PBER approaches provide an equation to determine the fan efficiency as a function of flow and pressure, with lower efficiency requirements at lower flows and pressures.

There are two main differences between the PBER and FEI approaches. First, the two approaches use different forms for the fan efficiency equation. Second, unlike the FEI approach, the PBER approach does not prescribe particular operating conditions at which the PBER is to be evaluated in order to calculate the energy metric. In the FEI approach, DOE calculates the FEI at the maximum of the following speeds included in the operating range of a given fan model: 850 RPM, 1150 RPM, 1750 RPM, and 3550 RPM. For example, if a given fan model can operate between 1000 and 2500 RPM, its FEI would be calculated at 1750 RPM. The input power is then calculated for three specific load points: at BEP flow, 110% of BEP flow, and 115% of BEP flow. The PBER approach, on the other hand, does not prescribe particular operating conditions. In the case where the PBER is used at BEP, the maximum operating speed of the fan (initially established by the fan's structural rigidity) would be reduced (if necessary) to a speed for which the BEP efficiency, flow, and pressure meet the PBER equation. And, in the case where the PBER is required to be met at all operating points, the operating range of a given fan (characterized by pressure and flow points) would be reduced (if necessary) to ensure that all operating points meet the PBER equation.

In contrast with DOE's FEI approach, DOE understands that neither of the two PBER approaches are likely to require redesign of a fan model that does not meet the PBER. Instead, the operating range of the fan model would be

[8] Fan efficiency is defined as the ratio of air output power to mechanical input power. Fan efficiency varies depending on the output flow and pressure. The best efficiency point or BEP represents the flow and pressure values at which the fan efficiency is maximized when operating a given speed.

[9] A *C-Value* is the translational component of a two-variable, second degree polynomial equation that describes fan efficiency as a function of flow and total pressure at BEP. Defining the proper *C-Value* for the two-variable polynomial of second degree order allows the FEI to be set at a level that removes a percentage of the lowest performing models from the market, and does so equivalently across the full range of operating flow and pressures of fan considered in this analysis.

[10] In order to simplify the calculation process, and still account for the different speeds at which the FER of a fan can be calculated (850, 1550, 1750 and 3550 RPM), DOE proposes to use a single equation for calculating the fan total efficiency of a minimally compliant fan at BEP as a function of flow and total pressure and to allow manufacturers to use the fan laws to adjust the total pressure and flow at BEP to a speed equal to 85 percent of the fan's maximum recommended speed.

[11] A detailed explanation of how the two-variable, second degree polynomial equation was obtained is available in the ''Database Methodology'' worksheet. The C-values associated with different market cut offs are presented in the ''FEI Calculator Assumptions'' worksheet.

[12] The Air Movement and Control Association (AMCA), New York Blower Company, Natural Resources Defence Council (NRDC), the Appliance Standards Awareness Project (ASAP), and the Northwest Energy Efficiency Alliance (NEEA).

[13] Supporting documents from this meeting, including presentation slides are available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0006-0029.*

restricted to meet the PBER requirements.

To compare the form of the equation used to express fan efficiency as a function of flow and pressure, DOE conducted a comparative investigation of the impacts of setting a fan efficiency standard using either the PBER equation or the two variable polynomial equation to express fan efficiency. DOE found that using the two variable polynomial equation to eliminate a given percentage of models leads to a distribution of eliminated models that is uniform across all ranges of air flow and pressure while using the PBER equation did not.

B. Engineering Analysis

The engineering analysis establishes the relationship between the manufacturer production cost (MPC) and efficiency levels of commercial and industrial fans. This relationship serves as the basis for cost-benefit calculations performed in the other analysis tools for individual consumers, manufacturers, and the Nation.

As a first step in the engineering analysis, DOE established 7 provisional fan groups based on characteristics such as the direction of airflow through the fan andthe presence of a housing. For each of these groupings, DOE identified existing technology options that could affect the efficiency of commercial industrial fans and conducted a screening analysis to review each technology option and decide whether it: (1) Was technologically feasible; (2) was practicable to manufacture, install, and service; (3) would adversely affect product utility or product availability; or (4) would have adverse impacts on health and safety. The technology options remaining after the screening analysis consisted of a variety of impeller types and guide vanes. DOE used these technology options to divide the fan groups into subgroups and conducted a market-based assessment of the prevalence of each subgroup at the different efficiency levels analyzed. Six efficiency levels were analyzed, targeting the removal of 0–70% of fan models. The baseline level, removing no fan models, is referred to as FEI 0, and the higher efficiency levels are FEI 5, 10, 15, 20, 50, and 70. These levels were set independently for each fan group.

DOE estimated the MPCs for each technology option for each fan group as a function of blade or impeller diameter, independent of efficiency level. The MPCs were derived from product teardowns and publically-available product literature and informed by interviews with manufacturers. DOE then calculated MPCs for each fan group at each efficiency level analyzed by weighting the MPCs of each technology option within a group by its prevalence at the efficiency level being analyzed.

DOE's preliminary MPC estimates indicate that the changes in MPC as efficiency level increases are small or, in some fan groups, zero. However, DOE is aware that aerodynamic redesigns are a primary method by which manufacturers improve fan performance. These redesigns require manufacturers to make large upfront investments for R&D, testing and prototyping, and purchasing new production equipment. DOE's preliminary findings indicate that the magnitude of these upfront costs are more significant than the difference in MPC of a fan redesigned for efficiency compared to its precursor. For this NODA, DOE included a conversion cost markup in its calculation of the manufacturer selling price (MSP) to account for these conversion costs. These markups and associated MSPs were developed and applied in downstream analyses. They are discussed in section C and presented in the conversion cost spreadsheet.

The main outputs of the commercial and industrial fans engineering analysis are the MPCs of each fan group (including material, labor, and overhead) and technology option distributions at each efficiency level analyzed.

C. Manufacturer Impact Analysis

For the MIA, DOE used the Government Regulatory Impact Model (GRIM) to assess the economic impact of potential standards on commercial and industrial fan manufacturers. DOE developed key industry average financial parameters for the GRIM using publicly available data from corporate annual reports along with information received through confidential interviews with manufacturers. These values include average industry tax rate; working capital rate; net property, plant, and equipment rate; selling, general, and administrative expense rate; research and development expense rate; depreciation rate; capital expenditure rate; and manufacturer discount rate. Additionally, DOE calculated total industry capital and product conversion costs associated with meeting all analyzed efficiency levels. DOE first estimated the average industry capital and product conversion costs associated with redesigning a single fan model to meet a specific efficiency level using a proprietary cost model and feedback from manufacturers during interviews. DOE estimated these costs for all fan subgroups. DOE then multiplied the per model conversion costs by the number of models that would be required to be redesigned at each potential standard level to arrive at the total industry conversion costs.

The GRIM uses these estimated values in conjunction with inputs from other analyses including the MPCs from the engineering analysis and LCC analysis, the annual shipments by fan group from the NIA, and the manufacturer markups for the cost recovery markup scenario from the LCC analysis to model industry annual cash flows from the base year through the end of the analysis period. The primary quantitative output of this model is the industry net present value (INPV), which DOE calculates as the sum of industry annual cash flows, discounted to the present day using the industry specific weighted average cost of capital, or manufacturer discount rate.

Standards can affect INPV in several ways including requiring upfront investments in manufacturing capital as well as research and development expenses, which increase the cost of production and potentially alter manufacturer markups. Under potential standards for commercial and industrial fans, DOE expects that manufacturers may lose a portion of INPV due to standards. The potential loss in INPV due to standards is calculated as the difference between INPV in the base-case (absent new energy conservation standards) and the INPV in the standards case (with new energy conservation standards in effect). DOE examines a range of possible impacts on industry by modeling various pricing strategies commercial and industrial fan manufacturers may adopt following the adoption of new energy conservations standards for commercial and industrial fans.

In addition to INPV, the MIA also calculates the manufacturer markups, which are applied to the MPCs, derived in the engineering analysis and the LCC analysis, to arrive at the manufacturer selling price. For efficiency levels that require manufacturers to redesign models that do not meet the potential standards, DOE calibrated the manufacturer markups to allow manufacturers to recover their upfront conversion costs by amortizing those investment over the units shipped that were redesigned to meet the efficiency level being analyzed throughout the analysis period.

D. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers, in the compliance year. The LCC is the

total cost of purchasing, installing and operating a commercial or industrial fan over the course of its lifetime.

DOE determines LCCs by considering: (1) Total installed cost to the consumer (which consists of manufacturer selling price, distribution channel markups, and sales taxes); (2) the range of annual energy consumption of commercial and industrial fans as they are used in the field; (3) the operating cost of commercial and industrial fans (*e.g.*, energy cost); (4) equipment lifetime; and (5) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price of higher-efficiency commercial and industrial fans through savings in the operating cost. PBP is calculated by dividing the incremental increase in installed cost of the higher efficiency product, compared to the baseline product, by the annual savings in operating costs.

For each standards case corresponding to each efficiency level, DOE measures the change in LCC relative to the base case. The base case is characterized by the distribution of equipment efficiencies in the absence of new standards (*i.e.*, what consumers would have purchased in the compliance year in the absence of new standards. In the standards cases, equipment with efficiency below the standard levels ''roll-up'' to the standard level in the compliance year.

For commercial and industrial fans, DOE established statistical distributions of consumers of each fan group across sectors (industry or commercial) and applications (clean air ventilation, exhaust, combustion, drying, process air, process heating/cooling, and others), which in turn determined the fan's operating conditions (flow and pressure points and operating speed), annual operating hours, and fan load. The load is defined as the fan's air flow divided by the flow at BEP when operating at a given speed.[14] Recognizing that several inputs to the determination of consumer LCC and PBP are either variable or uncertain (*e.g.*, annual energy consumption, lifetime, discount rate), DOE conducts the LCC and PBP analysis by modeling both the uncertainty and variability in the inputs using Monte Carlo simulations and probability distributions.

The primary outputs of the LCC and PBP analyses are: (1) Average LCC in each standards case; (2) average PBPs; (3) average LCC savings at each standards case relative to the base case; and (4) the percentage of consumers that experience a net benefit, have no impact, or have a net cost for each fan group and efficiency level. The average annual energy consumption derived in the LCC analysis is used as an input in the NIA.

E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from potential new standards at each EL. DOE calculated NES and NPV for each EL as the difference between a base case forecast (without new standards) and the standards case forecast (with standards). Cumulative energy savings are the sum of the annual NES determined for the lifetime of a commercial or industrial fan shipped during a 30 year analysis period assumed to start in 2018. Energy savings include the full-fuel cycle energy savings (*i.e.*, the energy needed to extract, process, and deliver primary fuel sources such as coal and natural gas, and the conversion and distribution losses of generating electricity from those fuel sources). The NPV is the sum over time of the discounted net savings each year, which consists of the difference between total energy cost savings and increases in total equipment costs. NPV results are reported for discount rates of 3 and 7 percent.

To calculate the NES and NPV, DOE projected future shipments [15] and efficiency distributions (for each EL) for each potential commercial and industrial fan group. DOE recognizes the uncertainty in projecting shipments and electricity prices; as a result the NIA includes several different scenarios for each. Other inputs to the NIA include the estimated commercial and industrial fan lifetime used in the LCC analysis, manufacturer selling prices from the MIA, average annual energy consumption, and efficiency distributions from the LCC.

The purpose of this NODA is to notify industry, manufacturers, consumer groups, efficiency advocates, government agencies, and other stakeholders of the publication of the initial analysis of potential energy conservation standards for commercial and industrial fans. Stakeholders should contact DOE for any additional information pertaining to the analyses performed for this NODA.

IV. Public Participation

Submission of Comments

DOE welcomes comments on all aspects of this NODA and on other issues relevant to potential test procedures and energy conservation standards for commercial and industrial fans and blowers, but no later than the date provided in the **DATES** section at the beginning of this NODA. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this NODA.

Submitting comments via www.regulations.gov. The *www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through *www.regulations.gov* before

[14] The efficiency of a fan is defined as the ratio of air output power to mechanical input power. Fan efficiency varies depending on the output flow and pressure. The BEP represents the flow and pressure values at which the fan efficiency is maximized when operating a given speed.

[15] The ''shipments'' worksheet of the NIA spreadsheet presents the scope of the analysis and the total shipments value in units for the fans in scope.

posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

V. Issues on Which DOE Seeks Public Comment

DOE is interested in receiving comment on all aspects of this analysis. DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE generated formulae for manufacturer production cost (MPC) as a function of subgroup and diameter (which DOE believes can be used as a general proxy for airflow). DOE requests comments on whether there are any other parameters, such as pressure, construction class, rating RPM, etc., which DOE should use as inputs in calculating the MPC, in addition to or instead of diameter. If so, DOE encourages stakeholders to submit data illustrating the relationship of MPC with these parameters.

2. DOE assumed that the cost to redesign multiple fan models was equal to the number of models times an estimated cost to redesign one fan model. DOE recognizes that manufacturers may be able to share resources between redesigns in the same company, or in the same product line (*i.e.*, different diameters). If this is current practice or possible, DOE requests comments on the scenarios in which resource sharing can occur and to what extent.

3. DOE estimated the cost to redesign a fan as a function of the subgroup of fan resulting from the redesign. There may be other parameters, such as the fan's diameter, RPM properties, FEI or efficiency, construction class, or the properties of the fan before it was redesigned, that DOE should take into consideration. If so, DOE requests information on which parameters should be taken into consideration and how each affects the cost to redesign a fan.

4. DOE used a redesign time of 6 months per fan model in its calculation of redesign costs. DOE requests comment on this assumption and whether this time period is sufficient for prototyping and revising marketing materials.

5. DOE did not explicitly consider fan noise performance in its analyses. DOE requests comment on whether noise considerations provide barriers to increased fan efficiency.

6. DOE requests information on the number of models and number of shipments of forward curved fans.

7. DOE requests comment on its use of a database of over 2500 fan models as approximately representing all fan models in the scope of this rulemaking currently available in the United States today.

8. DOE used current subgroup distributions of fan models within each fan group at each efficiency level analyzed to weight the total conversion cost per model regardless of the efficiency level or the subclass of the fan model before redesign. In other words, DOE assumed that fan model impeller distributions at a given efficiency level would not change as a result of standards. DOE requests comment on this assumption.

9. DOE requests comment on the inclusion of tubeaxial and vaneaxial fans into a single fan group separate from centrifugal inline and mixed flow fans. DOE requests information regarding whether these two groups of fans provide distinct utility that justifies the separation and resulting different FEIs for the same rated flow and pressure.

10. DOE requests comment on the cost drivers included in the engineering analysis (*e.g.*, aerodynamic redesign, impeller type, and presence of guidevanes).

11. DOE requests information on the design and manufacturing differences between commercial and industrial fans.

12. DOE requests information on how forward curved impeller manufacturing differs from the manufacturing of other impeller types. DOE also requests comment on how other fan components differ between forward curved models and non-forward curved models, such

as component materials and material gauges.

13. DOE requests comment on its MPC calculation as a function of diameter equation and multipliers.

14. DOE did not consider variable pitch blades in its analysis. DOE requests information on the effect variable-pitch blades have on efficiency in the field, the mechanism of that effect, and how testing can be conducted to capture any benefit from variable-pitch blades.

15. DOE requests comment on any of the industry financials (working capital rate; net property, plant, and equipment rate; selling, general, and administrative expense rate; research and development rate; depreciation rate; capital expenditure rate, and tax rate) used in the GRIM (located in the ''Financials'' tab of the GRIM spreadsheet).

16. DOE requests comment on the use of 11.4 percent as the real industry manufacturer discount rate (also referred to as the weighted average cost of capital) for commercial and industrial fan manufacturers (located in the ''Financials'' tab of the GRIM spreadsheet).

17. DOE requests comment on the use of 1.45 as a manufacturer markup (this corresponds to a 31 percent gross margin) for all fan groups and efficiency levels in the base case (located in the ''Markups'' tab of the GRIM spreadsheet). DOE requests information regarding manufacturer markups and whether they vary by fan efficiency, fan group, fan subgroup, or any other attribute.

18. DOE requests comment on both its methodology of calculating total industry capital and product conversion costs and the specific industry average per model capital and product conversion cost estimates for each fan subgroup (located in the Conversion Cost spreadsheet).

19. DOE assumed that every fan model that did not meet a candidate standard level being analyzed would be redesigned to meet that level. DOE requests comment on this assumption and on what portion of fan models that do not meet a standard level would be redesigned to meet the level as opposed to being eliminated from the American market.

20. DOE seeks inputs on its characterization of market channels for the considered fan groups, particularly whether the channels include all intermediate steps, and estimated market shares of each channel.

21. DOE seeks inputs and comments on the estimates of flow operating points used in the energy use analysis (expressed as a function of the flow at best efficiency point).

22. DOE seeks inputs and comments on the estimates of annual operating hours by sector and application and on the estimated distributions of fans across sectors and applications.

23. DOE seeks comments on its proposal to use a constant price trend for projecting future commercial and industrial fan prices.

24. DOE requests comment on whether any of the efficiency levels considered in this analysis might lead to an increase in installation, repair, and

25. maintenance costs, and if so, data regarding the magnitude of the increased cost for each relevant efficiency level.

26. DOE seeks comments on a potential compliance date of three years after the publication of a final rule establishing energy conservation standards for commercial and industrial fans and blowers.

27. DOE seeks comments on the use of constant efficiency trends in the base case and in the standards cases.

Issued in Washington, DC, on December 3, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–28918 Filed 12–9–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0920; Directorate Identifier 2014–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777–200, –200LR, –300ER, and 777F series airplanes. This proposed AD was prompted by a report of a jettison fuel pump that was shut off by the automatic shutoff system during the center tank fuel scavenge process on a short-range flight. This proposed AD would require making wiring changes, modifying certain power panels, installing electrical load management system software, and accomplishing a functional test. We are proposing this AD to prevent extended dry running of the jettison fuel pumps, which can be a potential ignition source inside the main fuel tanks, and consequent fuel tank fire or explosion in the event that the jettison pump overheats or has an electrical fault.

DATES: We must receive comments on this proposed AD by January 26, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0920; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Takahisa Kobayashi, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6499; fax: 425–917–6590; email: *takahisa.kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0920; Directorate Identifier 2014–NM–192–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report of a jettison fuel pump that was shut off by the automatic shutoff system during the center tank fuel scavenge process on a short-range flight. The manufacturer had made a design change to the fuel scavenge system to improve its operational reliability under cold temperatures. With this design change incorporated, the jettison fuel pumps in the main fuel tanks are operated every flight as part of the fuel scavenge system. For certain airplanes on which this change has been incorporated, the jettison fuel pumps are automatically shut off after four hours of operating the fuel scavenge system, or when a low pressure condition of the jettison fuel pump is detected under failure conditions such as a fuel leak. The manufacturer discovered that the jettison pump inlets can be uncovered during normal fuel scavenge operation depending on the flight duration (less than four hours) and fuel loading in the main fuel tanks. In addition, the automatic shutoff system can fail in a latent manner. If the automatic shutoff system fails and the jettison pump inlets are uncovered as expected during normal fuel scavenge operation on short-range flights of less than four hours, the jettison pump will run dry for an extended period of time. Extended dry running of the jettison fuel pumps can be a potential ignition source inside the main fuel tanks, and could cause a fuel tank fire or explosion in the event that the jettison pump overheats or has an electrical fault.

Relevant Service Information

We reviewed Boeing Special Attention Bulletin 777–28–0083, dated September 8, 2014. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0920.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously.

Explanation of ''RC'' Steps or Procedures in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement was a new process for annotating which steps or procedures in the service information are required for compliance with an AD. Differentiating these steps or procedures from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The actions specified in the service information described previously include steps or procedures that are identified as RC (required for compliance) because these steps or procedures have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As noted in the specified service information, steps or procedures identified as RC must be done to comply with the proposed AD. However, steps or procedures that are not identified as RC are recommended. Those steps or procedures that are not identified as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the service information without obtaining approval of an alternative method of compliance (AMOC), provided the steps or procedures identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps or procedures identified as RC will require approval of an AMOC.

Costs of Compliance

We estimate that this proposed AD affects 11 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per roduct	Cost on U.S. operators
Groups 1 through Group 4 airplanes: Hardware and software changes (7 airplanes)	Up to 31 work-hours × $85 per hour = $2,635.	$1,286	$3,921	$27,447
Group 5 airplanes: ELMS2 software update (4 airplanes)	8 work-hours × $85 per hour = $680 ...	0	680	2,720

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

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in

air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0920; Directorate Identifier 2014–NM–192–AD.

(a) Comments Due Date

We must receive comments by January 26, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, -200LR, 300ER and 777F series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 777–28–0083, dated September 8, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 28: Fuel.

(e) Unsafe Condition

This AD was prompted by a report of a jettison fuel pump that was shut off by the automatic shutoff system during the center tank fuel scavenge process on a short-range flight. We are issuing this AD to prevent extended dry running of the jettison fuel pumps, which can be a potential ignition source inside the main fuel tanks, and consequent fuel tank fire or explosion in the event that the jettison pump overheats or has an electrical fault.

(f) Compliance

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

(g) Wiring and Software Changes

(1) For Groups 1 through 4 airplanes, as identified in Boeing Special Attention Service Bulletin 777–28–0083, dated September 8, 2014: Within 36 months after the effective date of this AD, make wiring changes, modify power panels P110 and P210, install electrical load management system 2 (ELMS2) software, and accomplish the functional test and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–28–0083, dated September 8, 2014. Do all applicable corrective actions before further flight.

(2) For Group 5 airplanes, as identified in Boeing Special Attention Service Bulletin 777–28–0083, dated September 8, 2014: Within 12 months after the effective date of this AD, install ELMS2 software, and accomplish the functional test and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–28–0083, dated September 8, 2014. Do all applicable corrective actions before further flight.

Note 1 to paragraph (g) of this AD: GE Aviation Service Bulletin 5000ELM–28–075, Revision 1, dated August 5, 2014; and GE Aviation Service Bulletin 6000ELM–28–076, Revision 1, dated August 5, 2014; are additional sources of guidance for modifying the P110 and P210 panels, respectively.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (i)(l) of this AD. Information may be emailed to: *9–ANM–Seattle–ACO–AMOC–Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) If the service information contains steps or procedures that are identified as RC (Required for Compliance), those steps or procedures must be done to comply with this AD; any steps or procedures that are not identified as RC are recommended. Those steps or procedures that are not identified as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the specified service information without obtaining approval of an AMOC, provided the steps or procedures identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps or procedures identified as RC require approval of an AMOC.

(i) Related Information

(1) For more information about this AD, contact Takahisa Kobayashi, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6499; fax: 425–917–6590; email: *takahisa.kobayashi@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on November 28, 2014.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–28921 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101, 104, 105, 120, and 128

[Docket No. USCG–2006–23846]

RIN 1625–AB30

Consolidated Cruise Ship Security Regulations

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations on cruise ship terminal security. The proposed regulations would provide detailed, flexible requirements for the screening of all baggage, personal items, and persons—including passengers, crew, and visitors—intended for carriage on a cruise ship. The proposed regulations would standardize security of cruise ship terminals and eliminate redundancies in the regulations that govern the security of cruise ship terminals.

DATES: Comments and related material must be received by the Coast Guard on or before March 10, 2015. Requests for public meetings must be received by the Coast Guard on or before January 9, 2015. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before March 10, 2015.

ADDRESSES: You may submit comments identified by docket number USCG–2006–23846 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

Collection of Information Comments: If you have comments on the collection of information discussed in section VI.D. of this Notice of Proposed Rulemaking (NPRM), you must also send comments to the Office of Information and Regulatory Affairs (OIRA), OMB. To ensure that your comments to OIRA are received on time, the preferred methods are by email to *oira_submission@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for Coast Guard, DHS'' in the subject line of the email) or fax at 202–395–6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Lieutenant Commander Kevin McDonald, Inspections and Compliance Directorate, Office of Port and Facility Compliance, Cargo and Facilities Division (CG–FAC–2), Coast Guard; telephone 202–372–1168, email *Kevin.J.McDonald2@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, 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–2006–23846 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.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number USCG–2006–23846 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.

C. Privacy Act

Anyone can 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not plan to hold a public meeting at this time. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Abbreviations

APA Administrative Procedure Act
CFR Code of Federal Regulations
CLIA Cruise Lines International Association
COTP Captain of the Port
CVSSA Cruise Vessel Security and Safety Act of 2010
DHS Department of Homeland Security
DoS Declaration of Security
EDS Explosive Detection System
E.O. Executive Order
FSO Facility Security Officer
FSP Facility Security Plan
FR Federal Register
IMO International Maritime Organization
ISPS International Ship and Port Facility Security
ISSC International Ship Security Certificate
MARSEC Maritime Security
MISLE Marine Information for Safety and Law Enforcement
MSC/Circ. Maritime Safety Committee Circular
MTSA Maritime Transportation Security Act
NAICS North American Industry Classification System
NMSAC National Maritime Security Advisory Committee
NPRM Notice of Proposed Rulemaking
NVIC Navigation and Vessel Inspection Circular
OCS Outer Continental Shelf
OMB Office of Management and Budget
OIRA Office of Information and Regulatory Affairs
PAC Policy Advisory Council
PWSA Port and Waterways Safety Act
§ Section symbol
SSI Sensitive Security Information
TSA Transportation Security Administration
TSI Transportation Security Incident
TSP Terminal Screening Program
TWIC Transportation Worker Identification Credential
U.S.C. United States Code
VSP Vessel Security Plan

III. Basis and Purpose

The Coast Guard proposes to amend the maritime security regulations, found in title 33 of the Code of Federal Regulations (33 CFR) subchapter H (parts 101 through 105), to require terminal screening programs (TSPs) in existing facility security plans (FSP) at cruise ship terminals within the United States and its territories. This proposed rule would standardize screening activities for all persons, baggage, and personal effects at cruise ship terminals while also allowing an appropriate degree of flexibility that accommodates and is consistent with different terminal sizes and operations. This flexible standardization ensures a consistent layer of security at terminals throughout the United States. This proposed rule builds upon existing facility security requirements in 33 CFR part 105, which implements the Maritime Transportation Security Act (MTSA), Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002), codified at 46 U.S.C. Chapter 701. The Coast Guard consulted with the Transportation Security Administration (TSA) during the development of this proposed rule.

The Coast Guard also proposes to remove 33 CFR parts 120 and 128 because provisions in those parts requiring security officers and security plans or programs for cruise ships and cruise ship terminals would be redundant with the provisions in 33 CFR subchapter H. Section 120.220, concerning the reporting of unlawful acts, would also be removed because it is obsolete and existing law enforcement protocols require members of the Cruise Lines International Association (CLIA) to report incidents involving serious violations of U.S. law to the nearest Federal Bureau of Investigation field office as soon as possible. The Coast Guard will consider issuing additional regulations on this subject in a separate rulemaking pursuant to the Cruise Vessel Security and Safety Act of 2010 (CVSSA), Pub. L. 111–207 (July 27, 2010) (See RIN 1625–AB91).

This proposed rule does not address the screening of vessel stores, bunkers, or cargo. Similarly, it does not affect what items may be brought onto a cruise ship by the cruise ship operator, including items that passengers may check for secure storage with the cruise operator outside of their baggage or carry-ons. Requirements for security measures for the delivery of vessel stores, bunkers, and cargo exist and may be found in 33 CFR 104.275, 104.280, 105.265, and 105.270.

This proposed rule also does not include regulations that may be required pursuant to the CVSSA. Although this rule and the CVSSA are both concerned with cruise ship security generally, this rule consolidates and updates pre-boarding screening requirements while the CVSSA prescribes requirements in other areas, such as cruise ship design, providing information to passengers, maintaining medications and medical staff on board, crime reporting, crew access to passenger staterooms, and crime scene preservation training. Delaying promulgation of this proposed rule while the regulations required by the CVSSA are developed, for the sole purpose of publishing all of these regulations together, would unnecessarily deprive the public of the benefit of improved cruise ship screening regulations during that period.

IV. Background

A. Development of 33 CFR Parts 120 and 128

Following the terrorist attack on the cruise ship ACHILLE LAURO, the International Maritime Organization (IMO) published Maritime Safety Committee Circular (MSC/Circ.) 443 on September 26, 1986, which directed contracting governments to develop measures to ensure the security of passengers and crews aboard cruise ships and at cruise ship terminals. MSC/Circ. 443 also strongly recommended that governments ensure the development, implementation, and maintenance of ship security plans and facility security plans. MSC/Circ. 443 is available in the docket of this rulemaking, and can be obtained by following the instructions in the ''Viewing comments and documents'' section of this preamble.

In recognition of IMO's guidance on the security of cruise ships and cruise ship terminals, the Coast Guard published regulations in 1996 for the security of large passenger vessels (*i.e.,* cruise ships) in 33 CFR part 120, and the security of passenger terminals (*i.e.,* cruise ship terminals) in 33 CFR part 128 (61 FR 37647, July 18, 1996). These regulations include requirements for large passenger vessels and passenger terminals to submit vessel security plans and terminal security plans, respectively. Navigation and Vessel Inspection Circular (NVIC) 4–02 provides guidance for complying with these regulations. The Coast Guard has posted NVIC 4–02 in the docket of this rulemaking; see the ''Viewing comments and documents'' section of this preamble for more information.

B. Development of 33 CFR Subchapter H

In response to the terrorist attacks on September 11, 2001, Congress enacted MTSA to increase maritime security. In Section 101 of MTSA, Congress found

that ''[c]ruise ships visiting foreign destinations embark from at least 16 [U.S.] ports,'' and that ''the cruise industry poses a special risk from a security perspective.'' [1]

In 2003, the Coast Guard implemented Section 102 of MTSA through a series of regulations for maritime security, located in 33 CFR subchapter H. These regulations require owners or operators of vessels, facilities, and Outer Continental Shelf (OCS) facilities to conduct security assessments of their respective vessels and facilities, create security plans specific to their needs, and submit the plans for Coast Guard approval by December 29, 2003. These plans must be updated at least every 5 years. The Coast Guard has required all affected vessels, facilities, and OCS facilities to operate in accordance with their plans since July 1, 2004.

Included in 33 CFR subchapter H are specific security requirements for owners or operators of cruise ships and cruise ship terminals in 33 CFR 104.295 and 105.290. The Coast Guard developed these requirements to further mitigate the elevated risk of cruise ship and cruise ship terminal involvement in a transportation security incident (TSI).

Among the requirements in §§ 104.295 and 105.290, owners or operators of cruise ships and cruise ship terminals must ensure that all persons, baggage, and personal effects are screened for dangerous substances and devices. The FSPs for the cruise ship terminals, approved under 33 CFR part 105, currently document the screening requirements in §§ 105.215, 105.255, and 105.290, such as qualifications and training of screening personnel, screening equipment, and the recognition of dangerous substances and devices. However, these FSPs do not include a separate section specifically addressing these screening requirements; rather FSPs address them throughout the document and in a general fashion.

This rulemaking would require cruise ship terminal FSPs to follow an organized format that includes more specific aspects of screening. In particular, the Coast Guard proposes to require owners and operators of U.S. cruise ship terminals to utilize a Prohibited Items List when conducting screening of all persons, baggage, and personal effects at the terminal. This list would reduce uncertainty in the industry and the public about what is prohibited and what is not, and would help cruise ship facilities better implement the screening requirement in 33 CFR 105.290(a).

The level of risk mitigated by the establishment of a Prohibited Items List for cruise ship terminals should align with the level of risk reduction required in MTSA. MTSA states that vessel security plans must ''identify, and ensure . . . the availability of security measures necessary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident.'' Consequently, the goal of the Prohibited Items List is not to completely eliminate all possible risks, as complete risk reduction is not the risk standard set forth in MTSA. MTSA is clear that maritime transportation security plans must be written to prevent TSIs (such as the loss of the vessel or other mass casualty scenarios).

While we recognize that cruise ship operators are also required to ensure screening for dangerous substances and devices under 33 CFR 104.295(a), the Coast Guard is not proposing to require them to modify VSPs in a manner similar to cruise ship terminal FSPs, for reasons of cost-effectiveness and redundancy as described below. However, we do believe that the publication of the Prohibited Items List will provide helpful guidance to cruise ship operators in complying with 33 CFR 104.295(a).

Current Status of 33 CFR Parts 120 and 128

The implementation of MTSA and 33 CFR subchapter H was one step in a larger effort to revise the requirements in 33 CFR parts 120 and 128. On January 8, 2004, the Coast Guard MTSA/International Ship and Port Facility Security (ISPS) Policy Advisory Council (PAC), whose members are all Coast Guard personnel, issued PAC Decision 04–03 to provide guidance on 33 CFR subchapter H. PAC Decision 04–03 states that ''33 CFR parts 120 and 128 and NVIC 4–02 will remain in effect until July 1, 2004.'' Since that date, cruise ships and cruise ship terminals have operated in accordance with 33 CFR subchapter H, not 33 CFR part 120 or 128. This decision is available in the docket of this rulemaking, which can be accessed by following the instructions in the ''Viewing comments and documents'' section of this preamble, and on the Coast Guard Homeport Web site at *http://homeport.uscg.mil.*

Development of Regulations by the Transportation Security Administration

In 2002, the TSA promulgated 49 CFR subchapter C, regarding the security of civil aviation after the September 11, 2001, terrorist attacks. Screening persons and property at airports is an integral element within these aviation security regulations. The TSA screening requirements for persons and property intending to board commercial aircraft include rigorous standards for screening personnel training and qualifications, screening equipment, staffing of screening stations, and screening operations at airports. The TSA enforces a Prohibited Items List and the Permitted Items List nationwide, regardless of the airline used or airport visited within the United States.

To complement 49 CFR subchapter C, the TSA published and updates the Prohibited Items and Permitted Items Lists for air travel. The first version of the lists issued to implement 49 CFR 1540.111 appeared in the **Federal Register** on February 14, 2003 (68 FR 7444). The lists, and several subsequent updates, interpreted the meaning of the terms ''weapons, explosives, and incendiaries'' for purposes of 49 CFR 1540.111(a), and were published under authority in 5 U.S.C. 553(b) as interpretive rules without notice and comment. We drafted this proposed rule after reviewing TSA's aircraft screening requirements.

The Coast Guard's proposed Prohibited Items List is closely aligned with TSA's Prohibited Items List for aviation. The two lists are not exactly the same due to the distinctly different risk profiles of cruise ships and aircraft: (1) Aircraft can be used as a missile. A cruise ship, however, cannot be used as a missile and, at worst, can be grounded. (2) There are inherent limits on vulnerability reduction of prohibiting items that may already be on board the cruise ship (*e.g.,* items such as steak knives or ice axes could be used to create a Transportation Security Incident, but they are readily available to cruise ship passengers for recreational and other purposes and thus it would be ineffective to prohibit them upon boarding).

There are additional differences between cruise ships and aircraft which support the differences between the two Prohibited Items Lists: (1) The increased robustness of cruise ship design to resist an attack as compared to an aircraft and (2) The larger presence of security personnel on board cruise ships trained to combat a potential TSI.

Advisory Committee Participation

In addition to using the current TSA regulations as guidelines when drafting this proposal, we also drew upon the expertise of the National Maritime Security Advisory Committee (NMSAC). This committee is composed of

[1] 46 U.S.C.A. 70101, note, secs. 101(5) and (9).

representatives from a cross-section of maritime industries and port and waterway stakeholders including, but not limited to, shippers, carriers, port authorities, and facility operators. The NMSAC advises, consults with, and makes recommendations to the Secretary of Homeland Security via the Commandant of the Coast Guard on matters affecting maritime security.

We presented the NMSAC with the following questions relating to cruise ship and cruise ship terminal security screening measures, and asked for comments and recommendations. The NMSAC answered with industry-specific comments and recommendations, and addressed other pertinent issues as well, including screener training and reporting unlawful acts at sea. We summarized their comments and provide our responses below. The task statement and the full NMSAC recommendations may be found in the docket for this rulemaking, which can be accessed by following the instructions in the ''Viewing comments and documents'' section of this preamble.

Prohibited Items List

1. Would a national standardized Prohibited Items List be useful?

Comment: NMSAC believes that publishing a list of Federally Prohibited Items will be beneficial to cruise ship operators and will serve to give guidance to passengers and potential passengers as to the items that may not be brought on board a cruise ship, as well as the items that may be brought aboard under controlled circumstances.

Response: We agree that an important use for a Federally Prohibited Items List is to advise passengers of items they cannot bring into a cruise ship terminal or onto a cruise ship.

Comment: NMSAC states that it must also be recognized by the Federal Government and all parties concerned that cruise ships differ from other types of passenger vessels, passenger vessel operations, and other transportation industries, especially air travel. This difference is a result of the size and robust construction of the ship, crewing, and the presence of trained security crew onboard.

Response: We have adopted some screening measures from the airline industry because screening processes and technology have commonalities in both industries. However, the Coast Guard recognizes the difference between cruise ships and other transportation industries. We recognize that other types of passenger vehicles, such as aircraft, are primarily used for transportation from one point to another, and that passengers are usually on board for a relatively short duration. Cruise ships, on the other hand, may carry thousands of passengers for up to several weeks. Additionally, cruise ships have a very different set of vulnerabilities than aircraft due to their heavier nature and significant numbers of trained security personnel, which makes certain items that present a threat to aircraft low or no risk in the context of a cruise ship concerning the potential for a TSI. Therefore, we propose tailoring our screening regulations and establishing a Prohibited Items List for use by the cruise ship industry.

2. What entity is the most appropriate generator of such a list?

Comment: NMSAC believes and recommends that the Coast Guard is the correct agency to lead in the development and publication of this listing; however, TSA should be consulted due to their expertise in screening systems.

Response: We agree with NMSAC that the Coast Guard should develop and maintain a dangerous substances and devices list. We have and will continue to work with TSA throughout this rulemaking and in the future to ensure the list is current and updated to address evolving threats as necessary.

3. What items should be on the list?

Comment: NMSAC recommends that a Federally Prohibited Items List should recognize multiple categories, including—

- Prohibited items;
- Items permitted with special controls; and
- Items permitted for medical use only.

Response: We anticipate publishing a list of dangerous substances and devices for screening persons, baggage, and personal items at cruise ship terminals in the United States and its territories. We would retain the ability to add to or modify the list as needed. However, we recognize the need to distinguish between items prohibited at all times from items that would be permitted under specified conditions onboard a particular vessel and as documented in the Vessel Security Plan, and thus would not propose to include in regulation specific instructions relating to items allowed conditionally. Instead, control of such items that are dangerous in some situations or quantities would be left to the discretion of the cruise ship operators.

Comment: NMSAC states that cruise ship passengers as well as crew have access to their baggage and are regularly involved in activities and events associated with a lengthy vacation or special celebration. In contrast, passengers and crew aboard an aircraft do not have access to checked baggage. Because of the difference in access, some items, such as guns, are permitted to be carried in checked baggage onboard an aircraft, but such items would not be permitted onboard a cruise ship at all.

Response: We agree that a list of items prohibited on a cruise ship may be different from those prohibited on aircraft. The most obvious difference is that there will be no distinction between checked baggage or carry-on items, since passengers and crew will have access to their personal items once they are onboard.

Comment: Some items, such as a steak knife, which would be prohibited onboard a passenger aircraft, are not only available onboard a cruise ship but will also be delivered to a person's room with a meal. Other such items such as aerosols sold in the ships stores, and fire axes as part of the ships safety equipment, are also normally available onboard ship. Other items which are commonly permitted onboard a cruise ship may include: A diver's spear gun or knife; a chef's personal cutlery; SCUBA tanks; firearm replicas and indoor pyrotechnics used for stage productions; compressed gas cylinders for personal use or ship repair; and tools needed for specialized ship repair or maintenance. All these are part of the everyday activities or life on board a ship that may be away from port for days at a time. This listing is certainly not exhaustive. Each of these items is important to the cruise experience and must be permitted onboard with proper controls over access and use.

Response: We agree that it would be unproductive to prohibit an item that can be purchased in a ship store or that is available from room service (*e.g.* a steak knife). However, cruise lines may choose to prohibit passengers from carrying knives or axes onboard without prior approval and under controlled procedures.

We also agree that when determining the items that will and will not be allowed onboard a cruise ship or into a cruise ship terminal, consideration must be given to those items that passengers would reasonably be expected to need in order to enjoy the cruise. Items including, but not limited to, dive knives, spear guns, and SCUBA tanks may fit into this category and, as suggested by NMSAC, may be acceptable if controlled by ship security personnel until the passengers need them.

Comment: Generally NMSAC believes that screening, and any list of prohibited and controlled items, should only apply to personal baggage and carry-on items, not to ship stores. Items that are part of ship stores and for the ship's operations and guest programs should not be considered to be subject to this listing. For example, gasoline may be carried as part of the ship's stores for use in ship carried jet skis.

Response: We agree with NMSAC's recommendations that, for the purposes of this rulemaking, the dangerous substances and devices list should not apply to ship stores. Ship stores are outside the scope of this rulemaking.

Comment: In the event a listed item is discovered on board, NMSAC recommends that the response be measured and based upon the nature of the item discovered and the actual threat that the item presents. Nor should it be considered as a listing of items which would automatically constitute a violation or breach of security if one of the items is discovered onboard.

NMSAC additionally recommends that a clear statement be included to the effect that the response to a non-detectable or controlled item discovered on board should be based upon the nature of the item and the actual threat presented and that discovery of such an item would not necessarily constitute a violation or breach of security.

Response: We agree that the appropriate response to the discovery of a prohibited item onboard should be measured, and based upon the nature of the item and the actual threat it presents. However, a listed prohibited item that has passed through security screening and is discovered onboard would constitute a breach of security as defined in 33 CFR 101.105, since a security measure has been circumvented, eluded, or violated.

Although a breach of security is a violation, the Coast Guard would not necessarily have to take enforcement action. The Coast Guard would examine each event based on the circumstances and details of the breach, the actual threat posed by the item or items, and remedial action taken after the breach is detected. The ultimate goal of the regulation is to provide security to cruise ship passengers, crews, the cruise ship, and the cruise ship terminal.

Screening Equipment

1. What is the possibility of standardizing screening methods, similar to the methods employed by TSA at airports?

Comment: NMSAC notes that the task statement from the Coast Guard states: ''Some cruise ship terminals use metal detectors, x-ray systems, explosive detection systems, and/or canines for screening and that their use and operation is not uniform across the U.S.'' NMSAC questions the Coast Guard's statement that only some cruise ship terminals contain appropriate detection equipment, and that the use of this equipment is not uniform across the United States. The Coast Guard regulatory requirements contained in 33 CFR parts 120 and 128 require both cruise ships and cruise ship passenger terminals to have in place effective security plans for three levels of security, which include requirements for screening of baggage, ship stores, carry-on items, and persons. These regulations and accompanying guidance implemented by approved plans would be expected to provide for this unity of purpose and application of performance standards contained in the regulations.

Response: During visits at several cruise ship terminals, cruise ship embarkation ports, and ports of call, the Coast Guard witnessed various types of screening activities. Most terminals use metal detectors and x-ray systems. Some terminals use canines and other terminals, normally ports of call, screen by hand.

Cruise ships and cruise ship terminals have been subject to 33 CFR parts 120 and 128, and after July 1, 2004, to the International Ship and Port Facility Security Code and 33 CFR subchapter H. To minimize potential risk associated with cruise ships and cruise ship terminals, we propose implementing more detailed regulations. We would retain the spirit of the performance-based standards in 33 CFR subchapter H.

2. Should standards be developed for the screening equipment used at U.S. cruise ship terminals and ports of call?

Comment: In seeking to ensure consistency throughout the United States regarding screening activities at cruise ship terminals, NMSAC notes that flexibility is an absolute necessity in the cruise ship industry. NMSAC agrees with performance standards for training or certification, and for minimum consistency of equipment. However, what equipment is employed and how it fits into an effective system for assuring security should remain flexible.

Response: We agree that flexibility is necessary, and note that consistency of screening equipment would mean consistency in the performance standards of equipment.

Comment: NMSAC recommends that specificity of performance standards or goals could be developed for detection equipment; to specify exactly which equipment should be used would be counterproductive to development of new technology. Standardization of application would also prevent the flexibility to meet varying operational requirements, varying threats that may be encountered by different size ships at different ports. Standardization would also prevent the flexibility to meet varying operational requirements, and varying threats that may be encountered.

Response: We agree. The equipment would need to be adequate to meet specific performance standards. The Coast Guard intends to allow each owner or operator of a cruise ship facility to specify the type of screening equipment used to detect prohibited items.

Comment: NMSAC notes that the Department of Homeland Security (DHS) has established a Transportation Screening Capability Working Group. The focus of the group is to identify screening capabilities and needs. As such, the work of this group appears to be of interest to NMSAC particularly in regard to this current tasking and interface between the Working Group and NMSAC is recommended. At a minimum, DHS representatives should be invited to brief NMSAC with regards to the work, conclusions, and recommendations of the Working Group.

Response: We agree that it may be necessary to invite DHS representatives to discuss current screening initiatives.

Comment: NMSAC recommends that performance standards for detection equipment be developed in conjunction with the above mentioned Working Group, and that a listing of items to be detected by these screening systems be developed.

Response: We will continue to work with TSA and DHS representatives regarding equipment performance standards.

Comment: NMSAC also states that, while an item may be prohibited, this does not mean that technology exists for detecting such items during the screening process. Screening should not be expected for items that cannot be detected. NMSAC notes that a prohibited items listing should not be indiscriminately mistaken to be the exact listing of items that must be detected by current screening technology or screening personnel. They state that it is a well-known and established fact that 100 percent screening does not equate to 100 percent detection and a number of the items potentially listed are not detectable by

current screening technology or processes.

Response: We recognize that requiring screening of all persons, baggage, and personal items does not realistically equate to 100 percent detection of prohibited items. Screening should ensure that there are no dangerous substances or devices present on cruise ships or in terminals. The Coast Guard would place items on a dangerous substances and devices list that we determine to pose a real danger to security. Detection measures should be employed to ensure, to the greatest practicable extent, that such dangers are not present. If a listed item is found onboard, the owners or operators of cruise ships or terminals should examine their screening processes to determine the reason they did not detect the item during the screening process. As part of this examination, owners or operators of cruise ships and terminals should review security measures, such as qualification and training of screening personnel as well as the technology they use. It is not the intent of the proposed rule to expect or demand more than is possible or achievable given available technology. The goal should be continuous process improvement.

Comment: NMSAC is aware that current screening capabilities do not readily detect or identify certain items that may currently be prohibited onboard either an aircraft in carry-on baggage or otherwise or onboard ships. Accordingly, electronic screening should not include items that cannot be detected by current capabilities and other screening should not be required for these items unless the threat of introduction is so high (Maritime Security Level III) that alternate means of screening is necessary.

Response: We agree that the technology required to screen for certain prohibited items, especially nuclear, biological, and chemical agents, either does not exist or may be excessively expensive. We expect screening to be conducted at cruise ships and cruise ship terminals using several methods and technologies already employed for screening at airports, such as metal detectors and x-ray machines. Although a dangerous substances and devices list may include items for which screening technology does not exist, we expect the cruise ships' or terminals' screening personnel to attempt to detect these materials using screening methods other than electronic equipment. For example, during an escalated Maritime Security (MARSEC) Level 2 or 3, we would require alternate means of screening that may include random hand searches or other methods appropriate to the threat. MARSEC Levels advise the maritime community and the public of the level of risk to the maritime elements of the national transportation system. There are only three MARSEC levels. MARSEC Level 1 is the level for which minimum appropriate security measures shall be maintained at all times. Under 33 CFR 101.200(b), unless otherwise directed, each port, vessel, and facility must operate at MARSEC Level 1.

3. What standards should apply if canines were to be used to screen for the presence of explosives at U.S. cruise ship terminals?

Comment: NMSAC recommends that any need for and use of canines for screening should be clearly written into the security plan that is required by 33 CFR part 105. Because each terminal operation, passenger ship, threat information, and security operation is different, a ''one size fits all'' regulation to meet the ''when'' and ''how'' of canine use will not work. Instead, this can be broken into three issues:

a. When should canines be utilized for screening?

b. How should canines be used for screening?

c. What should be the training and certification requirements for the canine and the handler?

With regards to item c. above, NMSAC acknowledges that cruise ship industry canine security representatives have been meeting with USCG and DHS officials to discuss appropriate regulatory requirements for the certification of both dog and handlers. NMSAC does not possess the expertise to overtake these discussions and therefore declines to offer recommendations in this regard. As the end users of canine screening or search capabilities, NMSAC members would be interested in receiving a briefing of this regulatory development project.

Response: We agree, and do not propose mandating the use of canines for normal screening operations. We do recognize the need to address required standards in the event that terminals or cruise ships voluntarily use canines to screen for explosives. The Coast Guard is engaged in separate, ongoing projects to address the use of canines at maritime facilities, including cruise ship and other passenger facilities.

C. Miscellaneous

1. Training of Screening Personnel

Comment: NMSAC believes that the development of national standards for training screening personnel is appropriate. NMSAC recommends that such standards should be developed in cooperation with the maritime industry and appropriate professional stake holders, and should address the basic knowledge, understanding, and proficiency to be demonstrated by candidates to receive certification. Given the difference in cruise ship operations, as well as the cruise ships themselves and the ports they visit, consideration should be given to different levels of certification.

Response: We agree that a need exists for national standards for training screening personnel, and that these standards should be developed in cooperation with the maritime industry and appropriate professional stake holders. The Coast Guard proposes adding a new § 105.535 to set forth training requirements of screeners, who must demonstrate knowledge, understanding, and proficiency in various security related areas as part of their security-related familiarization.

2. Unlawful Acts Reporting Requirement (33 CFR 120.220)

Comment: NMSAC recommends that the consolidation of 33 CFR 120 & 128 into 33 CFR Subchapter H be clarified so that unlawful acts involving felonies or other serious crime are promptly reported to the agency that has the proper jurisdiction for investigation and prosecution. A variety of governmental entities, both foreign and domestic, exercise law enforcement authority over each ship, depending upon where it is located, where it has come from and where it may be going to. Alleged criminal acts involving U.S. citizens are already reported to the appropriate law enforcement agencies.

Response: Existing law enforcement protocols contain standards for the types of crimes that owners or operators of cruise ships must report as well as the form and the timeliness of that reporting. Under those protocols, members of the Cruise Lines International Association (CLIA) are already obligated to report incidents involving serious violations of U.S. law, which include but are not limited to homicide, suspicious death, assault with serious bodily injury, and sexual assaults to the nearest Federal Bureau of Investigation field office as soon as possible. The Coast Guard will consider issuing additional regulations on this subject in a separate rulemaking pursuant to the Cruise Vessel Security and Safety Act of 2010 (CVSSA.), Pub. L. 111–207 (July 27, 2010).

3. Definition of Cruise Ship

Comment: NMSAC stated that they have not defined ''cruise ship''.

Response: We will use the definition for cruise ship currently in 33 CFR 101.105.

V. Discussion of Proposed Rule

In the paragraphs below, we explain the origins and rationale for the proposed changes in this NPRM. We organized the discussion according to the section number in which each change would appear.

§ 101.105 Definitions

The Coast Guard proposes amending § 101.105 by adding new definitions for carry-on item, checked baggage, cruise ship terminal, cruise ship voyage, disembark, embark, explosive detection system (EDS), high seas, port of call, screener, and TSP.

§ 104.295 Additional Requirements—Cruise Ships

Currently, the Coast Guard requires cruise ship owners or operators to ensure that screening is performed for all persons, baggage, and personal effects. This requirement is usually fulfilled in coordination with the U.S. cruise ship terminals, with which the cruise ships interface. We propose to add language in this section requiring cruise ship owners or operators to ensure screening is performed in accordance with proposed subpart E of part 105. Cruise ship owners or operators would continue to ensure that screening is performed, and we anticipate that they would continue to coordinate screening with the cruise ship terminals.

While cruise ship terminals would be required to incorporate the Prohibited Items List into their FSPs, we are not proposing to require cruise ship operators to include the list in their VSPs. We believe that such a proposal would be redundant on two levels. First, passengers and screeners would be aware of the Prohibited Items List because it is already required to be available at all screening locations under 33 CFR 105.515(c). Second, nearly all cruise ships operate under an International Ship Security Certificate (ISSC), which details procedures for screening dangerous substances and devices. Additionally, 33 CFR 104.295(a) would require that when passengers embark at a point that is not at a terminal, cruise ship screeners must meet the training requirements of 33 CFR 105.535, which requires that they are familiar with the contents of the Prohibited Items List. For these reasons, we believe that the additional paperwork burden requiring the incorporation of the Prohibited Items List into the cruise ships' VSP would be unnecessary.

§ 105.225 Facility Record-Keeping Requirements

Within this section, we propose to add language referencing proposed § 105.535 for the safekeeping of screener training records. Currently, the Facility Security Officer (FSO) is responsible for recordkeeping. As proposed, the FSO's recordkeeping responsibilities would be extended to include screener training records. See the discussion of § 105.535 in this preamble for additional information on changes to that section.

§ 105.290 Additional Requirements—Cruise Ship Terminals

We propose to amend § 105.290 by revising paragraph (b) and adding language to paragraph (a) referencing proposed subpart E. The Coast Guard would require owners or operators of cruise ship terminals to conduct screening in accordance with subpart E, and identification requirements would be clarified.

§ 105.405 Format and Content of the Facility Security Plan (FSP)

The Coast Guard proposes amending § 105.405 by adding new paragraph (a)(21). This new paragraph would require that owners or operators of cruise ship terminals ensure that the FSPs include a TSP that is submitted to the Coast Guard for approval. See the discussion of § 105.505 in this preamble for additional information on the TSP. The Coast Guard is also reserving paragraphs (a)(19) and (a)(20) as it is considering proposing additional amendments to § 105.405 in separate rulemakings.

Subpart E—Facility Security: Cruise Ship Terminals

The Coast Guard proposes to add a new subpart to part 105 specifically related to the screening of all persons, baggage, and carry-on items performed at cruise ship terminals. This new subpart would be titled Facility Security: Cruise Ship Terminals. Below, we discuss the proposed sections to be included in this subpart.

§ 105.500 General

This proposed section encompasses the applicability, purpose, and compliance dates for subpart E. First, subpart E would apply to cruise ship terminals only. For this NPRM, we consider any U.S. facility that receives cruise ships as they are defined in 33 CFR 101.105, or tenders from cruise ships, to embark or disembark passengers or crew as being cruise ship terminals. These include facilities where the majority of passengers embark with checked baggage, as well as facilities where passengers may visit for a limited time and then re-board the cruise ship. As described previously in the discussion of proposed changes in § 104.295 of this preamble, the Coast Guard would require cruise ship owners or operators to coordinate screening operations with the terminal owners or operators.

The purpose of subpart E is, as stated above, to ensure security at cruise ship terminals. Specifically, subpart E is included in this proposed rule to give terminal owners or operators more detailed requirements to assist development of their screening regimes. However, based on our analysis of current cruise ship terminal screening procedures, we do not believe that these requirements would necessitate operational changes at any existing cruise ship terminal at this time. Instead, the existence of the regulation would set a screening ''floor,'' as well as provide certainty as to the minimum requirements.

Finally, the Coast Guard proposes to require cruise ship terminal owners or operators to submit their TSPs to the Coast Guard for approval no later than 180 days after publication of the final rule. Subsequently, the terminal owners or operators would have to operate in accordance with their TSPs 1 year after publication of the final rule.

§ 105.505 Terminal Screening Program (TSP)

This section would detail the requirements of the TSP. The Coast Guard would require the TSP to be included as part of the FSP, and to document the screening process for all persons, baggage, and personal items from the time that the person or baggage first enters the cruise ship terminal until the person or baggage arrives aboard a cruise ship moored at the facility.

We acknowledge that FSPs currently approved by the Coast Guard address screening procedures within the section for access control. However, the TSP, as part of the FSP, would provide a more detailed description of the screening process at cruise ship terminals. Also, as part of the FSP, audits and amendments to the TSP would fall under current requirements in § 105.415. A list of specific topics the TSP would address is included in § 105.505(c). These topics include qualifications and training of persons conducting screening, screening methods and equipment used at the terminal, and procedures employed

when a dangerous substance or device is detected during screening operations.

In developing the requirements for TSPs, we drew upon the current requirements for FSPs and the requirements contained in 49 CFR 1544.103 for security programs developed by air carriers and commercial operators that conduct screening at airports. TSA regulations in 49 CFR 1544.103 were useful in the development of this NPRM because those regulations apply to commercial, non-governmental entities conducting screening. Nevertheless, we understand that wholesale adoption of the TSA regulations would not be appropriate for cruise ship terminals because of differences between the operations of the airline and cruise ship industries.

§ 105.510 Responsibilities of the Owner or Operator

The Coast Guard proposes adding a new § 105.510, detailing the cruise ship terminal owners' or operators' responsibilities regarding screening of all persons, baggage, and personal items at the terminal. The requirements in this section are in addition to the responsibilities described in 33 CFR 105.200. This proposed section would ensure that cruise ship terminal owners or operators develop and perform several aspects of the screening process, such as the following—

- Developing and implementing the TSP;
- Documenting screening responsibilities in the Declaration of Security (DoS);
- Enforcing the Prohibited Items List; and
- Establishing procedures for reporting, handling, and controlling prohibited items.[2]

The owner or operator ultimately retains responsibility for the security of the cruise ship terminal. By ensuring that screening is performed according to these proposed regulations, the owner or operator would ensure an essential component of overall security is in place for both the cruise ship and the terminal.

§ 105.515 Prohibited Items List

The Coast Guard proposes to require owners and operators of U.S. cruise ship terminals to utilize a Prohibited Items List when conducting screening of all persons, baggage, and personal effects at the terminal. The Coast Guard would also require cruise ship owners or operators of cruise ship terminals to include a list of dangerous substances and devices in every DoS.

During development of proposed § 105.515, the Coast Guard reviewed the TSA list of prohibited and allowed items for aircraft travel, as discussed in the Background section of this preamble. We also took into account current industry practices, including collaboration between cruise ship and terminal owners or operators to develop the List. Finally, we considered the input received from NMSAC, which is also discussed in the Background section of this preamble.

The Coast Guard recognizes that owners or operators of cruise ships and cruise ship terminals have a vested interest in prohibiting dangerous substances and devices on their property. In order to reduce uncertainty in the cruise line industry and the public about what is prohibited and what is not, and to better implement the screening requirements in 33 CFR 104.295(a) and 105.290(a), the Coast Guard proposes to issue and maintain a list of prohibited items that are always considered to be dangerous substances and devices, as defined in 33 CFR 101.105. The Coast Guard would prohibit these dangerous substances and devices for security reasons. Accordingly, passengers and crew would be prohibited from bringing onboard a cruise ship items on the Prohibited Items List at any time through a cruise ship terminal regulated under 33 CFR part 105. If an item from the Coast Guard's Prohibited Items List is discovered after passing through the screening location at the cruise ship or terminal, the owner or operator would be required to report a breach of security. The Coast Guard also recognizes that some items on the list are necessary to accommodate normal cruise ship operations. For this reason, the prohibited items list would not apply to cargo and vessel stores. We also note that the Prohibited Items List does not necessarily encompass all ''dangerous substances and devices,'' and that cruise ship and terminal operators can prohibit passengers from bringing on board any other items or substances they deem a threat to safety.

Interpretative Rules

Under 5 U.S.C. 553(b)(A), the notice and comment rulemaking requirements of the Administrative Procedure Act (APA) do not apply to interpretative rules. The preamble to this proposed rule contains a proposed version of the Prohibited Items List. Although the Coast Guard does not waive its claim that this list is exempt from APA notice and comment requirements, we are soliciting comments at this time on the content of the proposed list because the Coast Guard is aware of the unique challenges inherent to security screening in the cruise industry context. Whereas airline screening can be conducted with the understanding that airline travel is undertaken for only a relatively short period of time and with a focused mission, cruise travel can be for much longer periods of time and with travelers participating in varying activities. Additionally, there is no distinction in cruise travel between checked baggage or carry-on items, since passengers and crew will have access to their personal items once they are onboard.

Interpretive rules are ''issued by an agency to advise the public of the agency's construction of the statutes and the rules which it administers.'' *Attorney General's Manual on the Administrative Procedure Act* at 30 n.3. In other words, an interpretive rule describes, clarifies, and reminds the public of a statutory standard or pre-existing rule. Courts have upheld a general standard to determine if a rule is interpretative. *American Mining Congress* v. *Mine Safety and Health Admin.,* 995 F.2d 1106 (D.C. Cir. 1993). The Prohibited Items List meets this standard.

To determine if a rule is interpretive, as opposed to legislative, the rule must meet four criteria. *Id.* at 1112. First, in the absence of the interpretive rule there must be adequate legislative or regulatory basis for enforcement action. Second, an interpretative rule must not be published in the Code of Federal Regulations. Third, the agency cannot evoke its general grant of authority when promulgating an interpretative rule. Fourth, the interpretive rule must not effectively amend a prior legislative rule.

The development of the Prohibited Items List meets the four-part *American Mining standard for an interpretive rule.* First, the Coast Guard has existing regulatory authority to require screening for dangerous substances or devices under 33 CFR 104.295 and 105.290, which mandate that the owner or operator of a cruise ship and facility ensure that all passengers and baggage are screened for such material. The existing definition of ''dangerous substances and devices,'' which means ''any material, substance, or item that reasonably has the potential to cause a transportation security incident,'' already provides an adequate basis for enforcement action on its own, without further explication (these regulations were promulgated as a legislative rule under authority of the Ports and

[2] We believe all terminal operators would currently meet the proposed standards.

Waterways Safety Act (PWSA) and the Maritime Transportation Safety Act (MTSA) (see 33 U.S.C. 1221 and 46 U.S.C. 1221)). Second, the final list will not be incorporated into the Code of Federal Regulations. While we are publishing a draft version of the list in the **Federal Register** as part of the preamble to this proposed regulation to allow for comment because of the unique challenges faced when screening cruise line passengers, the list is not part of the proposed regulatory text will not appear in the Code of Federal Regulations upon publication of the Final Rule. Third, the Coast Guard has not invoked its general legislative authority when promulgating the list. The authority for this interpretive rule is the authority for the Coast Guard to interpret its own regulations in 33 CFR 101.105, 104.295, and 105.290. Fourth, the rule does not effectively amend a prior legislative rule. Instead, the prohibited items list is only a partial explication of the phrase ''dangerous substances and devices,'' as defined in 33 CFR 101.105. What the Prohibited Items List adds is a list of substances and items that the Coast Guard believes, under all circumstances, have the potential to cause a TSI. The Prohibited Items List would not be a substitute for the regulatory definition in section 101.105, as other substances and devices could have the potential to cause a TSI under specific circumstances, and would be addressed in the TSPs of the specific vessels or facilities at issue.

Due to rapidly-developing threat analysis and security considerations, the Coast Guard requires the flexibility to revise the Prohibited Items List quickly to protect the public from security threats that can change rapidly. In order to keep the list current without the delays often associated with notice and comment rulemakings, the Coast Guard proposes to publish the list separately as an interpretive rule in the **Federal Register**, and to issue updates in the same manner. In proposing this approach, the Coast Guard took note of TSA's use of interpretive rules to promulgate and update its list of prohibited items (67 FR 8340, February 22, 2002; 68 FR 7444, February 14, 2003; 70 FR 9877, March 1, 2005; 70 FR 51679, August 31, 2005; and, 70 FR 72930, December 8, 2005). Additionally, the Coast Guard would endeavor to obtain NMSAC input and afford ship and facility owners a reasonable amount of advance notice before making an update effective unless an immediate change is necessary for imminent public safety and/or national security reasons. Finally, we reiterate that the Prohibited Items List would only prohibit passengers from carrying items in baggage or on their persons; it does not prohibit these items from being brought onboard by cruise ship operators on their behalf.

The Coast Guard is soliciting public comments on the content of the proposed Prohibited Items List shown below due to the unique challenges inherent to security screening in the cruise industry context. Additionally, we invite public comments on the use of interpretive rules to issue and update the list.

Proposed Prohibited Items List for Cruise Ship Terminals

Passengers and persons other than passengers are prohibited from bringing the following items onboard cruise ships through terminal screening operations regulated under 33 CFR part 105.

Weapons, Including

- Hand Guns (including BB guns, pellet guns, compressed air guns and starter pistols, as well as ammunition and gunpowder)
- Rifles/shotguns (including BB guns, pellet guns, compressed air guns and starter pistols, as well as ammunition and gunpowder)
- Stun guns or other shocking devices (*e.g.* Taser®, cattle prod)
- Realistic replicas and/or parts of guns and firearms

Explosives, Including

- Blasting caps
- Dynamite
- Fireworks or pyrotechnics
- Flares in any form
- Hand grenades
- Plastic explosives
- Explosive devices
- Realistic replicas of explosives

Incendiaries, Including

- Aerosols (including spray paint but excluding items for personal care or toiletries in limited quantities)
- Gasoline or other such fuels or accelerants
- Gas torches
- Lighter fluids (except in liquefied gas (*e.g.* Bic®-type) or absorbed liquid (*e.g.* Zippo®-type) lighters in quantities appropriate for personal use)
- Turpentine
- Paint thinner
- Realistic replicas of incendiaries

Disabling Chemicals and Other Dangerous Items, Including

- Chlorine
- Liquid bleach
- Tear gas and other self defense sprays

The Prohibited Items List does not contain all possible items that may be prohibited from being brought on a cruise ship by passengers. The Coast Guard and the cruise ship terminal reserve the right to confiscate (and destroy) any articles that in our discretion are considered dangerous or pose a risk to the safety and security of the ship, or our guests, and no compensation will be provided.

§ 105.525 Terminal Screening Operations

Section 105.525 would specify how cruise ship terminal owners or operators must screen persons, personal effects, and baggage and where the screening must take place. Additionally, this new section would provide staffing requirements for screening operations. During development of this proposed section, the Coast Guard identified several components of existing screening process requirements that should be preserved throughout all U.S. cruise ship terminals. The proposed regulations are primarily performance-based, but specific procedures must take place to ensure the security of persons, their personal effects, and baggage.

Section 105.525 specifies requirements for screening passengers, persons other than passengers, checked baggage, and unaccompanied baggage. As proposed, the screening of passengers and persons other than passengers (such as crew members, vendors, or contractors) may take place at the same screening location, or at separate screening locations, which is current industry practice. The Coast Guard would require application of the same standards for screening locations, regardless of who is being screened. Adequate staffing, checking personal identification, and re-screening are all addressed in this subparagraph.

If a cruise ship terminal checks baggage, screening or security personnel would be required to control the baggage throughout the screening process. If a terminal accepts unaccompanied baggage, then the cruise ship's Vessel Security Officer would need to provide written consent. Screening or security personnel would then treat the unaccompanied baggage as checked baggage.

The Coast Guard would require terminal owners or operators to document additional screening methods in an approved TSP. Further, the Captain of the Port (COTP) may direct additional screening methods that are appropriate for each terminal.

§ 105.530 Qualifications of Screeners

The Coast Guard proposes adding § 105.530 to address basic qualifications for cruise ship terminal screeners. While the Coast Guard researched TSA's regulations during the development of this section, specifically 49 CFR 1544.405, which describes qualifications for new screeners when commercial carriers and aircraft operators provide screening, we are proposing screening requirements that are less rigorous than those for airline screeners, for the reasons described below.

As mentioned in the discussion of § 105.505 in this preamble, TSA's aviation regulations provide a solid foundation for screening standards, but they are not wholly appropriate for cruise ship terminals. For example, while the Aviation Transportation Security Act (ATSA) requires a high school diploma, MTSA contains no such requirement.

The Coast Guard would require the screener to have, as a prerequisite, a combination of education and experience that the Facility Security Officer deems appropriate for the position. Additionally, the screener must be able to use all the screening equipment and methods appropriate for the position. Taken together with the requirements in 33 CFR 105.210, these qualifications would help to ensure that screeners have the ability to perform their duties.

§ 105.535 Training Requirements of Screeners

Screeners at cruise ship terminals currently receive training in accordance with § 105.210, as well as facility-specific familiarization. The Coast Guard proposes to add requirements for certain topics to be covered during the facility-specific familiarization. This training would ensure that the screeners are instructed in the screening process used at the cruise ship terminal where they would be working. These topics would include—

- Historic and current threats against the cruise ship industry;
- Relevant portions of the approved TSP and FSP;
- The purpose and content of the approved Prohibited Items List;
- Specific instruction on the screening equipment and methods used at the terminal;
- Specific response procedures when a dangerous substance or device is detected at the terminal;
- Additional screening methods performed at increased MARSEC Levels; and
- Any additional topics specified in the terminal's approved TSP.

§ 105.540 Screener Participation in Drills and Exercises

Section 105.220 currently requires security drills and exercises. In proposed § 105.540, the Coast Guard would require screening personnel to participate in drills and exercises performed at the cruise ship terminal. The drills and exercises would be excellent opportunities not only for testing the terminal's FSP, including the TSP, but also would refresh the screeners' training.

§ 105.545 Screening Equipment

This section would address operation and maintenance of x-ray, explosives detection, and metal detection equipment used to screen all persons, baggage, and personal effects at U.S. cruise ship terminals. Again, the Coast Guard researched TSA's standards for screening performed by air carriers and commercial operators in 49 CFR part 1544. Specifically, TSA's regulations address the use of metal detectors, x-ray systems, and explosives detection systems in 49 CFR 1544.209, 1544.211, and 1544.213. Most cruise ship terminals use these systems already. Therefore, we used 49 CFR part 1544 as a guide for the proposed regulation, with the understanding that the maritime environment of a cruise ship terminal is inherently different from the environment of an airport.

The proposed requirements are performance-based. The Coast Guard would not require the use of specific equipment or screening methods. However, if metal detection, explosive detection, or x-ray equipment is used at a cruise ship terminal, then safety and performance standards similar to the standards for equipment at airports would be required. Further, such screening equipment would be documented in the terminal's TSP.

Of particular note is the proposed signage requirement if x-ray equipment is used at the terminal. Similar to airports, people bring film and photographic equipment to cruise ship terminals on a regular basis. Since x-ray systems may have an effect on film and photographic equipment, we propose to add this signage requirement to ensure that persons being screened receive adequate notice.

§ 105.550 Alternative Screening

The Coast Guard proposes to add a section concerning alternative screening methods including procedures for passengers and crew with disabilities or medical conditions precluding certain screening methods. If a cruise ship terminal owner or operator chooses to employ screening methods other than x-ray, metal detection, or explosives detection equipment, then each method must be described in detail within the TSP. The Coast Guard intends this proposed section to allow cruise ship terminal owners or operators flexibility in their screening methods. We believe this would be helpful as new technologies develop. It would allow flexibility at terminals with space constraints, or if terminal owners or operators use a contingency screening method when a piece of equipment fails. Alternative screening methods may take many forms. For example, terminal owners or operators may use canine explosives detection or manually search baggage and personal effects.

33 CFR Parts 120 and 128

In July 2004, when vessels and facilities subject to 33 CFR parts 120 and 128 became subject to 33 CFR parts 101, 103, 104 and 105, the Coast Guard placed specific requirements pertaining to cruise ships and cruise ship terminals in 33 CFR 104.295 and 105.290, respectively. While parts 120 and 128 use slightly different terms than parts 104 and 105, the concept of ensuring that maritime entities have security plans is the same. Therefore, this NPRM proposes removing regulations in parts 120 and 128 that require security officers and security plans similar to those required in parts 104 and 105. Additionally, the procedures in § 120.200 for reporting unlawful acts have been superseded by recent amendments to title 46, United States Code, chapter 35. For these reasons, the Coast Guard proposes to remove all of 33 CFR part 120.

Finally, the Coast Guard also proposes to remove 33 CFR part 128 in its entirety. Not only would the sections requiring security plans and security officers be removed, we would also remove § 128.220, which requires the reporting of unlawful acts. We believe that the removal of this requirement will not diminish security at cruise ship terminals because other laws and regulations sufficiently cover the requirement in § 128.220.

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarized our analysis based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the NPRM has been reviewed by the Office of Management and Budget. A full Regulatory Analysis (RA) is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. A summary of the RA follows:

The following table summarizes the affected population, costs, and benefits of this proposed rule. A summary of costs and benefits by provision are provided later in this section.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS AND BENEFITS

Category	Estimate
Affected population	137 MTSA-regulated facilities; 23 cruise line companies.
Development of TSP	$145,471.
Updating FSP	$9,092.
Total Cost *	$154,563.
Qualitative Benefits	
Terminal Screening Program	Greater clarity and efficiency due to removal of redundancy in regulations. The TSP improves industry accountability and provide for a more systematic approach to monitor facility procedures.
Prohibited Items List	Details those items that are prohibited from all cruise terminals and vessels. Provides a safer environment by prohibiting potentially dangerous items across the entire industry.

* Value is undiscounted. We expect the costs of this rulemaking are borne in the first year of implementation. See discussion below for more details.

As previously discussed, this proposed rule would amend regulations on cruise ship terminal security. The proposed regulations would provide flexible requirements for the screening of persons intending to board a cruise ship, as well as their baggage and personal effects. In this rulemaking, we propose to issue and maintain a minimum requirement of Prohibited Items List of dangerous substances or devices (*i.e.* firearms & ammunition, flammable liquids and explosives, dangerous chemicals etc. . .), which are based on similar items currently prohibited by industry. We anticipate that the prohibited item list described in the preamble would be cost neutral to the industry. However, the Coast Guard is requesting public comment on this issue if anyone believes that this requirement would create a new economic burden to industry.

We also propose to eliminate redundancies in the regulations that govern the security of cruise ship terminals.

The proposed rule would allow owners and operators of cruise ships and cruise ship terminals the flexibility of choosing their own screening methods and equipment and establish security measures tailored to their own operations. This proposed rule would incorporate current industry practices and performance standards.

We found several provisions of the rulemaking to have no additional impact based on information from Coast Guard and industry security experts and site visits to cruise terminals. A summary of key provisions with and without additional costs follow.

Key provisions without additional costs (current industry practice under existing MTSA regulations):

- § 105 Subpart E Screening equipment standards;
  - 33 CFR 105.255 (a) and § 128.200 (a)(1) and § 128 (a)(2) currently require screening for dangerous substances or devices. As such, industry already screens baggage and persons.
- § 105.530 Qualifications of screeners; and,
  - 33 CFR 105.210 details qualifications for facility personnel with security duties, which includes operation of security equipment and systems, and methods of physical screening of persons, personal affects, baggage, cargo and vessel stores.
- § 105.535 Training of screeners.
  - 33 CFR 105.210 details qualifications for facility personnel with security duties, which includes operation of security equipment and systems, and methods of physical screening of persons, personal affects, baggage, cargo and vessel stores.

Records for all training under § 105.210 are required to be kept per § 105.225 (b)(1).

The purpose of including these requirements in the proposed regulatory action is to consolidate requirements for screeners in one place of the CFR and eliminate redundancies in cruise ship security regulations by eliminating the requirements in parts 120 and 128. We do not believe that these new items would add any additional costs, for the reasons described below.

We note that several of the requirements in § 105.535 are already implicitly required by the general security training requirements in § 105.210. Specifically, §§ 105.535(b), (c), and (g), requiring that screening personnel be familiar with specific portions of the TSP, are already encompassed by the general requirement in 105.210(k), which requires security personnel to be familiar with relevant portions of the FSP). Also, § 105.535(f), which requires that screeners be familiar with additional screening requirements at increased MARSEC levels, is implicitly contained in the existing requirement in § 105.210(m).

Other items in § 105.535 are not expected to increase costs because we believe they are already performed by screening personnel. We believe that all

screening personnel are currently trained in the specific screening methods and equipment used at the terminal (item (d)), and the terminal-specific response procedures when a dangerous item is found (item (e)). Furthermore, we believe it is a reasonable assumption that terminal screening personnel are familiar with item (a)—historic and current threats against the cruise ship industry. However, we do request comments on whether cruise ship personnel are familiar with this latter matter, and whether cruise ship operators or terminal operators would incur any additional costs as a result of these proposed requirements.

We estimate the proposed rule would affect 23 cruise line companies. Each cruise line maintains an FSP for each terminal that they utilize. Based on information from the Coast Guard *Marine Information for Safety and Law Enforcement (*MISLE) database, we estimate that the proposed rule would require that FSPs at 137 MTSA-regulated facilities be updated. The proposed rule would require these facilities to add TSP chapters to their existing FSPs. This rule would also require owners and operators of cruise ship terminals to add a Prohibited Items List to current FSPs. The following table provides a breakdown of additional costs by requirement.

TABLE 2—SUMMARY OF FIRST-YEAR COSTS BY REQUIREMENT

Requirement	Costs (undiscounted; rounded)	Description
Terminal Screening Program (TSP)	$145,471	Cost to create and add the TSP chapter to the FSPs.
Update the FSP	9,092	Cost to update the Prohibited Items List in FSPs.
Total	154,563	First-year undiscounted costs.

We estimate the cost of this rule to industry to be about $154,563 in the first year. We expect the total costs of this rulemaking to be borne in the first year of implementation. Under MTSA, FSPs are required to undergo an annual audit, and it is during that audit that any revisions to the Prohibited Items List would be incorporated into the FSP.[3] As such, we do not anticipate any recurring annual cost as a result of this proposal, as the annual cost to update the FSP is not expected to change due to the inclusion of the TSP and Prohibited Items List.

Benefits

The benefits of the rulemaking include codification of guidelines for qualifications for screeners, more transparent and consistent reporting of screening procedures across cruise lines, improved industry accountability regarding security procedures, and greater clarity and efficiency due to the removal of redundant regulations. We do not have data to estimate monetized benefits of this rulemaking. We present qualitative benefits and a break even analysis in the Regulatory Analysis available in the docket to demonstrate that we expect the benefits of the rulemaking to justify its costs.

There are several qualitative benefits that can be attributed to the provisions in this proposal. Table 3 provides a brief summary of benefits of key provisions.

TABLE 3—BENEFITS OF KEY PROVISIONS

Key provision	Benefit
Terminal Screening Program	• Greater clarity and efficiency due to removal of redundancy in regulations. • The TSP improves industry accountability and provide for a more systematic approach to monitor facility procedures.
Prohibited Items List	• Details those items that are prohibited from all cruise terminals and vessels. • Provides a safer environment by prohibiting potentially dangerous items across the entire industry.

Break Even Analysis

It is difficult to quantify the effectiveness of the provisions in this rulemaking and the related monetized benefits from averting or mitigating a TSI. Damages resulting from TSIs are a function of a variety of factors including, but not limited to, target type, terrorist attack mode, the number of fatalities and injuries, economic and environmental impacts, symbolic effects, and national security impacts.

For regulatory analyses, the Coast Guard uses a value of a statistical life (VSL) of $9.1 million. A value of a statistical life of $9.1 million is equivalent to a value of $9.10 as a measure of the public's willingness to pay to reduce the risk of a fatality by one in a million, $0.91 to reduce a one in 10 million risk, and $0.091 to reduce a one in 100 million risk.[4] As 8.9 million passengers embark onto cruise ships in the U.S. each year [5], very small reductions in risk can result in a fairly large aggregate willingness to pay for that risk reduction. A VSL of $9.1 million indicates that 8.9 million cruise ship passengers that embark from the U.S. would collectively be willing to pay approximately $8.1 million to reduce the risk of a fatality by one in 10 million (8.90 million passenger X $0.91). As the 8.9 million passengers estimate only includes the initial embarkation of a cruise and passengers often leave and return to the vessel during a cruise (passing through screening each time), the actual risk reduction to break even per screening may be lower. The annualized costs of the proposed rule are approximately $20,000 at 7 percent; thus, the proposed rule would have to prevent one fatality every 405 years for the rule to reach a break-even point where costs equal benefits ($9.1 million value of a

[3] 33 CFR 105.415 for FSP.

[4] ''Guidance on Treatment of the Economic Value of a Statistical Life in U.S., Department of Transportation Analysis'' see *http://www.dot.gov/regulations/economic-value-used-in-analysis.*

[5] Source: Cruise Lines International Association, Inc. (CLIA), *2009 U.S. Economic Impact Study,* Table ES–2, Number of U.S, Embarkations. *http://www.cruising.org/sites/default/files/pressroom/2009EconomicStudies/EconStudy_Exec_Summary2009.pdf.*

statistical life/$20,000 average annual cost of rule = 405).

The preliminary Regulatory Analysis in the docket provides additional details of the impacts of this rulemaking.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

We expect entities affected by the rule would be classified under the North American Industry Classification System (NAICS) code subsector 483-Water Transportation, which includes the following six-digit NAICS codes for cruise lines: 483112-Deep Sea Passenger transportation and 483114-Coastal and Great Lakes Passenger Transportation.

According to the Small Business Administration's (SBA) Table of Small Business Size Standards [6], a U.S. company with these NAICS codes and employing equal to or fewer than 500 employees is a small business. Additionally, cruise lines may fall under the NAICS code 561510-Travel Agencies, which have a small business size standard of equal to or less than $3,500,000 in annual revenue.

For this proposed rule, we reviewed recent company size and ownership data from the Coast Guard MISLE database, and public business revenue and size data. We found that of the 23 entities that own or operate cruise ship terminals and would be affected by this proposed rulemaking, 11 are foreign entities. The remaining 12 entities exceed the SBA small business standards for small businesses.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people. Based on this analysis, we found that this rulemaking, if promulgated, will not affect a substantial number of small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of U.S. small entities. If you think that a business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies as a small entity and how and to what degree this proposed rule will economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Kevin McDonald at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Under the provisions of the proposed rule, plan holders would submit amended security plans within 180 days of promulgation of the rule and update them annually. This requirement would be added to an existing collection with OMB control number 1625–0077.

Title: Security Plans for Ports, Vessels, Facilities, Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077.

Summary of The Collection of Information: Facilities that receive cruise ships would be required to update Facility Security Plans (FSPs) to contain additional information regarding the screening process at cruise terminals. Also, all cruise ship terminals that currently have a Facility Security Plan (FSP), would need to update said plan to include the list of prohibited items as detailed in this proposed rule.

Need for Information: The information is necessary to show evidence that cruise lines are consistently providing a minimum acceptable screening process when boarding passengers. The information would improve existing and future FSPs for cruise terminals, since they currently do not separate this important information.

Proposed Use of Information: The Coast Guard would use this information to ensure that facilities are taking the proper security precautions when loading cruise ships.

Description of the Respondents: The respondents are FSP holders that receive cruise ships.

Number of Respondents: The adjusted number of respondents is 13,825 for vessels, 3,270 for facilities, and 56 for Outer Continental Shelf (OCS) facilities. Of these 3,270 facilities, 137 that receive cruise ships would be required to modify their existing FSPs to account for the TSP chapter.

Frequency of Response: Cruise lines would only need to write a TSP chapter once before inserting it into the associated FSP. This would be required during the first 6 months after publication of the final rule.

Burden of Response: The estimated burden for cruise lines per TSP chapter would be approximately 16 hours. The estimated burden to update the FSP would be 1 hour.

Estimate of Total Annual Burden: The estimated first-year burden for cruise lines is 16 hours per TSP chapter. Since

[6] Source: *http://www.sba.gov/size.* SBA has established a Table of Small Business Size Standards, which is matched to the North American Industry Classification System (NAICS) industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and Federal contracting programs.

there are currently 137 FSPs, the total burden on facilities would be 2,192 hours (137 TSPs × 16 hours per TSP) in the first year. For the 137 facilities, the total burden would be 137 hours (137 FSPs × 1 hour per VSP). The current burden listed in this collection of information is 1,108,043. The new burden, as a result of this proposed rulemaking, is 1,110,392 (1,108,043 + 2,192 + 137) in the first year only. All subsequent year burdens will be considered part of the annual review process for FSPs.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the OMB for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the proposed collection.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it has implications for federalism. A summary of the impact of federalism in this rule follows.

This NPRM builds on the existing port security requirements found in 33 CFR part 105 by establishing detailed, flexible requirements for the screening of persons, baggage, and personal items intended for boarding a cruise ship. It also establishes terminal screening requirements for owners and operators of cruise ship terminals, some of which are State entities.

As implemented by the Coast Guard, the MTSA-established federal security requirements for regulated maritime facilities, including the terminal facilities serving the cruise ship industry, which are proposed for amendment by this Notice. These regulations were, in many cases, preemptive of State requirements. Where State requirements might conflict with the provisions of a federally approved security plan, they had the effect of impeding important federal purposes, including achieving uniformity. However, the Coast Guard also recognizes that States have an interest in these proposals to the extent they impose requirements on State-operated terminals or individual States may wish to develop stricter regulations for the federally regulated maritime facilities in their ports, so long as necessary security and the above-described principles of federalism are not compromised. Sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard shall provide elected officials of affected state and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process. Therefore, we invite affected state and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to this notice. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document (1) the extent of the Coast Guard's consultation with State and local officials that submit comments to this proposed rule, (2) a summary of the nature of any concerns raised by state or local governments and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

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

H. Civil Justice Reform

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

I. Protection of Children

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

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order. Though it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their

regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not add any voluntary consensus standards. Due to the nature of cruise ship security operations, performance-based standards allow an appropriate degree of flexibility that accommodates and is consistent with different terminal sizes and operations. This proposed rule would standardize screening activities for all persons, baggage, and personal effects at cruise ship terminals to ensure a consistent layer of security at terminals throughout the United States. Additionally, the Coast Guard consulted with the Transportation Security Administration (TSA) during the development of this proposed rule.

We propose to use performance-based requirements in this rule. The Coast Guard reserves the right to require voluntary consensus standards at a later date, via a notice of availability or in conjunction with a subsequent rulemaking published in the **Federal Register**. If you disagree, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, explain why you disagree with our analysis and/or identify voluntary consensus standards that might apply.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule involves requirements for the screening of persons, baggage, and personal items intended for boarding a cruise ship and falls under paragraphs 34(a), regulations which are editorial or procedural; 34(c), regulations concerning the training, qualifying, licensing, and disciplining or maritime personnel; and 34(d), regulations concerning the documentation, admeasurement, inspection, and equipment of vessels, of the Coast Guard's NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1D, and paragraph 6(b) of the *Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions* (67 FR 48243, July 23, 2002). We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 128

Harbors, Reporting and recordkeeping requirements, Security measures, Terrorism.

For the reasons listed in the preamble, the Coast Guard proposes to amend 33 CFR parts 101, 104, 105, 120, and 128 as follows:

PART 101—MARITIME SECURITY: GENERAL

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 101.105 [Amended]

■ 2. In § 101.105—

■ b. Add, in alphabetical order, definitions for the terms ''Carry-on item'', ''Checked baggage'', ''Cruise ship terminal'', ''Cruise ship voyage'', ''Disembark'', ''Embark'', ''Explosive detection system (EDS)'', ''High seas'', ''Port of call'', ''Screener'', and ''Terminal screening program (TSP)'' to read as follows:

§ 101.105 Definitions.

* * * * *

Carry-on item means an individual's accessible property, including any personal effects that the individual intends to carry onto a vessel or facility subject to this subchapter and is therefore subject to screening.

* * * * *

Checked baggage means an individual's personal property tendered by or on behalf of a passenger and accepted by a facility or vessel owner or operator. This baggage is accessible to the individual after boarding the vessel.

* * * * *

Cruise ship terminal means any portion of a facility that receives a cruise ship or its tenders to embark or disembark passengers or crew.

Cruise ship voyage means a cruise ship's entire course of travel, from the first port at which the vessel embarks passengers until its return to that port or another port where the majority of the passengers disembark and terminate their voyage. A cruise ship voyage may include one or more ports of call.

* * * * *

Disembark means any time that the crew or passengers leave the ship.

* * * * *

Embark means any time that crew or passengers board the ship, including re-boarding at ports of call.

* * * * *

Explosives Detection System (EDS) means any system, including canines, automated device, or combination of devices that have the ability to detect explosive material.

* * * * *

High seas means the waters defined in § 2.32(d) of this chapter.

* * * * *

Port of call means a U.S. port where a cruise ship makes a scheduled or unscheduled stop in the course of its voyage and passengers are allowed to embark and disembark the vessel.

* * * * *

Screener means an individual who is trained and authorized to screen or inspect persons, baggage (including carry-on items), personal effects, and vehicles for the presence of dangerous substances and devices, and other items listed in the vessel or facility security plan.

* * * * *

Terminal Screening Program (TSP) means a written program developed for

a cruise ship terminal that documents methods used to screen persons, baggage, and carry-on items for the presence of dangerous substances and devices to ensure compliance with this part.

* * * * *

PART 104—MARITIME SECURITY: VESSELS

■ 3. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 4. In § 104.295, revise paragraph (a)(1) to read as follows:

§ 104.295 Additional requirements—cruise ships.

(a) * * *

(1) Screen all persons, baggage, and personal effects for dangerous substances and devices at the cruise ship terminal or, in the absence of a terminal, immediately prior to embarking a cruise ship, in accordance with the qualification, training, and equipment requirements of §§ 105.530, 105.535, and 105.545 of this chapter.

* * * * *

PART 105—MARITIME SECURITY: FACILITIES

■ 5. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 6. In § 105.225, revise paragraph (b)(1) to read as follows:

§ 105.225 Facility recordkeeping requirements.

* * * * *

(b) * * *

(1) *Training.* For training under §§ 105.210 and 105.535, the date of each session, duration of session, a description of the training, and a list of attendees;

* * * * *

■ 7. In § 105.290, revise paragraphs (a) and (b) to read as follows:

§ 105.290 Additional requirements—cruise ship terminals.

* * * * *

(a) Screen all persons, baggage, and personal effects for dangerous substances and devices in accordance with the requirements in subpart E of this part;

(b) Check the identification of all persons seeking to enter the facility in accordance with §§ 101.514, 101.515, and 105.255 of this subchapter. Persons holding a Transportation Worker Identification Credential (TWIC) must be checked as set forth in this part. For persons not holding a TWIC, this check includes confirming the individual's validity for boarding by examining passenger tickets, boarding passes, government identification or visitor badges, or work orders;

* * * * *

■ 8. In § 105.405, revise paragraph (a)(17) and (a)(18), reserve paragraphs (a)(19) and (a)(20), and add paragraph (a)(21) to read as follows:

§ 105.405 Format and content of the Facility Security Plan (FSP).

(a) * * *

(17) Facility Security Assessment (FSA) report;

(18) Facility Vulnerability and Security Measures Summary (Form CG–6025) in Appendix A to part 105; and,

(19) Reserved

(20) Reserved

(21) If applicable, cruise ship Terminal Screening Program (TSP) in accordance with subpart E of this part.

■ 9. Add new subpart E to part 105 to read as follows:

Subpart E—Facility Security: Cruise Ship Terminals

Sec.

Subpart E—Facility Security: Cruise Ship Terminals

§ 105.500 General.

(a) *Applicability.* The owner or operator of a cruise ship terminal must comply with this subpart when receiving a cruise ship or tenders from cruise ships.

(b) *Purpose.* This subpart establishes cruise ship terminal screening programs within the Facility Security Plans (FSPs) to ensure that prohibited items are not present within the secure areas that have been designated for screened persons, baggage, and personal effects, and are not brought onto cruise ships interfacing with the terminal.

(c) *Compliance dates.* (1) No later than 180 days after the effective date of the final rule, cruise ship terminal owners or operators must submit, for each terminal, a Terminal Screening Program (TSP) that conforms with the requirements in § 105.505 of this subpart to the cognizant COTP for review and approval.

(2) No later than 1 year after the effective date of the final rule, each cruise ship terminal owner or operator must operate in compliance with an approved TSP and this subpart.

§ 105.505 Terminal Screening Program (TSP).

(a) *General requirements.* The owner or operator of a cruise ship terminal must ensure a Terminal Screening Program (TSP) is developed, added to the Facility Security Plan (FSP), and implemented. The TSP must:

(1) Document all procedures that are employed to ensure all persons, baggage, and personal effects are screened at the cruise ship terminal prior to being allowed into a cruise ship terminal's secure areas or onto a cruise ship;

(2) Be written in English; and,

(3) Be approved by the Coast Guard as part of the FSP in accordance with subpart D of this part.

(b) *Availability.* Each cruise ship terminal Facility Security Officer must:

(1) Maintain the TSP in the same or similar location as the FSP as described in § 105.400(d) of this part;

(2) Have an accessible, complete copy of the TSP at the cruise ship terminal;

(3) Have a copy of the TSP available for inspection upon request by the Coast Guard;

(4) Maintain the TSP as sensitive security information (SSI) and protect it in accordance with 49 CFR part 1520; and

(5) Make a copy of the current Prohibited Items List publicly available. The List and copies thereof are not SSI.

(c) *Content.* The TSP must include the following:

(1) A line diagram of the cruise ship terminal including:

(i) The physical boundaries of the terminal;

(ii) The location(s) where all persons intending to board a cruise ship, and all personal effects and baggage are screened; and,

(iii) The point(s) in the terminal beyond which no unscreened person may pass;

(2) The responsibilities of the owner or operator regarding the screening of persons, baggage, and personal effects;

(3) The procedure to obtain and maintain the Prohibited Items List;

(4) The procedures used to comply with the requirements of § 105.530 of this part regarding qualifications of screeners;

(5) The procedures used to comply with the requirements of § 105.535 of this part regarding training of screeners;

(6) The number of screeners needed at each location to ensure adequate screening;

(7) A description of the equipment used to comply with the requirements of § 105.525 of this part regarding the screening of individuals, their personal effects, and baggage, including screening at increased MARSEC Levels, and the procedures for use of that equipment;

(8) The operation, calibration, and maintenance of any and all screening equipment used in accordance with § 105.545 of this part;

(9) The procedures used to comply with the requirements of § 105.550 of this part regarding the use of alternative screening methods and/or equipment, including procedures for passengers and crew with disabilities or medical conditions precluding certain screening methods; and

(10) The procedures used when prohibited items are detected.

(d) As a part of the FSP, the requirements in §§ 105.410 and 105.415 of this part governing submission, approval, amendment, and audit of a TSP apply.

§ 105.510 Screening responsibilities of the owner or operator.

In addition to the requirements of § 105.200 of this part, the owner or operator of a cruise ship terminal must ensure that:

(a) A Terminal Screening Program (TSP) is developed in accordance with this subpart, and submitted to and approved by the cognizant Captain of the Port (COTP), as part of the Facility Security Plan (FSP), in accordance with this part;

(b) Screening is conducted in accordance with this subpart and an approved TSP;

(c) Specific screening responsibilities are documented in a Declaration of Security (DoS) in accordance with §§ 104.255 and 105.245 of this subchapter;

(d) Procedures are established for reporting and handling prohibited items that are detected during the screening process;

(e) All personal screening is conducted in a uniform, courteous, and efficient manner respecting personal rights to the maximum extent practicable; and

(f) When the MARSEC Level is increased, additional screening measures are employed in accordance with an approved TSP.

§ 105.515 Prohibited Items List.

(a) The Coast Guard will issue and maintain a Prohibited Items List consisting of dangerous substances and devices for purposes of §§ 105.290(a) of this chapter. The list specifies those items that the Coast Guard prohibits all persons from bringing onboard any cruise ship through terminal screening operations regulated under 33 CFR part 105.

(b) Procedures for screening persons, baggage and personal effects must include use of the Prohibited Items List which will be provided to screening personnel by the cruise ship terminal owner or operator.

(c) The list must be present at each screening location during screening operations. Additionally, the list must be included as part of the Declaration of Security.

(d) Facility personnel must report the discovery of a prohibited item introduced by violating security measures at a cruise ship terminal as a breach of security in accordance with § 101.305(b) of this subchapter.

§ 105.525 Terminal screening operations.

(a) *Passengers and personal effects.* (1) Each cruise ship terminal must have at least one location to screen passengers and carry-on items prior to allowing such passengers and carry-on items into secure areas of the terminal designated for screened persons and carry-on items.

(2) Screening locations must be adequately staffed and equipped to conduct screening operations in accordance with the approved Terminal Screening Program (TSP).

(3) Facility personnel must check personal identification prior to allowing a person to proceed to a screening location, in accordance with § 105.290(b) of this part, which sets forth additional requirements for cruise ship terminals at all Maritime Security levels.

(4) All screened passengers and their carry-on items must remain in secure areas of the terminal designated for screened persons and personal effects until boarding the cruise ship. Persons who leave a secure area must be re-screened.

(b) *Persons other than passengers.* Crew members, visitors, vendors, and other persons who are not passengers, and their personal effects, must be screened either at screening locations where passengers are screened or at another location that is adequately staffed and equipped in accordance with this subpart and is specifically designated in an approved TSP.

(c) *Checked baggage.* (1) A cruise ship terminal that accepts baggage must have at least one location designated for the screening of checked baggage.

(2) Screening personnel may only accept baggage from a person with—

(i) A valid passenger ticket;

(ii) Joining instructions;

(iii) Work orders; or

(iv) Authorization from the terminal or vessel owner or operator to handle baggage;

(3) Screening personnel may only accept baggage in an area designated in an approved TSP and manned by terminal screening personnel; and,

(4) Screening or security personnel must constantly control the checked baggage, in a secure area, from the time it is accepted at the terminal until it is onboard the cruise ship.

(d) *Unaccompanied baggage.* (1) Facility personnel may accept unaccompanied baggage, as defined in § 101.105 of this subchapter, only if the Vessel Security Officer provides prior written approval for the unaccompanied baggage.

(2) If facility personnel accept unaccompanied baggage at a cruise ship terminal, they must handle such baggage in accordance with paragraph (c) of this section.

§ 105.530 Qualifications of screeners.

In addition to the requirements for facility personnel with security duties contained in § 105.210 of this part, screening personnel at cruise ship terminals must—

(a) Have a combination of education and experience that the Facility Security Officer (FSO) has determined to be sufficient for the individual to perform the duties of the position; and

(b) Be capable of using all screening methods and equipment needed to perform the duties of the position.

§ 105.535 Training requirements of screeners.

In addition to the requirements for facility personnel with security duties in § 105.210 of this part, screening personnel at cruise ship terminals must demonstrate knowledge, understanding, and proficiency in the following areas as part of their security-related familiarization—

(a) Historic and current threats against the cruise ship industry;

(b) Relevant portions of the Terminal Screening Program (TSP) and Facility Security Plan;

(c) The purpose and contents of the cruise ship terminal Prohibited Items List;

(d) Specific instruction on screening methods and equipment used at the cruise ship terminal;

(e) Terminal-specific response procedures when a dangerous substance or device is detected;

(f) Additional screening requirements at increased Maritime Security Levels; and,

(g) Any additional topics specified in the facility's approved TSP.

§ 105.540 Screener participation in drills and exercises.

Screening personnel must participate in drills and exercises required under § 105.220 of this part.

§ 105.545 Screening equipment.

The following screening equipment may be used, provided it is specifically documented in an approved Terminal Screening Program (TSP).

(a) *Metal detection devices.* (1) The owner or operator of a cruise ship terminal may use a metal detection device to screen persons, baggage, and personal effects.

(2) Metal detection devices used at any cruise ship terminal must be operated, calibrated, and maintained in accordance with manufacturer's instructions.

(b) *X-ray systems.* The owner or operator of a cruise ship terminal may use an x-ray system for the screening and inspection of personal effects and baggage if all of the following requirements are satisfied—

(1) The system meets the standards for cabinet x-ray systems used primarily for the inspection of baggage, found in 21 CFR 1020.40;

(2) Familiarization training for screeners, in accordance with § 105.535 of this subpart, includes training in radiation safety and the efficient use of x-ray systems;

(3) The system must meet the imaging requirements found in 49 CFR 1544.211;

(4) The system must be operated, calibrated, and maintained in accordance with manufacturer's instructions;

(5) The x-ray system must fully comply with any defect notice or modification order issued for that system by the Food and Drug Administration (FDA), unless the FDA has advised that a defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person;

(6) The owner or operator must ensure that a sign is posted in a conspicuous place at the screening location where x-ray systems are used to inspect personal effects and where screeners accept baggage. These signs must—

(i) Notify individuals that items are being screened by x-ray and advise them to remove all x-ray, scientific, and high-speed film from their personal effects and baggage before screening;

(ii) Advise individuals that they may request screening of their photographic equipment and film packages be done without exposure to an x-ray system; and

(iii) Advise individuals to remove all photographic film from their personal effects before screening, if the x-ray system exposes any personal effects or baggage to more than one milliroentgen during the screening.

(c) *Explosives detection systems.* The owner or operator of a cruise ship terminal may use an explosives detection system to screen baggage and personal effects for the presence of explosives if it meets the following requirements:

(1) At locations where x-ray technology is used to inspect baggage or personal effects for explosives, the terminal owner or operator must post signs in accordance with paragraph (b)(6) of this section; and,

(2) All explosives detection equipment used at a cruise ship terminal must be operated, calibrated, and maintained in accordance with manufacturer's instructions.

§ 105.550 Alternative screening.

If the owner or operator of a U.S. cruise ship terminal chooses to screen using equipment or methods other than those described in § 105.545 of this subpart, the equipment and methods must be described in detail in an approved Terminal Screening Program.

PART 120—SECURITY OF PASSENGERS [REMOVED AND RESERVED]

■ 10. Under the authority of 33 U.S.C. 1231, remove and reserve part 120.

PART 128—SECURITY OF PASSENGER TERMINALS [REMOVED AND RESERVED]

■ 11. Under the authority of 33 U.S.C. 1231, remove and reserve part 128.

Dated: November 24, 2014.

Paul F. Zukunft,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 2014–28845 Filed 12–9–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0480; FRL–9919–75–Region 9]

Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust and abrasive blasting. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by *January 9, 2015.*

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0480, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be

able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: AVAQMD Rule 403, Fugitive Dust, and SCAQMD Rule 1140, Abrasive Blasting. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: November 3, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–28801 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–1041 and EPA–HQ–OAR–2010–1042; FRL–9920–26–OAR]

RIN 2060–AQ90

NESHAP Risk and Technology Review for the Mineral Wool and Wool Fiberglass Industries; NESHAP for Wool Fiberglass Area Sources; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that the period for providing public comments on the November 13, 2014, supplemental proposed rule titled ''NESHAP Risk and Technology Review for the Mineral Wool and Wool Fiberglass Industries; NESHAP for Wool Fiberglass Area Sources'' is being extended for 30 days.

DATES: *Comments.* The public comment period for the supplemental proposed rule published in the **Federal Register** on November 13, 2014 (79 FR 68012), is being extended for 30 days to January 14, 2015.

ADDRESSES:

Comments. Written comments on the supplemental proposed rule may be submitted to EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the supplemental proposal (79 FR 68012) for the addresses and detailed instructions.

Docket. Publicly available documents relevant to this action are available for public inspection either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The official public docket for these rulemakings are Docket ID Nos. EPA–HQ–OAR–2010–1041 (Mineral Wool Production) and EPA–HQ–OAR–2010–1042 (Wool Fiberglass Manufacturing).

World Wide Web. The EPA Web site for these rulemakings is *http://www.epa.gov/ttn/atw/minwool/minwopg.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Susan Fairchild, Minerals and Manufacturing Group (D243–04), Sector Policies and Programs Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–5167; Fax number (919) 541–5450; Email address: *fairchild.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comment Period

After considering the request received from North American Insulation Manufacturers Association (NAIMA) to extend the public comment period, the EPA has decided to extend the public comment period for an additional 30 days. Therefore, the public comment period will end on January 14, 2015, rather than December 15, 2014. This extension will help ensure that the public has sufficient time to review the proposed rule and the supporting technical documents and data available in the docket.

Dated: December 4, 2014.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–28820 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 380

[Docket No. FMCSA–2007–27748]

Minimum Training Requirements for Entry-Level Driver Commercial Motor Vehicle Operators; Establishment of a Negotiated Rulemaking Committee

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Intent to Establish the Entry-Level Driver Training Advisory Committee (ELDTAC); Solicitation of Applications and Nominations for Membership.

SUMMARY: The FMCSA announces its intent to establish a negotiated rulemaking (''Reg Neg'') committee to negotiate and develop proposed regulations to implement section 32304 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) concerning entry-level driver training (ELDT) for commercial motor vehicles (CMV) operating in interstate or intrastate commerce. The committee will include representatives of organizations or groups with interests that are affected significantly by the subject matter of the proposed regulations. The FMCSA

anticipates that these parties will include driver organizations, CMV training organizations, motor carriers of property and passengers and their associations, State licensing agencies, State enforcement agencies, labor unions, safety advocacy groups, and insurance companies. This notice provides notice to parties who seek to serve on the committee, and seeks comment on the proposal to establish the Committee and on the proposed membership. To the extent possible, the Agency will select from the nominees individual negotiators who reflect the diversity among the organizations or groups represented.

DATES: The deadline for comments and nominations for Committee members must be received on or before January 9, 2015.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2007–27748 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

Submission of Nominations

All nomination materials should be submitted electronically via email to *eldtac@dot.gov.* Any person needing accessibility accommodations should contact Ms. Shannon L. Watson, Senior Policy Advisor, FMCSA, at (202) 366–2551.

FOR FURTHER INFORMATION CONTACT: Shannon L. Watson, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 or by telephone at 202–366–2551.

SUPPLEMENTARY INFORMATION:

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2007–27748), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. 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,* put the docket number, FMCSA–2007–27748, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

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 draft a notice of proposed rulemaking based on your comments and other information and analysis.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2007–27748, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Background

On August 19, 2014, FMCSA announced by notice in the **Federal Register** that it had retained a neutral convener, Mr. Richard Parker, a professor of law at the University of Connecticut School of Law, through a contractor, Strategic Consulting Alliances, LLC to speak with interested parties (from the organizational interests delineated above) about the feasibility of conducting of a Reg Neg on ELDT [79 FR 49044, August 19, 2014; and 79 FR 56547, September 22, 2014]. As part of the first step in this process, Mr. Parker conducted these interviews and is preparing a report to the Agency regarding the feasibility of conducting a negotiated rulemaking. Based on the convener's recommendation and on the statutory factors in the Negotiated Rulemaking Act (5 U.S.C. 563), FMCSA has decided to establish a negotiated rulemaking committee (5 U.S.C. 564). The convening report will be available both in the rulemaking docket at FMCSA–2007–27748 and on the Internet at *eldtac.fmcsa.dot.gov.*

The FMCSA has prepared a draft charter to govern the activities of the Committee in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. In accordance with section 14 of FACA, the draft charter provides up to 2 years for the Committee's duration. However, FMCSA intends to complete the Reg Neg for the proposed rule within the first half of 2015 and publish a Notice of Proposed Rulemaking (NPRM) the same year, followed by a Final Rule in 2016.

On September 19, 2013, FMCSA withdrew its December 26, 2007, NPRM that proposed new ELDT standards for individuals applying for a commercial driver's license (CDL) to operate CMVs in interstate commerce [78 FR 57585, September 19, 2013]. The Agency withdrew the 2007 proposal because commenters to the NPRM, and participants in the Agency's public listening sessions in 2013, raised substantive issues that led the Agency to conclude that it would be inappropriate to move forward with a final rule based on the proposal. In addition, since the NPRM was published, FMCSA received new statutory authority on ELDT from Congress in MAP–21, which added § 32304(c) (codified at 49 U.S.C. 31305 and 31308). Finally, the Agency tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide ideas the Agency should consider in implementing the MAP–21 requirements. In consideration of the above, the Agency concluded that a new

rulemaking should be initiated in lieu of completing the 2007 rulemaking.

FMCSA's Intent

This negotiated rulemaking committee will be engaged in a consensus-based process regarding, but not limited to, the following issues:

(1) Development of minimum training requirements for individuals applying for a CDL for the first time or upgrading from one class of CDL to another class;

(2) Determining the amount of behind-the-wheel training and classroom instruction;

(3) Gathering and provision of data to quantify the costs and safety benefits of training;

(4) Accreditation vs. certification of ELDT programs and schools;

(5) Contents of driver training curricula, including separate course modules for motorcoach and passenger carriers, as well as hazardous materials carriers;

(6) Instructor qualifications and requirements; and

(7) A performance-based approach vs. a minimum hours of training approach, as well as simulation training and special considerations.

The Committee's scope will exclude certain issues that were discussed by the convener with the parties in developing the convener's report. The Agency acknowledges the views and concerns of the participants in the convening process. However, FMCSA believes the scope of the rulemaking should focus on the MAP–21 provisions with a commitment to address other issues if and as appropriate in subsequent rulemaking or other actions. Based on the comments provided in the convening report, FMCSA is aware that interested parties sought clarification regarding the scope and organization of issues within the Reg Neg. Set forth below is the agency's view on these issues:

(1) 10,001–26,000 lbs. vehicles—The inclusion of this category is not a MAP–21 requirement. Attempting to address this issue in the ELDT rulemaking would add significantly to both the rulemaking's cost and complexity. Drivers of these vehicles are not required to have a CDL. At this time, the Agency is not aware of any data to suggest that imposing the CDL requirements on this class of drivers would have quantifiable safety benefits or that imposing rigorous driver training standards on this class of drivers is necessary.

(2) Interstate vs. intrastate drivers—MAP–21 makes it clear that FMCSA must cover both interstate and intrastate drivers. As was presented in the Agency's 2007 NPRM [72 FR 73226], the Agency's previous decision on the scope of the 2007 NPRM is superseded by the explicit language in MAP–21.

(3) Bus Curriculum Committee—Due to costs and logistical challenges, the Agency will not establish a separate plenary committee to address bus issues. As delineated in the charter, the Agency may establish subcommittees to the ELDTAC. FMCSA supports fully establishing a passenger-carrying CMV driver training subcommittee to explore how best to handle the bus/motorcoach/school bus issues.

(4) Post-CDL ''Finishing School'' instruction requirements—As the focus of this Committee is to implement the MAP–21 requirements, the Agency will not explore post-CDL training requirements in this rulemaking, except with regard to CDL upgrades and obtaining passenger and hazardous materials endorsements.

The establishment of the ELDTAC is necessary for the Agency to carry out its mission and is in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations issued in implementation of that Act.

This notice also requests nominations for members of the Committee to ensure a wide range of member candidates and a balanced committee.

Request for Nominations

The Department of Transportation is hereby soliciting nominations for members of the ELDTAC. The FMCSA Administrator will appoint approximately 20 Committee members, including representatives of FMCSA, who will each serve for up to one two-year term. Members will be experts in their respective fields and appointed as Special Government Employees or representatives of entities or interests including but not limited to the following: CMV driver training organizations; industry representatives; representatives of driver training schools; motor carriers (of property and passengers) and associations; State licensing agencies; State enforcement agencies; labor unions; safety advocacy groups; insurance companies; and others selected with a view toward achieving varied perspectives on ELDT. The Committee will seek to balance these interests to the extent practicable.

Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in this notice may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule. FMCSA invites comment and suggestions on whether the following list identifies an accurate and reasonably comprehensive pool of affected interests and stakeholders for purposes of composing a negotiated rulemaking committee:

Federal Motor Carrier Safety Administration (Larry W. Minor, Associate Administrator for Policy);

Advocates for Highway and Auto Safety;

American Association of Motor Vehicle Administrators (AAMVA);

American Bus Association (ABA);

American Federation of Labor and Congress of Industrial Organizations (AFL–CIO);

American Trucking Associations (ATA);

Citizens for Reliable and Safe Highways (CRASH);

Commercial Vehicle Safety Alliance (CVSA);

Commercial Vehicle Training Association (CVTA);

International Brotherhood of Teamsters;

National Association of Publicly Funded Truck Driving Schools (NAPFTDS);

National Association of Small Trucking Companies;

National Association of State Directors of Pupil Transportation Services;

National Private Truck Council;

National School Transportation Association;

Owner-Operator Independent Drivers Association (OOIDA);

Professional Truck Drivers Institute (PTDI);

Truckload Carriers Association;

Truck Safety Coalition;

United Motorcoach Association;

Women in Trucking;

- A large motorcoach operator with a pre-CDL driver training program;
- A large trucking company with a pre-CDL driver training program;
- A State licensing agency;
- A representative of the CMV insurance industry.

The list provided above includes stakeholders that FMCSA has identified tentatively as either being a potential member of the committee or a potential member of a coalition that would in turn nominate a candidate to represent one of the significantly affected interests. The list is not presented as a complete or exclusive list from which committee members will be selected. Nor does inclusion on the list of potential parties mean that a listed party has agreed to participate as a member of

the committee or as a member of a coalition. The list merely indicates parties that FMCSA tentatively has identified as representing significantly affected interests in the proposed rule establishing ELDT requirements. If anyone believes their interests will not be adequately represented by these organizations, they must demonstrate and document that assertion through an application. FMCSA requests comments and suggestions regarding its tentative list of potential members of the Committee.

The Committee is expected to meet from February–June 2015 for approximately 1–2 days every 2–3 weeks, or as necessary. Subcommittees may be formed to address specific ELDT issues. Such subcommittees will report back to the parent ELDTAC and not report any advice or work products directly to the Agency. Some Committee members may be appointed as special Government employees and will be subject to certain ethical restrictions, and such members will be required to submit certain information in connection with the appointment process. The FMCSA's Office of Policy will provide appropriate funding, logistics, administrative, and technical support for the Committee. And FMCSA subject matter experts, attorneys and economists will also provide support to the Committee.

Process and Deadline for Submitting Nominations

Qualified individuals can self-nominate or be nominated by any individual or organization. To be considered for the ELDTAC, nominators should submit the following information:

(1) Name, title, and relevant contact information (including phone and email address) and a description of the interests such a person seeking consideration shall represent;

(2) A letter of support from a company, union, trade association, or non-profit organization on letterhead containing a brief description why the nominee should be considered for membership and is authorized to represent parties related to the interests such person proposes to represent;

(3) A written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration;

(4) Short biography of nominee including professional and academic credentials;

(5) An affirmative statement that the nominee meets all Committee eligibility requirements;

(6) The reasons that the parties identified in the above list of affected interests and stakeholders do not adequately represent the interests of the person submitting the application or nomination.

Please do not send company, trade association, or organization brochures or any other information. Materials submitted should total two pages or less. Should more information be needed, DOT staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources, such as the Internet.

Nominations may be emailed to *eldtac@dot.gov.* Nominations must be received before January 9, 2015. Nominees selected for appointment to the Committee will be notified by letter of appointment by return email.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations to the Administrator take into account the needs of the diverse groups served by DOT, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Issued on: December 4, 2014.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2014–28919 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 79, No. 237
Wednesday, December 10, 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 COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE
[12/3/2014 through 12/4/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Piggy Pillows, LLC	7802 150th Court North, Palm Beach Gardens, FL 33418.	12/2/2014	The firm produces insoles for women's sandals and shoes; primary manufacturing material is urethane foam.
Adaptive Development Corporation	6060 Milo Road, Dayton, OH 45414.	11/24/2014	The firm manufactures tools and components made of steel used in compression ignition internal combustion engines.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 4, 2014.

Michael S. DeVillo,

Eligibility Examiner.

[FR Doc. 2014–28899 Filed 12–9–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Proposed Information Collection; Comment Request; National Minority Enterprise Development (MED) Week Awards Program Requirements

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 9, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Antavia Grimsley, Management Analyst, Minority Business Development Agency, U.S. Department of Commerce, Room 5063, 1401 Constitution Avenue NW., Washington, DC, 20230; telephone (202)482–7458, and email: *agrimsley@mbda.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Minority Business Development Agency (MBDA) is the only federal agency created exclusively to foster the growth and global competitiveness of minority-owned businesses in the United States. For this purpose, a minority owned business must be

owned or controlled by one of the following persons or group of persons: African American, American Indian, Alaska Native, Asian, Hispanic, Native Hawaiian, Pacific Islander, Asian Indian, and Hasidic Jew. MBDA provides management and technical assistance to large, medium, and small minority business enterprises through a network of business centers throughout the United States.

Since 1983, every president has issued a Presidential Proclamation designating one week as National Minority Enterprise Development (MED) Week. MBDA recognizes the role that minority entrepreneurs play in building the Nation's economy by honoring businesses that are making a significant contribution through the creation of jobs, products and services, in addition to supporting their local communities. The MED Week Awards Program is a key element of MED Week and celebrates the outstanding achievements of minority entrepreneurs. MBDA may make awards in the following categories: Minority Construction Firm of the Year, Minority Manufacturer of the Year, Minority Export Firm of the Year, Minority Energy Firm of the Year, Minority Health Products and Services Firm of the Year, Minority Technology Firm of the Year, Minority Marketing and Communication Firm of the Year, Minority Professional Services Firm of the Year and the MBDA Minority Business Enterprise of the Year award. In addition, MBDA may recognize trailblazers and champions through the Access to Capital Award, Advocate of the Year Award, Distinguished Supplier Diversity Award, Ronald H. Brown Leadership Award, and Abe Venable Legacy Award for Lifetime Achievement. All awards will be presented at a ceremony during National MED Week. Nominations for these awards are open to the public. MBDA must collect two types of information: (a) Information identifying the nominee and nominator, and (b) information explaining why the nominee should be given the award. The information will be used to determine those applicants best meeting the preannounced evaluation criterion. Use of a nomination form standardizes and limits the information collected as part of the nomination process. This makes the competition fair and eases the burden on applicants and reviewers. Participation in the MED Week Awards Program competition is voluntary and the awards are strictly honorary.

II. Method of Collection

The form may be submitted electronically or paper format.

III. Data

OMB Control Number: 0640–0025.
Form Number(s): Not applicable.
Type of Review: Regular submission.
Affected Public: Businesses or other for profit organizations, not-for-profit institutions, State, Local, or Tribal government, and Federal government.
Estimated Number of Respondents: 100.
Estimated Time per Response: 2 hours.
Estimated Total Annual Burden Hours: 200.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 4, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–28846 Filed 12–9–14; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Solicitation for Members of the NOAA Science Advisory Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research, Department of Commerce.

ACTION: Notice of solicitation for members of the NOAA Science Advisory Board.

SUMMARY: NOAA is soliciting nominations for members of the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of 15 members reflecting the full breadth of NOAA's areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions.

Points of View: The Board will consist of approximately fifteen members, including a Chair, designated by the Under Secretary in accordance with FACA requirements. Members will be appointed for three-year terms, renewable once, and serve at the discretion of the Under Secretary. If a member resigns before the end of his or her first term, the vacancy appointment shall be for the remainder of the unexpired term, and shall be renewable twice if the unexpired term is less than one year. Members will be appointed as special government employees (SGEs) and will be subject to the ethical standards applicable to SGEs. Members are reimbursed for actual and reasonable travel and per diem expenses incurred in performing such duties but will not be reimbursed for their time. As a Federal Advisory Committee, the Board's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as the interests of geographic regions of the country and the diverse sectors of U.S. society.

The SAB meets in person three times each year, exclusive of teleconferences or subcommittee, task force, and working group meetings. Board members must be willing to serve as liaisons to SAB working groups and/or participate in periodic reviews of the NOAA Cooperative Institutes and overarching reviews of NOAA's research enterprise.

Nominations: Interested persons may nominate themselves or third parties.

Applications: An application is required to be considered for Board membership, regardless of whether a person is nominated by a third party or self-nominated. The application package must include: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; (3) a short description of his/her qualifications relative to the kinds of advice being solicited by NOAA in this Notice; and (4) a current resume (maximum length four [4] pages).

DATES: Nominations should be sent to the web address specified below and must be received by January 9, 2015.

ADDRESSES: Applications should be submitted electronically to *noaa.sab.newmembers@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

SUPPLEMENTARY INFORMATION: Individuals are sought with expertise in meteorology, operational weather and water forecasting, water resources and climate. Individuals with expertise in the physical sciences, social sciences, and communications in these fields will all be given consideration.

Dated: December 5, 2014.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2014–28939 Filed 12–9–14; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2014–0065]

Grant of Interim Extension of the Term of U.S. Patent No. 5,693,323; Recombinant Humanized Monoclonal Antibody (IgG_1, Kappa)-Mepolizumab

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 5,693,323.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755; or by email to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On November 24, 2014, GlaxoSmithKline LLC and SmithKline Beecham Limited timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 5,693,323. The patent claims the human biological product Mepolizumab, a recombinant humanized monoclonal antibody (IgG1, Kappa). The application indicates that a Biologics License Application, BLA 125526, for the human biological product has been filed, and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because it is apparent that the regulatory review period will continue beyond the original expiration date of the patent, December 23, 2014, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 5,693,323 is granted for a period of one year from the original expiration date of the patent.

Dated: December 5, 2014.

Andrew Hirshfeld,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2014–28966 Filed 12–9–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2014–0067]

Grant of Interim Extension of the Term of U.S. Patent No. 5,496,801; Recombinant Human Parathyroid Hormone

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a second one-year interim extension of the term of U.S. Patent No. 5,496,801.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755; or by email to *Mary.Till@uspto.gov*.

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On October 29, 2014, NPS Pharmaceuticals, Inc., timely filed an application under 35 U.S.C. 156(d)(5) for a second interim extension of the term of U.S. Patent No. 5,496,801. The patent claims the human biological product recombinant human parathyroid hormone. The application indicates that Biologics License Application 125511 for the drug product, recombinant human parathyroid hormone, was filed on October 24, 2013, and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the extended expiration date of the patent, December 23, 2014, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 5,496,801 is granted for a period of one year from the extended expiration date of the patent.

Dated: December 5, 2014.

Andrew Hirshfeld,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2014–28951 Filed 12–9–14; 8:45 am]

BILLING CODE 3510–16–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning proposed revision of its Senior Corps Grant Application (424–NSSC) (OMB Control Number 3045–0035). The Grant Application is used by the Foster Grandparent, Senior Companion, and RSVP programs. CNCS proposes the following modifications to increase both the flexibility and the utility of the Senior Corps Grant Application so that it can serve as the source instructional document for data fields required to complete and submit an application for funding. Currently, the Grant Application contains two types of information needed by applicants: Instructional or ''how-to'' information and narrative questions and other content. While the instructions rarely change from year to year, the narrative questions and performance measures content can and do change annually, resulting in an ongoing need for Grant Application revisions for the upcoming year or competition. With this proposed change, CNCS will use the Senior Corps Grant Application exclusively to define data fields and describe how to enter the required data and information in each field. The Grant Application will not contain the content questions. The proposed change will be achieved by: (1) Removing and relocating narrative questions and other content materials from the Grant Application to applicable competitive Notices of Funding Opportunity and/or non-competitive Notices of Invitation to Apply for grant funds; (2) Removing performance measures requirements from the Grant Application and referring applicants to the OMB approved Performance Measures Requirements documents for the Senior Corps programs; and (3) replacing all existing Grant Application instructions with step-by-step eGrants instructions correlated to the Grant Application screens in eGrants.

With these changes, applicants for Senior Corps grants can use a set of interrelated and readily available documents to complete the Grant Application.

The proposed revisions do not change the estimated respondent burden.

The proposed revisions do not change the data fields or data collected with the Senior Corps Grant Application.

Copies of the information collection request can be obtained by contacting the office listed in the addresses section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 9, 2015.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Senior Corps, Attention: Ms. Angela Roberts, Associate Director, 9401; 1201 New York Avenue NW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 606–3475, Attention: Ms. Angela Roberts, Associate Director.

(4) Electronically through *www.regulations.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Angela Roberts by email at *aroberts@cns.gov.*

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including 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).

Background

The Senior Corps Grant Application is completed by applicant organizations interested in sponsoring a Senior Corps program. The grant application is also used by existing grantees to apply for continuation year grants (annual submissions in years two and three of a three year grant). The grant application is completed electronically using the CNCS web-based grants management system, eGrants.

Current Action

CNCS seeks to revise the current application with modifications. The proposed revisions do not change the estimated respondent burden. The information collection will otherwise be used for the same purpose as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on September 30, 2015.

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: National Senior Service Corps Grant Application.

OMB Number: 3045–0035.

Agency Number: SF 424–NSSC.

Affected Public: Current and prospective sponsors of National Senior Service Corps Grants.

Total Respondents: 1,350.

Frequency: Annually, with exceptions.

Average Time per Response: Estimated at 13.2 hours each.

Estimated Total Burden Hours: 17,820 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 4, 2014.

Erwin Tan,

Director, Senior Corps.

[FR Doc. 2014–28900 Filed 12–9–14; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled AmeriCorps Member Exit Questionnaire for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Diana Epstein at 202–606–7564 or email to *depstein@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on September 17, 2014. This comment period ended November 17, 2014. Two public comments were received from this Notice.

One commenter suggested engaging state service commissions in the survey planning process to avoid duplicating efforts to collect member experience data. CNCS engages state service commissions on a regular basis.

The second commenter offered the following suggestions.

Survey Question 3a. Public comment: Recommend spelling out the acronyms PSO and CTI. CNCS response: This change was discussed with our working group and with pilot respondents participating in cognitive interviewing, but was found not to be needed. Respondents to whom the acronyms did not apply simply ignored them.

Survey Questions 5a, 5b, and 5c. Public comment: Is it truly the frequency that you're interested in or whether or not the program provided them with the knowledge, skills and abilities to perform those activities? CNCS response: Though we certainly are interested in whether programs are providing members with the training and opportunities needed to develop these skills, we chose to assess frequency of skill usage

Survey Question 6. Public comment: Item a, when referencing co-worker are you referring to a fellow AmeriCorps member or other employees at the service location? CNCS response: Co-worker could refer to any individual in a service or workplace setting.

Survey Question 7. Public comment: Do you want the respondent to answer this based on their AmeriCorps experience or in general? May want to have a lead-in clause similar to question 8. CNCS response: Answers to this survey should be based on the member's AmeriCorps experience.

Question 11: Public comment. Although the question specifically references discussions with friends and family, a member may believe some of the selections within this question are leading them to answer about potential involvement in prohibited activities.

If trying to assess whether or not AmeriCorps has led them to be more civically engaged in the last 12 months, might want to rephrase the introduction statement/question. CNCS response: We have eliminated all questions referencing potentially prohibited activities.

Question 18. Public comment: Item c, may want to add a few examples or a national nonprofit (*e.g.,* Red Cross, City Year, etc.) or change language to ask about affiliation with the legal applicant as not all program operators are nonprofits. CNCS response: Since we did not uncover confusion in our cognitive interviews or qualitative analysis, we decided not to add examples.

Question 19. Public comment: Is it beneficial to add a selection for VISTA members that elect to receive the cash stipend in lieu of an education award? CNCS response: Based on feedback from our cognitive interviews, this response option has been added.

Public comment: The commenter also wondered if CNCS was interested in knowing about how members' benefits (*e.g.* childcare or healthcare coverage) impacted the service experience or satisfaction. CNCS response: This was not indicated as an area of interest by the working group or other internal stakeholders, so no questions related to benefits will be included in this survey. It is possible that future projects or survey supplements could ask about the impact of member benefits. Public comment: The commenter also suggested that we include a question that could identify the specific states where members served, for use in reporting findings for state offices and commissions. CNCS response: Rather than include another question in the survey, we are exploring mechanisms to connect exit survey data to existing data on member service locations.

Description: CNCS is seeking approval of AmeriCorps Member Exit Questionnaire, CNCS seeks to renew the current information collection. The questionnaire submitted for clearance is a combination of new and existing content from the previously cleared exit questionnaire. The new content reflects changing agency and program priorities. In addition, some approved questions have been edited to make them easier to understand and to provide more useful information for programs. The new

questions include data points on problem-solving and cross-cultural communication skills. The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Performance Measurement in AmeriCorps.

OMB Number: 3045–0094.

Agency Number: None.

Affected Public: AmeriCorps members.

Total Respondents: 80,000.

Frequency: Annual.

Average Time per Response: Averages 15 minutes.

Estimated Total Burden Hours: 20,000.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: December 4, 2014.

Stephen Plank,

Director, Office of Research and Evaluation.

[FR Doc. 2014–28912 Filed 12–9–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2014–0046]

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, A0715 DAJA, entitled ''Army Procurement Fraud Branch Misconduct Files'', in its existing inventory of records systems subject to the Privacy Act of 1974, as amended. This system is used to determine whether criminal, administrative, or civil proceedings should be initiated against the contractor with the government or government procurement officials for criminal or other misconduct, or unsatisfactory performance in connection with procurement activities and to maintain and distribute a list of contractors determined to be ineligible to participate in Government procurement activities.

DATES: Comments will be accepted on or before January 9, 2015. This proposed action will be effective on the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received 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 November 24, 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: December 5, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0715 DAJA

SYSTEM NAME:

Procurement Misconduct Files (July 26, 2001, 66 FR 39027).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Army Procurement Fraud Branch Misconduct Files.''

SYSTEM LOCATION:

Delete entry and replace with ''United States Army Legal Services Agency, Procurement Fraud Branch, 9275 Gunston Road, Building 1450, Fort Belvoir, Virginia 22060–5546.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Individuals or legal entities investigated for alleged procurement misconduct, such as fraudulent activities in securing or performing a government contract, or other conduct indicating a lack of present responsibility within the meaning of the Federal Acquisition Regulations.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Criminal and administrative investigations of fraudulent, criminal, or other misconduct or unsatisfactory performance in connection with government procurement activities; names of individuals; procurement fraud case number; and the list of parties excluded from procurement programs.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 3013, Secretary of the Army; 48 CFR Chapter 2, Defense Federal Acquisition Regulations; Federal Acquisition Regulations 9.406–3; DoD Instruction 7050.05, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities; and Army Regulation 27–40, Chapter 8, Litigation, Remedies in Procurement Fraud and Corruption.''

PURPOSE(S):

Delete entry and replace with ''To determine whether criminal, administrative, or civil proceedings should be initiated against the contractor with the government or government procurement officials for criminal or other misconduct, or

unsatisfactory performance in connection with procurement activities and to maintain and distribute a list of contractors determined to be ineligible to participate in Government procurement activities.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 55a(b)(3) as follows:

Information may be disclosed to the Department of Justice, United States Attorneys, and Federal law enforcement agencies in the course of their official functions.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic storage media and paper records.''

RETRIEVABILITY:

Delete entry and replace with ''By name and procurement fraud case number.''

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in file cabinets accessible only by authorized personnel who are properly instructed in the permissible use of the information in the performance of their duties. 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.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief, Procurement Fraud Branch, United States Army Legal Services Agency, 9275 Gunston Road, Building 1450, Fort Belvoir, Virginia 22060–5546.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address inquiries to the Office of the United States Army Legal Services Agency, Chief Procurement Fraud Branch, 9275 Gunston Road, Building 1450, Fort Belvoir, Virginia 22060–5546.

Individuals should provide their full name, and current address and telephone number for verification purposes, any specific details that will enable locating the record, and signature.

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 inquiries to the Office of the United States Army Legal Services Agency, Chief Procurement Fraud Branch, 9275 Gunston Road, Building 1450, Fort Belvoir, Virginia 22060–5546.

Individuals should provide their full name, and current address and telephone number for verification purposes, any specific details that will enable locating the record, and signature.

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. 2014–28892 Filed 12–9–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of Navy

Notice of Intent To Grant a Partially Exclusive License; Microclimatek, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Microclimatek, Inc. located at 745 East County Down Drive, Chandler, Arizona 85249, a revocable, nonassignable, partially exclusive license throughout the United States (U.S.) in the fields of Semiconductor Clean Room Industry, Mining Industry, High Temperature Manufacturing Industry, Outdoor Sporting Apparel and Outdoor and Indoor Personal Wear for Body Comfort the Government-Owned inventions described in U.S. Patent Number 7,331,183 issued on February 19, 2008 entitled ''Personal Portable Environmental Control System''.

ADDRESSES: Written objections are to be filed with the Naval Air Warfare Center Aircraft Division, Technology Transfer Office, Attention Michelle Miedzinski, Code 5.0H, 22473 Millstone Road, Building 505, Room 117, Patuxent River, Maryland 20670.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, within sixty (60) days of the date of this published notice.

FOR FUTHER INFORMATION CONTACT: Michelle Miedzinski, 301–342–1133, Naval Air Warfare Center Aircraft Division, 22473 Millstone Road, Building 505, Room 117, Patuxent River, Maryland 20670

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: December 2, 2014.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–28950 Filed 12–9–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0158]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Subpart A—General

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

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 February 9, 2015.

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–0158 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 Beth Grebeldinger, 202–377–4018.

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: Student Assistance General Provisions—Subpart A—General.

OMB Control Number: 1845–0107.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households, Private Sector, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 2,645,033.

Total Estimated Number of Annual Burden Hours: 448,252.

Abstract: The final regulations require an institution to report for each student who, during an award year, began attending or completed a program that leads to gainful employment in a recognized occupation the following information; information to identify the student and the location of the institution the student attended, the Classification of Instructional Program (CIP) code for each occupational training program that each student either began or completed, the completion date, the amount of private education loans and institutional financing incurred by each graduate, and whether a student matriculated into a higher credentialed program of study at the same or another institution. In addition, the final regulations will require the following disclosures to prospective students: the name and Standard Occupational Classification (SOC) code for of each occupational training program and links to the Department of Labor's O-*Net site to obtain occupation profile data using a SOC code, or a representative sample of SOC codes for graduates of its program; information about on-time graduation rates for students completing the program; the total amount of tuition and fees charged for completing the program within the normal time it takes to complete the course requirements as published in the institution's catalog, along with the typical costs for books and supplies, and the cost of room and board, if applicable, including providing a Web link or access to the program cost information the institution makes available to all enrolled and prospective students under section 668.43(a). Beginning July 1, 2011, the placement rate information as determined under the institution's accrediting agency or State requirements, or the placement rate that will be determined in the future by the National Center for Education Statistics (NCES) and reported to the institution. In addition, the institution must disclose the median loan debt incurred by students who completed the program as provided by the Secretary, as well as any other information about the program provided by the Secretary. The institution must identify separately the median title IV, Higher Education Act (HEA) loan debt and the median loan debt from the private education loan debt and institutional financing plans. For each program, the institution must include the accreditation and licensing information provided to all currently enrolled as well as prospective students as posted on the institution's Web site.

Dated: December 5, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–28942 Filed 12–9–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will enable DOE to administer the voluntary Superior Energy Performance™ (SEP) certification program for industrial facilities. This request for information consists of a voluntary data collection process for SEP participation: To enroll industrial facilities, manage and track certification cycles, and relay the costs and benefits of SEP certification to industry. DOE will use this information collection to recognize SEP-certified facilities for their accomplishments. In addition, DOE will use this information

to evaluate the costs and benefits of SEP certification, which is consistent with the Executive Order—Accelerating Investment in Industrial Energy Efficiency (August 2012). This information will also help DOE identify strategies to reduce the cost of SEP participation.

DATES: Comments regarding this collection must be received on or before January 9, 2015. 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 Paul Scheihing, EE–5A/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, by fax at 202–586–9234, or by email at *paul.scheihing@ee.doe.gov*.

FOR FURTHER INFORMATION: Paul Scheihing, EE–5A/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, by fax at 202–586–9234, or by email at *paul.scheihing@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. {''New''}; (2) Information Collection Request Title: Superior Energy Performance™ Certification Program; (3) Type of Request: New collection; (4) Purpose: This request for information consists of a voluntary data collection process for SEP participation: to enroll industrial facilities, manage and track certification cycles, and relay the costs and benefits of SEP certification to industry. Typical respondents are expected to be energy managers that have experience with compiling energy use data, and the corresponding data burden is not expected to be substantial.; (5) Annual Estimated Number of Respondents: 575; (6) Annual Estimated Number of Total Responses: 475; (7) Annual Estimated Number of Burden Hours: 650; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $31,295 .

Statutory Authority: President's Executive Order—Accelerating Investment in Industrial Energy Efficiency (August 2012)

Issued in Washington, DC on December 4, 2014.

Paul Scheihing,

Technology Manager, Advanced Manufacturing Office.

[FR Doc. 2014–28917 Filed 12–9–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 14–179–LNG]

Pieridae Energy (USA) Ltd.; Application for Long-Term Authorization To Export Domestically Produced Natural Gas Through Canada to Non-Free Trade Agreement Countries After Liquefaction to Liquefied Natural Gas for a 20-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on October 24, 2014, by Pieridae Energy (USA) Ltd. (Pieridae US)[1] requesting long-term, multi-contract authorization to export domestically produced natural gas in a volume up to 292 billion cubic feet per year (Bcf/yr), or approximately 0.8 Bcf per day (Bcf/d). Pieridae US proposes to export domestically produced natural gas as follows: (i) To export the natural gas to Canada at the United States-Canada border near Baileyville, Maine, at the juncture of the Maritimes & Northeast (M&N) U.S. Pipeline and the M&N Canada Pipeline; [2] (ii) to use a portion of the U.S.-sourced natural gas as feedstock in a Canadian natural gas liquefaction facility called the Goldboro LNG Project, to be developed by one or more Pieridae affiliates and to be located at the Goldboro Industrial Park in Guysborough County, Nova Scotia, Canada; and (iii) to export a portion of the U.S.-sourced natural gas in the form of liquefied natural gas (LNG) by vessel from Canada to one or more countries with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy (non-FTA countries). Only Pieridae US's proposed export of LNG produced from U.S.-sourced natural gas to non-FTA countries is subject to this Notice. Pieridae US states that it is not proposing to construct, expand, or modify any pipeline facilities in the United States in conjunction with its proposed export of natural gas. Pieridae US requests this non-FTA export authorization for a 20-year term to commence on the earlier of the date of first export or seven years from the date the authorization is granted. Pieridae US requests this authorization on its own behalf.[3] The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in Pieridae US's Application, posted on the DOE/FE Web site at: *http://energy.gov/sites/prod/files/2014/10/f18/14_179_lng.pdf.*

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, February 9, 2015.

ADDRESSES:

Electronic Filing by email: *fergas@hq.doe.gov.*

Regular Mail: U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (*e.g.,* FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Benjamin Nussdorf, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7893.

[1] Pieridae US, a corporation formed under the laws of Canada, states that it is filing the Application in its capacity as the sole general partner of Goldboro LNG Limited Partnership II. Both have their principal place of business in Halifax, Nova Scotia, Canada.

[2] In the Application, Pieridae US also requests authorization to export LNG to any nation that currently has, or in the future may enter into, a FTA requiring national treatment for trade in natural gas (FTA countries). DOE/FE will review Pieridae US's request for a FTA export authorization separately pursuant to NGA § 3(c), 15 U.S.C. 717b(c).

[3] The cover letter to the Application indicates Pieridae US's interest in exporting the proposed volume of LNG on its own behalf and on behalf of other entities. The Application, however, indicates (at 12–13) that the natural gas to be exported will be owned by Pieridae US. Accordingly, the Application has been construed as a request for Pieridae US to export LNG solely on its own behalf, not as agent for other entities.

Edward Myers or Cassandra Bernstein, U.S. Department of Energy Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–3397; (202) 586–9793.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Additionally, DOE will consider the following environmental documents:

• *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48,132 (Aug. 15, 2014);[4] and

• *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32,260 (June 4, 2014).[5]

Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

[4] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[5] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested parties will be provided 60 days from the date of publication of this Notice in which to submit their comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 14–179–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 14–179–LNG.

Please Note: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on December 4, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–28914 Filed 12–9–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM14–22–000]

Proposed Agency Information Collection

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collections in Docket No. RM14–22–000 to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should file a copy of those comments to the Commission as explained below.

The Commission solicited comments on the information collections associated with RM14–22–000 in Order No. 800 published in the **Federal Register** (79 FR 59105, October 1, 2014). The Commission received no comments on the information collections and is making this notation in its submission to OMB.

DATES: Comments on the information collections are due by January 9, 2015.

ADDRESSES: Comments filed with OMB, identified by FERC–505 and FERC–512, should be sent by email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov,* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached by telephone at (202) 395–4718.

A copy of the comments should also be filed with the Commission, identified by the Docket No. RM14–22–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions to the Commission must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 (TTY).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, or by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The information collections in Docket No. RM14–22–000 relate to Commission-approved revisions to conform the Commission's regulations on preliminary permits and exemptions to the Hydropower Regulatory Efficiency Act of 2013 (Hydropower Efficiency Act).[1] The information collection requirements for preliminary permits and exemptions are contained in: FERC–505 (Small Hydropower Projects and Conduits Facilities including License/Relicense, Exemption, and Qualifying Conduit Facility Determination, OMB Control Number 1902–0115) and FERC–512 (Preliminary Permit, OMB Control Number 1902–0073).

The Hydropower Efficiency Act amended statutory provisions pertaining to preliminary permits and to projects that are exempt from certain licensing requirements under the Federal Power Act (FPA)[2] in order to reduce cost and regulatory burden, and in turn, promote hydropower development. Specifically, the Hydropower Efficiency Act gave the Commission authority to extend a preliminary permit once for not more than two additional years without requiring the permittee to apply for a successive preliminary permit. The Hydropower Efficiency Act also expanded the number of projects that may qualify for exemptions from certain licensing requirements under the FPA (*i.e.,* small conduit exemptions or small hydroelectric power projects), and allowed other projects to qualify to operate without Commission oversight (*i.e.,* qualifying conduit hydropower facilities).

The Commission approved the revised regulations in Order No. 800. While the revised regulations formally implement the Hydropower Efficiency Act, the Commission has complied with the Act since its enactment. Moreover, in Order No. 800, the Commission found that the revised regulations will reduce the current burden for affected entities.[3]

Burden Statement:[4]

The Commission estimates the average annual reporting burden and cost as follows:

ANNUAL CHANGES IMPLEMENTED BY THE FINAL RULE IN RM14–22[5]

Type of respondents	Number of respondents	Annual number of responses[6] per respondent	Total number of responses	Average burden and cost per response	Total annual burden hours and total annual cost	Cost per respondent
	(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(e)/(a)
FERC–505, Small Hydropower Projects and Conduit Facilities Including License/Relicense, Exemption, and Qualifying Conduit Facility Determination						
Small conduit exemption applications (40 MW or less, which can now be on fed. lands)[7]	[8]2	1	2	*46 $3,243	*92 $6,486	$3,243
Small conduit exemption holder—notice to fed. agencies of petition to surrender and steps to be taken to restore lands	1	[9]0.1	0.1	*46 $3,243	*4.6 $324	$324

[1] Public Law 113–23 (2013).

[2] 16 U.S.C. 798 (2012), *amended by,* Hydropower Regulatory Efficiency Act of 2013, Public Law 113–23, 5, 127 Stat. 493 (2013).

[3] *Revisions and Technical Corrections to Conform the Commission's Regulations to the Hydropower Regulatory Efficiency Act of 2013,* Order No. 800, 79 FR 59105 (Oct. 1, 2014), 148 FERC ¶ 61,197, at P 13 (2014).

[4] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 CFR 1320.3.

[5] The estimated average hourly cost (salary plus benefits) is $70.50.

[6] The Commission considers an application to be a ''response.''

[7] The estimates provided for small conduit exemption applications are for all conduit exemption applications, including applications for non-municipal conduit exemptions that have an installed capacity of greater than 15 MW and up to 40 MW, and for any conduit exemption located on federal land.

[8] In the Commission's first solicitation of comments on the information collections in Order No. 800, Commission staff estimated that the Commission would receive five conduit exemption applications per year. Since the Hydropower Efficiency Act's enactment in August 2013, the Commission has received only three conduit exemption applications. Therefore, Commission staff reduces its estimate of anticipated conduit exemption applications to two applications per year.

[9] Given that Commission staff estimates two conduit exemption applications per year, Commission staff anticipates surrenders of conduit exemptions on federal lands to be rare. Hence, Commission staff estimates one surrender of a conduit exemption on federal lands to be filed every ten years (equaling on average 0.1 applications per year). The one surrender would trigger agency notification, which is estimated to take 46 hours. The burden and cost are being averaged over that ten-year period (equaling on average 4.6 hours per year).

ANNUAL CHANGES IMPLEMENTED BY THE FINAL RULE IN RM14–22 [5]—Continued

Type of respondents	Number of respondents (a)	Annual number of responses [6] per respondent (b)	Total number of responses (a) × (b) = (c)	Average burden and cost per response (d)	Total annual burden hours and total annual cost (c) × (d) = (e)	Cost per respondent (e)/(a)
Small hydroelectric power project exemption applications (greater than 5 MW and up to 10 MW)	[10] 2	1	2	*46 $3,243	*92 $6,486	$3,243
Qualifying conduit hydropower facility—notices of intent [11]	[12] 8	1	8	*46 $3,243	*368 $25,944	$3,243
FERC–512, Preliminary Permit						
Request for extension to 5 years	[13] 80	1	80	*4 $282	*320 $22,560	$282

*Hours.

Comments: Comments are invited on: (1) Whether the information collections are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the information collections, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collections; and (4) ways to minimize the burden of the information collections on those who are to respond, including the use of automated collection techniques or other forms of information technology.

[10] The Commission received six license applications between 2010 and 2013 that proposed projects with installed capacity greater than 5 MW, which could now qualify for a small hydroelectric power project exemption. Therefore, Commission staff estimates that on average the Commission receives two applications per year.

[11] A notice of intent is a request that the Commission determine a project is a qualifying conduit hydropower facility.

[12] While the Commission initially received a rash of notices of intent to construct qualifying conduit hydropower facilities, Commission staff expects notices of intent to taper off. Over 60 percent of the 36 notices of intent the Commission received since the Hydropower Efficiency Act's enactment were filed within the first six months of the program. In the last three months, the Commission received three notices of intent; one of which the applicant refiled after Commission staff rejected the applicant's first notice of intent. Therefore, Commission staff estimates that it will receive eight notices of intent per year.

[13] Based on the number of preliminary permits issued in the past three years, Commission staff estimates that an annual average of 80 permits will be eligible to request an extension.

Dated: December 5, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28949 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2742–000; ER14–2743–000; ER14–2744–000.

Applicants: Central Maine Power Company.

Description: eTariff filing per 35.19a(b): Refund Report to be effective N/A.

Filed Date: 12/2/14.

Accession Number: 20141202–5152.

Comments Due: 5 p.m. ET 12/23/14.

Docket Numbers: ER14–2824–001.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing per 35: 2014–12–03 Pro Forma_APSA_ Compliance to be effective 11/10/2014.

Filed Date: 12/3/14.

Accession Number: 20141203–5105.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER15–559–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Transmission Access Charge Balancing Account Adjustment (TACBAA) 2015 to be effective 3/1/2015.

Filed Date: 12/3/14.

Accession Number: 20141203–5009.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER15–560–000.

Applicants: Duke Energy Florida, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amendment of FMPA NITSA SA No. 148 to be effective 1/1/2015.

Filed Date: 12/3/14.

Accession Number: 20141203–5049.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER15–561–000.

Applicants: Southwestern Public Service Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 12–3–14_RS114–117,137-Ministerial to be effective 1/1/2014.

Filed Date: 12/3/14.

Accession Number: 20141203–5058.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER15–562–000.

Applicants: Southwestern Public Service Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 12–3–14_RS135-Ministerial to be effective 1/1/2014.

Filed Date: 12/3/14.

Accession Number: 20141203–5059.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER15–563–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): NYISO 205 filing re: blackstart and system restoration service to be effective 2/1/2015.

Filed Date: 12/3/14.

Accession Number: 20141203–5121.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER15–564–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3185; Queue No. W4–046 to be effective 11/10/2014.

Filed Date: 12/3/14.
Accession Number: 20141203–5135.
Comments Due: 5 p.m. ET 12/24/14.
Docket Numbers: ER15–565–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Systems, Incorporated.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–03_SA 2715 ATC–OREA FCA to be effective 1/18/2015.
Filed Date: 12/3/14.
Accession Number: 20141203–5139.
Comments Due: 5 p.m. ET 12/24/14.
Docket Numbers: ER15–566–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Systems, Incorporated.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–03_SA 2716 ATC-Ontonagon County D–TIA to be effective 9/1/2015.
Filed Date: 12/3/14.
Accession Number: 20141203–5143.
Comments Due: 5 p.m. ET 12/24/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 3, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28863 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–21–000.
Applicants: Sierra Solar Greenworks, LLC.
Description: Notice of Self-Certification of EWG Status of Sierra Solar Greenworks, LLC.
Filed Date: 12/4/14.
Accession Number: 20141204–5036.
Comments Due: 5 p.m. ET 12/26/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1215–002.
Applicants: Duke Energy Carolinas, LLC.
Description: Tariff Amendment per 35.17(b): Amend and Withdraw Filing re SCPSA and CECI to be effective 1/1/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5038.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–522–000; ER13–630–000; ER10–2437–000; EL14–98–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company Response to Show Cause Order and Supplemental Work Papers in Support of the Triennial Market Power Update.
Filed Date: 12/2/14.
Accession Number: 20141202–5116.
Comments Due: 5 p.m. ET 12/23/14.
Docket Numbers: ER15–571–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2066R3 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5059.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–572–000.
Applicants: Consolidated Edison Company of New York,, Rochester Gas and Electric Corporation, New York State Electric & Gas Corporation, Central Hudson Gas & Electric Corporation, Winston & Strawn LLP, New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): NY Transco Rate Schedule to be effective 4/3/2015.
Filed Date: 12/4/14.
Accession Number: 20141204–5075.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–573–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): SGIAs and Distribution Service Agmts for SR Solis Projects to be effective 12/5/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5081.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–574–000.
Applicants: Rising Tree Wind Farm LLC.
Description: Initial rate filing per 35.12 Shared Facilities Agmnt to be effective 12/5/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5091.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–575–000.
Applicants: Rising Tree Wind Farm II LLC.
Description: Initial rate filing per 35.12 Shared Facilities Agreement to be effective 12/5/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5092.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–576–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2166R3 Westar Energy, Inc. NITSA NOA to be effective 8/1/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5093.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–577–000.
Applicants: Rising Tree Wind Farm III LLC.
Description: Initial rate filing per 35.12 Shared Facilities Agreement to be effective 12/5/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5094.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–578–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to the OA re Prohibited Securities and Financial Interests to be effective 2/16/2015.
Filed Date: 12/4/14.
Accession Number: 20141204–5095.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–579–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2491R2 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5101.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–580–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–04_SA 2718 Duke Energy-Duke Energy GIA (J333/J334) to be effective 12/5/2014.
Filed Date: 12/4/14.
Accession Number: 20141204–5128.
Comments Due: 5 p.m. ET 12/26/14.
Docket Numbers: ER15–581–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–04_SA 2467 2nd Rev. MDU–MDU GIA (J200) to be effective 12/5/2014.

Filed Date: 12/4/14.

Accession Number: 20141204–5130.

Comments Due: 5 p.m. ET 12/26/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28946 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–41–000.

Applicants: PacifiCorp.

Description: Application for Approval of Acquisition of Jurisdictional Assets Under Section 203 of PacifiCorp.

Filed Date: 11/28/14.

Accession Number: 20141128–5077.

Comments Due: 5 p.m. ET 12/19/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–514–000.

Applicants: Jersey Central Power & Light Co.

Description: Notice of Cancellation of Service Agreement of Jersey Central Power & Light Company.

Filed Date: 11/26/14.

Accession Number: 20141126–5308.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–515–000.

Applicants: Great Bay Energy VII, LLC.

Description: Initial rate filing per 35.12 Baseline new to be effective 12/1/2014.

Filed Date: 11/28/14.

Accession Number: 20141128–5069.

Comments Due: 5 p.m. ET 12/19/14.

Docket Numbers: ER15–516–000.

Applicants: FirstEnergy Service Company.

Description: Request for Waiver of FirstEnergy Service Company.

Filed Date: 11/26/14.

Accession Number: 20141126–5326.

Comments Due: 5 p.m. ET 12/17/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 28, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28861 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–237–000.

Applicants: MarkWest Pioneer, L.L.C.

Description: § 4(d) rate filing per 154.403(d)(2): MarkWest Pioneer Quarterly FRP Filing to be effective 1/1/2015.

Filed Date: 12/2/14.

Accession Number: 20141202–5054.

Comments Due: 5 p.m. ET 12/15/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1275–001.

Applicants: Mojave Pipeline Company, L.L.C.

Description: Compliance filing per 154.203: Tariff Compliance Filing to be effective 1/1/2015.

Filed Date: 12/2/14.

Accession Number: 20141202–5082.

Comments Due: 5 p.m. ET 12/15/14.

Docket Numbers: RP15–173–001.

Applicants: Empire Pipeline, Inc.

Description: Tariff Amendment per 154.205(b): Correction to Effective Date in RP15–173 to be effective 12/14/2014.

Filed Date: 12/2/14.

Accession Number: 20141202–5145.

Comments Due: 5 p.m. ET 12/15/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 3, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28864 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–37–000.

Applicants: Wildcat Wind Farm I, LLC, Enbridge, Inc.

Description: Application For Authorization Under Section 203 of the Federal Power Act, Requests For

Waivers of Filing Requirements, Expedited Review And Confidential Treatment of Wildcat Wind Farm I, LLC and Enbridge, Inc.

Filed Date: 11/26/14.

Accession Number: 20141126–5314.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: EC15–39–000.

Applicants: Palo Duro Wind Energy, LLC, Palo Duro Wind Interconnection Services.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Palo Duro Wind Energy, LLC, et al.

Filed Date: 11/26/14.

Accession Number: 20141126–5318.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: EC15–40–000.

Applicants: Lakeside Energy LLC, Lakeside Generation LLC, Lakeside New York LLC, Lakeside Hazleton LLC, Lakeside Beaver Falls LLC, Lakeside Syracuse LLC, Hazleton Generation LLC, NEP Holdco 1, L.L.C.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act and Requests for Waiver of Filing Requirements, Expedited Consideration and Confidential Treatment of Lakeside Energy LLC, et al.

Filed Date: 11/26/14.

Accession Number: 20141126–5323.

Comments Due: 5 p.m. ET 12/17/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–77–006.

Applicants: Tucson Electric Power Company.

Description: Compliance filing per 35: Errata Amendment to OATT Order No. 1000 Compliance Filing (November 2014) to be effective 1/1/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5260.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER13–78–006.

Applicants: UNS Electric, Inc.

Description: Compliance filing per 35: Errata Amendment to OATT Order No. 1000 Compliance Filing (November 2014) to be effective 1/1/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5261.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–190–001.

Applicants: Duke Energy Renewable Services, LLC.

Description: Supplement to November 21, 2014 Duke Energy Renewable Services, LLC tariff filing.

Filed Date: 11/26/14.

Accession Number: 20141126–5322.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–509–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Order No. 1000 Revisions in Attachment Y to be effective 1/15/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5257.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–510–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Western IA November 2014 Biannual Filing to be effective 2/1/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5258.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–511–000.

Applicants: NorthWestern Corporation.

Description: Compliance filing per 35: Request for Waiver of v003 NAESB Standards & Order 676–H Compliance Filing (SD) to be effective 2/2/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5259.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–512–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Western WDT November 2014 Biannual Filing to be effective 2/1/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5262.

Comments Due: 5 p.m. ET 12/17/14.

Docket Numbers: ER15–513–000.

Applicants: New England Power Pool Participants Committee.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): December 2014 Membership Filing to be effective 11/1/2014.

Filed Date: 11/28/14.

Accession Number: 20141128–5002.

Comments Due: 5 p.m. ET 12/19/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 28, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28860 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–202–000.

Applicants: WestGas InterState, Inc.

Description: Compliance filing per 154.203: 20141125_WGI Compliance_ Order To Show Cause to be effective 10/16/2014.

Filed Date: 11/25/14.

Accession Number: 20141125–5046.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–204–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: § 4(d) rate filing per 154.204: Negotiated Rates—Northeast Connector (Partial In-Svc) to be effective 12/1/2014.

Filed Date: 11/25/14.

Accession Number: 20141125–5099.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–205–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: § 4(d) rate filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers—Dec 2014 to be effective 12/1/2014.

Filed Date: 11/25/14.

Accession Number: 20141125–5106.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–206–000.

Applicants: Cameron Interstate Pipeline, LLC.

Description: § 4(d) rate filing per 154.402: Cameron Interstate Pipeline Annual LAUF_2015 to be effective 1/1/2015.

Filed Date: 11/25/14.

Accession Number: 20141125–5139.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–207–000.

Applicants: Questar Pipeline Company.

Description: § 4(d) rate filing per 154.204: Annual Fuel Gas Reimbursement Report for 2015 of Questar Pipeline Company to be

effective 1/1/2015.

Filed Date: 11/25/14.

Accession Number: 20141125–5152.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–208–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: § 4(d) rate filing per 154.204: Non-conforming Agreement Atmos 410527 to be effective 12/1/2014.

Filed Date: 11/25/14.

Accession Number: 20141125–5163.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–209–000.

Applicants: Apache Corporation, Tapstone Energy, LLC.

Description: Joint Petition for Temporary Waiver of Apache Corporation and Tapstone Energy, LLC.

Filed Date: 11/25/14.

Accession Number: 20141125–5195.

Comments Due: 5 p.m. ET 12/2/14.

Docket Numbers: RP15–210–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Compliance filing per 154.203: Cashout Report and Refund Plan 2013–2014.

Filed Date: 11/25/14.

Accession Number: 20141125–5264.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–211–000.

Applicants: National Fuel Gas Supply Corporation.

Description: § 4(d) rate filing per 154.403: TSCA 2015 to be effective 1/1/2015.

Filed Date: 11/25/14.

Accession Number: 20141125–5291.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–212–000.

Applicants: Cheyenne Plains Gas Pipeline Company, L.

Description: § 4(d) rate filing per 154.204: Transportation Service Agreement Filing to be effective 12/1/2014.

Filed Date: 11/25/14.

Accession Number: 20141125–5351.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–213–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) rate filing per 154.601: Non-Conforming Agreement (Dumas) to be effective 1/1/2015.

Filed Date: 11/25/14.

Accession Number: 20141125–5352.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–214–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) rate filing per 154.204: Article 11.2(a) Inflation Rate Adjustment Filing to be effective 1/1/2015.

Filed Date: 11/26/14.

Accession Number: 20141126–5000.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–215–000.

Applicants: Chandeleur Pipe Line, LLC.

Description: Fuel and Line Loss Allowance Calculation filing of Chandeleur Pipe Line, LLC.

Filed Date: 11/25/14.

Accession Number: 20141125–5380.

Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: RP15–216–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: § 4(d) rate filing per 154.204: Negotiated Rate for NJRES 410532 to be effective 12/1/2014.

Filed Date: 11/26/14.

Accession Number: 20141126–5020.

Comments Due: 5 p.m. ET 12/8/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–935–003.

Applicants: Questar Pipeline Company.

Description: Compliance filing per 154.203: Show Cause Order Compliance Filing to be effective 11/30/2014.

Filed Date: 11/5/14.

Accession Number: 20141105–5195.

Comments Due: 5 p.m. ET 12/1/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28862 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–19–000.

Applicants: Capital Dynamics, Inc.

Description: Self-Certification of EWG of Green Pastures Wind II, LLC

Filed Date: 12/3/14.

Accession Number: 20141203–5183.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: EG15–20–000.

Applicants: Capital Dynamics, Inc.

Description: Self-Certification of EWG of Briscoe Wind Farm, LLC.

Filed Date: 12/3/14.

Accession Number: 20141203–5184.

Comments Due: 5 p.m. ET 12/24/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–027; ER14–630–004; ER14–1468–004; ER13–1351–002; ER10–2330–026; ER10–2326–026; ER10–2319–020; ER10–2317–020.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, Cedar Brakes I, L.L.C., KMC Thermo, LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.

Description: Non-Material Change in Status of the J.P. Morgan Sellers.

Filed Date: 12/3/14.

Accession Number: 20141203–5256.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER12–1589–004.

Applicants: Public Service Company of Colorado.

Description: Compliance filing per 35: 2014–12–3_PSCo ROE Comp Filing to be effective 11/17/2012.

Filed Date: 12/3/14.

Accession Number: 20141203–5175.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER14–2586–001.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing per 35: 2014–12–03 Interconnection Process Enhancements 4–5_Compliance to be effective 2/2/2015.

Filed Date: 12/3/14.

Accession Number: 20141203–5208.

Comments Due: 5 p.m. ET 12/24/14.

Docket Numbers: ER14–2670–000.

Applicants: Pennsylvania Electric Company, Metropolitan Edison Company, PJM Interconnection, L.L.C.

Description: eTariff filing per 35.19a(b): Refund Report of ATSI, et al. under Docket Nos. ER14–2670 and ER14–2682 to be effective N/A.

Filed Date: 12/3/14.
Accession Number: 20141203–5188.
Comments Due: 5 p.m. ET 12/24/14.
Docket Numbers: ER15–567–000.
Applicants: NiGen, LLC.
Description: Initial rate filing per 35.12 Market Based Rate Tariff to be effective 12/4/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5149.
Comments Due: 5 p.m. ET 12/24/14.
Docket Numbers: ER15–568–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2045R3 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5203.
Comments Due: 5 p.m. ET 12/24/14.
Docket Numbers: ER15–569–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1895R3 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5205.
Comments Due: 5 p.m. ET 12/24/14.
Docket Numbers: ER15–570–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1978R3 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 12/3/14
Accession Number: 20141203–5207.
Comments Due: 5 p.m. ET 12/24/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28945 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–239–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) rate filing per 154.403: S–2 Tracker Effective 2014–12–01 to be effective 12/1/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5134.
Comments Due: 5 p.m. ET 12/15/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–952–002.
Applicants: Destin Pipeline Company, L.L.C.
Description: Compliance filing per 154.203: Show Cause Order Amended to be effective 10/16/2014.
Filed Date: 11/26/14.
Accession Number: 20141126–5062.
Comments Due: 5 p.m. ET 12/8/14.
Docket Numbers: RP14–1077–001.
Applicants: Chandeleur Pipe Line, LLC.
Description: Compliance filing per 154.203: Chandeleur Section 8.7.7 Order Effective Date to be effective 10/16/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5204.
Comments Due: 5 p.m. ET 12/15/14.
Docket Numbers: RP14–942–001.
Applicants: Sabine Pipe Line LLC.
Description: Compliance filing per 154.203: Sabine Section 7.10 Order Effective Date to be effective 10/16/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5206.
Comments Due: 5 p.m. ET 12/15/14.
Docket Numbers: RP15–122–001.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing per 154.203: Errata Filing for TETLP 2014 ASA Filing Docket RP15–122–000 to be effective 12/1/2014.
Filed Date: 12/3/14.
Accession Number: 20141203–5002.
Comments Due: 5 p.m. ET 12/15/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28947 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–567–000]

NiGen, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Great Bay Energy VII, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and *Procedure* (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 24, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://*

www.ferc.gov. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 4, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–28948 Filed 12–9–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert D. Willis Hydropower Power Rate

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Rate Order.

SUMMARY: Pursuant to Delegation Order Nos. 00–037.00A, effective October 25, 2013, and 00–001.0OE, effective June 6, 2013, the Deputy Secretary has approved and placed into effect on an interim basis Rate Order No. SWPA–68, which increases the power rate for the Robert D. Willis Hydropower Project (Willis) pursuant to the Willis Rate Schedule which supersedes the existing rate schedule.

DATES: The effective period for the rate schedule specified in Rate Order No. SWPA–68 is January 1, 2015, through September 30, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall Boyken, Acting Vice President, Chief Operating Office, Southwestern Power Administration, Department of Energy, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103, (918) 595–6646, *marshall.boyken@swpa.gov*.

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–68, which has been approved and placed into effect on an interim basis, increases the power rate for the Willis Project pursuant to the following Rate Schedule:

Rate Schedule RDW–14, Wholesale Rates for Hydro Power and Energy Sold to Sam Rayburn Municipal Power Agency (Contract No. DE–PM75–85SW00117)

The rate schedule supersedes the existing rate schedule shown below:

Rate Schedule RDW–12, Wholesale Rates for Hydro Power and Energy Sold to Sam Rayburn Municipal Power Agency (Contract No. DE–PM75–85SW00117) (superseded by RDW–14)

Southwestern Power Administration's (Southwestern) Administrator has determined, based on the 2014 Willis Current Power Repayment Study, that the existing power rate will not satisfy cost recovery criteria specified in DOE Order No. RA 6120.2 and Section 5 of the Flood Control Act of 1944. The finalized 2014 Willis Power Repayment Studies indicate that an increase in annual revenue of $109,164, or 10.2 percent, beginning January 1, 2015, will satisfy cost recovery criteria for the Willis project. The proposed Willis rate schedule would ultimately increase annual revenues from $1,072,323 to $1,181,496, to recover increased U.S. Army's Corps of Engineers (Corps) investments and replacements in the hydroelectric generating facility and increased operations and maintenance costs with one half (5.1 percent) beginning January 1, 2015, and the remaining one half (5.1 percent) beginning on October 1, 2015.

The Administrator has followed title 10, part 903 subpart A, of the Code of Federal Regulations (10 CFR part 903), ''Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions'' in connection with the proposed rate schedule. On September 4, 2014, Southwestern published a notice in the **Federal Register**, (79 FR 52646), of the proposed power rate increase for the Willis project. Southwestern provided a 30-day comment period as an opportunity for customers and other interested members of the public to review and comment on the proposed power rate increase with written comments due by October 20, 2014. Southwestern did not hold the combined Public Information and Comment Forum (Forum) because Southwestern did not receive any requests to hold the Forum. One comment was received from Gillis, Borchardt & Barthel LLP, on behalf of the Vinton Public Power Authority and the Sam Rayburn Generation and Transmission Cooperative which stated they had no objection to the proposed rate adjustment.

Information regarding this rate proposal, including studies and other supporting material, is available for public review and comment in the offices of Southwestern Power Administration, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103. Following review of Southwestern's proposal within the Department of Energy, I approved Rate Order No. SWPA–68, on an interim basis, which ultimately increases the existing revenue requirement for the Willis power rate to $1,181,496 per year for the period January 1, 2015 through September 30, 2018.

Dated: December 4, 2014.

Elizabeth Sherwood-Randall,

Deputy Secretary.

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

DEPUTY SECRETARY OF ENERGY

Rate Order No. SWPA–68

In the matter of:

Southwestern Power Administration
Robert D. Willis Hydropower Project
Power Rate

ORDER CONFIRMING, APPROVING AND PLACING INCREASED POWER RATE SCHEDULE IN EFFECT ON AN INTERIM BASIS

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 00–037.00A, the Secretary of Energy delegated to the Administrator of Southwestern the authority to develop power and transmission rates, delegated to the Deputy Secretary of the Department of Energy the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. The Deputy Secretary issued this interim rate order pursuant to that delegation.

BACKGROUND

The Robert Douglas Willis Hydropower Project (Willis) (aka: Dam B and later Town Bluff Dam), located on the Neches River in eastern Texas downstream from the Sam Rayburn Dam, was originally constructed in 1951 by the U.S. Army Corps of Engineers (Corps) and provides stream flow regulation of releases from the Sam Rayburn Dam. The Lower Neches Valley Authority contributed funds toward construction of both projects and makes established annual payments for the right to withdraw up to 2000 cubic feet of water per second from the Willis project for its own use. Power was legislatively authorized at the project, but installation of hydroelectric facilities was deferred until justified by economic conditions. A determination of feasibility was made in a 1982 Corps study. In 1983, the Sam Rayburn Municipal Power Agency (SRMPA) proposed to sponsor and finance the development of hydropower at the Willis project in return for the output of the project to be delivered to its member municipalities and participating member cooperatives of the Sam Rayburn Dam Electric Cooperative.

The Willis power rate excludes the costs associated with the hydropower design and construction performed by the Corps, because all funds for these costs were provided by SRMPA. Under the Southwestern/SRMPA power sales Contract No. DE–PM75–85SW00117, SRMPA will continue to pay all annual operating and maintenance costs, as well as expected capital replacement costs, through the power rate paid to Southwestern, and will receive all power and energy produced at the project for a period of 50 years.

FERC confirmation and approval of the current Willis rate schedule was provided in FERC Docket No. EF13–1–000 issued on April 29, 2013, (143 FERC ¶62,067) effective for the period October 1, 2012, through September 30, 2016.

DISCUSSION

Southwestern prepared a 2014 Current Power Repayment Study which indicated that the existing power rate would not satisfy present financial criteria regarding repayment of investment within a 50-year period due to increased Corps investments, replacements and operations and maintenance expenses in the hydroelectric generating facilities. The Revised Power Repayment Study indicated the need for a 10.2 percent revenue increase. These preliminary results which presented the basis for the proposed revenue increase were provided to the customers for their review prior to the formal process.

The final 2014 Revised Power Repayment Study indicates that an increase in annual revenues of $109,164 (10.2 percent) is necessary beginning January 1, 2015, to accomplish repayment in the required number of years. Accordingly, Southwestern has prepared a proposed rate schedule based on the additional revenue requirement to ensure repayment.

Southwestern conducted the rate adjustment proceeding in accordance with title 10, part 903, subpart A of the Code of Federal Regulations (10 CFR 903), ''Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions.'' More specifically, opportunities for public review and comment during a 30-day period on the proposed Willis power rate were announced by a **Federal Register** notice published on September 4, 2014 (79 FR 52646), with written comments due October 20, 2014. The combined Public Information and Comment Forum scheduled for October 8, 2014, in Tulsa, Oklahoma was not held because Southwestern did not receive any requests to hold the forum. Southwestern provided the **Federal Register** notice, to the customer and interested parties for review and comment during the public comment period. In response to concerns by Southwestern's customers during their review of the preliminary results of the 2014 Power Repayment Studies prior to the formal public participation process, Southwestern is increasing revenue in two steps over a ten month period. Since our current power rate is sufficient to recover all average operation and maintenance expenses during the next ten months, our ability to meet both annual and long-term repayment criteria is satisfied by increasing revenues in steps over the period.

The first step of the rate increase, beginning January 1, 2015, would incorporate one half of the required revenue increase ($54,582 or 5.1 percent). The second step of the rate increase, beginning October 1, 2015, and ending on September 30, 2018, would incorporate the remaining one half of the revenue increase requirement ($54,582 or 5.1 percent). Southwestern will continue to perform its Power Repayment Studies annually, and if the 2015 results should indicate the need for additional revenues, another rate filing will be conducted and updated revenue requirements implemented for Fiscal Year 2016 and thereafter.

Following the conclusion of the comment period on October 20, 2014, Southwestern finalized the Power Repayment Studies and rate schedule for the proposed annual revenue requirement of $1,181,496 which is the lowest possible rate needed to satisfy repayment criteria. This rate represents an increase to the annual revenue requirement of 10.2 percent. The Administrator made the decision to submit the rate proposal for interim approval and implementation.

COMMENTS AND RESPONSES

Southwestern received one comment during the public comment period. The comment on behalf of the Vinton Public Power Authority and the Sam Rayburn Generation and Transmission Cooperative expressed no objection to the proposed rate increase.

AVAILABILITY OF INFORMATION

Information regarding this power rate increase, including studies, comments and other supporting material, is available for public review in the offices of Southwestern Power Administration, One West Third Street, Tulsa, OK 74103.

ADMINISTRATION'S CERTIFICATION

The 2014 Willis Revised Power Repayment Study indicates that the increased revenue requirement of $1,181,496 will repay all costs of the project including amortization of the power investment consistent with the provisions of Department of Energy Order No. RA 6120.2. In accordance with Delegation Order No. 00–037.00A (October 25, 2013), and Section 5 of the Flood Control Act of 1944, the Administrator has determined that the proposed Willis power rate is consistent with applicable law and is the lowest possible rate to the customer consistent with sound business principles.

ENVIRONMENT

The environmental impact of the power rate increase proposal was evaluated in consideration of the Department of Energy's guidelines for implementing the procedural provisions of the National Environmental Policy Act and was determined to fall within the class of actions that are categorically excluded from the requirements of preparing either an Environmental Impact Statement or an Environmental Assessment.

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm, approve and place in effect on an

interim basis, effective January 1, 2015 through September 30, 2018, the Willis power rate designed to collect $1,181,496 annually for the sale of power and energy from the Willis project to the Sam Rayburn Municipal Power Agency, under Contract No. DE–PM75–85SW00117, as amended. This rate shall remain in effect on an interim basis through September 30, 2018, or until the FERC confirms and approves the rate on a final basis.

Dated: December 4, 2014

Elizabeth Sherwood-Randall

Deputy Secretary

UNITED STATES DEPARTMENT OF ENERGY

SOUTHWESTERN POWER ADMINISTRATION

RATE SCHEDULE RDW–14 [1]

WHOLESALE RATES FOR HYDRO POWER AND ENERGY

SOLD TO SAM RAYBURN MUNICIPAL POWER AGENCY

(CONTRACT NO. DE–PM75–85SW00117)

Effective:

During the period January 1, 2015, through September 30, 2018, in accordance with interim approval from Rate Order No. SWPA–68 issued by the Deputy Secretary of Energy on December 4, 2014 and pursuant to final approval by the Federal Energy Regulatory Commission.

Applicable:

To the power and energy purchased by Sam Rayburn Municipal Power Agency (SRMPA) from the Southwestern Power Administration (Southwestern) under the terms and conditions of the Power Sales Contract dated June 28, 1985, as amended, for the sale of all Hydro Power and Energy generated at the Robert Douglas Willis Hydropower Project (Robert D. Willis) (formerly designated as Town Bluff).

Character and Conditions of Service:

Three-phase, alternating current, delivered at approximately 60 Hertz, at the nominal voltage, at the point of delivery, and in such quantities as are specified by contract.

1. Wholesale Rates, Terms, and Conditions for Hydro Power and Energy

1.1. These rates shall be applicable regardless of the quantity of Hydro Power and Energy available or delivered to SRMPA; *provided, however,* that if an Uncontrollable Force prevents utilization of both of the project's power generating units for an entire billing period, and if during such billing period water releases were being made which otherwise would have been used to generate Hydro Power and Energy, then Southwestern shall, upon request by SRMPA, suspend billing for subsequent billing periods, until such time as at least one of the project's generating units is again available.

1.2. The term ''Uncontrollable Force,'' as used herein, shall mean any force which is not within the control of the party affected, including, but not limited to, failure of water supply, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, riot, civil disturbance, labor disturbance, sabotage, war, acts of war, terrorist acts, or restraint by court of general jurisdiction, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid.

1.3. Hydro Power Rates, Terms, and Conditions

1.3.1. Monthly Charge for the Period of January 1, 2015 through September 30, 2015

$83,405 per month ($1,000,860 per year) for Robert D. Willis Hydro Power and Energy purchased by SRMPA from January 1, 2015, through September 30, 2015.

1.3.2. Monthly Charge for the Period of October 1, 2015 through September 30, 2018

$98,458 per month ($1,181,496 per year) for Robert D. Willis Hydro Power and Energy purchased by SRMPA from October 1, 2015, through September 30, 2018.

[1] Supersedes Rate Schedule RDW–12

[FR Doc. 2014–28915 Filed 12–9–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9919–25]

Access to Confidential Business Information by Consultants to T.A. Consulting, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized consultants, Warren Muir and John Young of contractor T.A. Consulting, Inc. of Virginia Beach, VA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur on or about November 12, 2014.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott M. Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@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?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under contract number GS–10F–0261M, project number EPA DOI–FCG FY2014–26 accessed by EPA through an Interagency Agreement with the U.S. Department of Interior (IAG No. 95773601–C), consultants Warren Muir and John Young of contractor T.A.

Consulting, Inc. of 3037 Little Haven Road, Virginia Beach, VA will assist the Office of Pollution Prevention and Toxics (OPPT) in the assessment of the current processes and assessment approaches used by OPPT to implement section 5 of TSCA, with the long term goal of implementing changes that result in significant resource savings without decreasing scientific integrity. The purpose of this critical assessment will be to assess the quality of scientific, engineering, and other technical foundations of the program. They will also assist in identifying what changes could be made to enable OPPT to more efficiently, effectively and collaboratively manage the potential risks of new chemicals.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract number GS–10F–0261M, project number EPA DOI–FCG FY2014–26, T.A. Consulting, Inc. will require access to CBI submitted to EPA under all section(s) of TSCA to perform successfully the duties specified under the contract. Warren Muir and John Young will be given access to information submitted to EPA under all section(s) of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide Warren Muir and John Young access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until June 18, 2015. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

Warren Muir and John Young will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: November 19, 2014.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–28954 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0836; FRL–9919–80]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from October 6, 2014 to October 30, 2014.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before January 9, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0836, and the specific PMN number or TME number for the chemical related to your comment, 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: Bernice Mudd, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; email address: *Mudd.Bernice@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?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action.

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 preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from October 6, 2014 to October 30, 2014, and consists of the PMNs pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

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

Section 5 of TSCA requires that EPA periodical publish in the **Federal Register** receipt and status reports, which cover the following EPA activities required by provisions of TSCA section 5.

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA

Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—52 PMNS RECEIVED FROM 10/6/14 TO 10/30/14

Case No.	Received date	Projected notice end date	Manufacturer/importer	Use	Chemical
P–15–0011	10/6/2014	1/4/2015	CBI	(G) Molding resin	(G) Aromatic and aliphatic polyamide.
P–15–0012	10/6/2014	1/4/2015	CBI	(G) Colorant for industrial, architectural, plastics, inks and automotive applications.	(G) Sioc.
P–15–0013	10/7/2014	1/5/2015	CBI	(G) Reactive hot melt adhesive for roll coating or spraying application to make panels for construction.	(G) Silane terminated urethane polymer.
P–15–0014	10/7/2014	1/5/2015	CBI	(G) Polymer used in electronics, adhesives, and coatings manufacture.	(G) Copolymer of a substituted aromatic olefin and substituted acrylates.
P–15–0015	10/8/2014	1/6/2015	Allnex USA Inc.	(S) Industrial coating resin FOR improving mechanical properties in automotive paints.	(G) Substituted heteropolycycle-, polymer with a-hydro-w-hydroxypoly(oxy-1,4-butanediyl), compound with substituted aminoalkane.
P–15–0017	10/8/2014	1/6/2015	CBI	(G) Agriculture Fertilizer ...	(G) Iron alkylenediaminehydroxy sulfophonic acid.
P–15–0018	10/9/2014	1/7/2015	Flint Group Pigment.	(G) Dispersant for ink and coating systems.	(G) Quaternary amine, salt with 4-[[2-[2-[3,3′-dichloro-4′-[2-[2-substituted-1-[(phenylamino)carbonyl]propyl] diazenyl][1,1′-biphenyl]-4-yl]diazenyl]-1,3-dioxobutyl]amino]aromatic sulfonate (1:1).
P–15–0019	10/9/2014	1/7/2015	CBI	(G) Additive for cleaner products.	(S) 2-Propenoic acid, 2-methyl-, polymer with 2-methyl-2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt, sodium salt (9Cl).
P–15–0021	10/9/2014	1/7/2015	CBI	(G) PSA Coating	(G) Polyoxyalkylene polymer with silane groups.
P–15–0024	10/10/2014	1/8/2015	Akzo Nobel Surface Chemistry LLC.	(S) Chemical intermediate	(G) Amines, bis (alkylamine).
P–15–0025	10/10/2014	1/8/2015	Akzo Nobel Surface Chemistry LLC.	(G) Chemical intermediate-site limited.	(G) Nitrile amino.
P–15–0026	10/14/2014	1/12/2015	Akzo Nobel Surface Chemistry LLC.	(G) For use in a friction modifier.	(G) 1,3-propanediamine, *N*1, *N*1-alkyl.
P–15–0027	10/14/2014	1/12/2015	Akzo Nobel Surface Chemistry LLC.	(G) Chemical intermediate-site limited.	(G) Propanenitrile, -3-(diisoamine)-.
P–15–0028	10/14/2014	1/12/2015	CBI	(G) Colorant for industrial, architectural, plastics, inks and automotive applications.	(S) Carbon silicon oxide.

TABLE I—52 PMNS RECEIVED FROM 10/6/14 TO 10/30/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–15–0029	10/14/2014	1/12/2015	Maroon Inc.	(S) Antioxidant for plastics	(S) 2,4,8,10-Tetraoxa-3,9-diphosphaspiro[5.5]undecane,3,9-bis[2-(1-methyl-1-phenylethyl)-4-(1,1,3,3-tetramethylbutyl)phenoxy]-.
P–15–0030	10/14/2014	1/12/2015	SEPPIC	(G) Non-ionic surfactant hydrotrope agent.	(S) D-glucopyranose, oligomeric, heptyl glycosides.
P–15–0031	10/15/2014	1/13/2015	CBI	(G) Energy exploration additive.	(G) Borate(1-), hydroxybenzoate(2-)-kappa o]-, (T–4)-, hydrogen, (9*z*)-9-octadecen-1-amine (1:1:1).
P–15–0033	10/15/2014	1/13/2015	CBI	(S) Crosslinking agent for thermoset resins.	(G) Alkyl and aryl-substituted polysiloxane.
P–15–0032	10/15/2014	1/13/2015	CBI	(G) Open, non-dispersive	(G) Propanoic acid, 2-hydroxy-, (2s)-, compounds with hydrolyzed(2-oxiranylmethyl)-(2-oxiranylmethoxy)poly(oxy-1,4-butanediyl)-polypropylene glycol diamine polymer-2-[[(trisubstituted silyl)propoxy]methyl]oxirane reaction products.
P–15–0034	10/16/2014	1/14/2015	CBI	(G) Dispersive use in cooling water applications.	(G) Polyacrylic.
P–15–0035	10/16/2014	1/14/2015	MANE USA	(S) Fragrance used in a fine fragrances; fragrance used in a personal consumer products; fragrance used in household products.	(S) Hexanal, 6-cyclopentylidene-.
P–15–0036	10/16/2014	1/14/2015	CBI	(G) Chemical intermediate	(S) 2-Pyridinecarboxylic acid, 4,5,6-trichloro-.
P–15–0037	10/17/2014	1/15/2015	CBI	(G) Additive in toner formulations.	(G) 2-alkanoic acid, 2-alkyl-, 3-(trimethoxysilyl)propyl ester, homopolymer, hydrolysis products with silica and 1,1,1-trimethyl-*N*-(trimethylsilyl)silanamine.
P–15–0038	10/17/2014	1/15/2015	CBI	(G) PMN additive to improve texture of pigment.	(G) Aluminum substituted aminodicarboxylate.
P–15–0039	10/17/2014	1/15/2015	Industrial Speciality Chemicals.	(G) This material will be used in conjunction with current chemistries for wastewater treatment.	(G) Cationic starch.
P–15–0043	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polycaprolactone-based urethane polymer.
P–15–0045	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate terminated polyether urethane prepolymer.
P–15–0044	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate terminated polyether urethane prepolymer.
P–15–0042	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polycaprolactone-based urethane polymer.
P–15–0046	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate terminated polyether urethane prepolymer.
P–15–0041	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polycaprolactone-based urethane polymer.

TABLE I—52 PMNS RECEIVED FROM 10/6/14 TO 10/30/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–15–0049	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polypropylene glycol-based urethane polymer.
P–15–0048	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polyester-based urethane polymer.
P–15–0051	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polybutadiene-based urethane polymer.
P–15–0047	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive use.	(G) Isocyanate-terminated polyester-based urethane polymer.
P–15–0050	10/21/2014	1/19/2015	CBI	(G) Polyurethane prepolymer for use in cast polyurethane elastomer parts: Open, Non-dispersive Use.	(G) Isocyanate-terminated polypropylene glycol-based urethane polymer.
P–15–0054	10/21/2014	1/19/2015	Zeon Chemicals LP.	(G) chemical intermediate—destructive use.	(G) CNT Powder.
P–15–0055	10/21/2014	1/19/2015	CBI	(G) Urethane component ..	(G) Aromatic isocyanate, polxmer with alkyloxirane polymer with oxirane ether with polyfunctional alcohol, and alkyloxirane polymer with oxirane ether with triol (3:1).
P–15–0056	10/22/2014	1/20/2015	CBI	(S) Fragrance ingredient for use in fragrances for soaps, detergents, cleaners and other household products.	(S) Furan, 5-(hexyloxy)tetrahydro-2,2-dimethyl-.
P–15–0057	10/22/2014	1/20/2015	3M Company ..	(G) Adhesive	(G) Hetero substituted alkyl acrylate polymer.
P–15–0059	10/22/2014	1/20/2015	Otis Institute, Inc.	(S) Component in an optical down converter.	(G) Cadmium selenide zinc sulfide dodecanoic acid and amine in amino functional silicone fluid.
P–15–0060	10/22/2014	1/20/2015	Otis Institute, Inc.	(S) Precourser component to make an optical down converter in the next step of manufacturing.	(G) Cadmium selenide zinc sulfide dodecanoic acid and amine.
P–15–0061	10/22/2014	1/20/2015	CBI	(G) Leather chemical	(G) Imidazoliurn,polymer with cyclic anhydride and alkenoic acid, alkali salt.
P–15–0058	10/22/2014	1/20/2015	Shin-Etsu MicroSi.	(G) Gravure ink	(G) Vinyl Chloride Emulsion (Acrylic group emulsion type).
P–15–0063	10/23/2014	1/21/2015	Shin Etsu Silicones of America.	(G) After it is diluted with solvent, it is spread on the.	(G) Perfluoropolyether modified silane.
P–15–0064	10/23/2014	1/21/2015	Colonial Chemical, Inc.	(G) Wetting agent	(S) 2-Propanol, 1,1′,1″, 1‴-(1,2-ethanediyldinitrilo)tetrakis-, polymer with 2-(chloromethyl)oxirane, reaction products with 2-(dimethylamino)ethanol, chlorides.
P–15–0066	10/24/2014	1/22/2015	CBI	(G) Photoacid generator and dispersant.	(G) PMN—Sulfonium, tris[4-[(alkylketophenyl)thio]phenyl]-(halophenyl)borate (1-) (1:1) MSDS—triarylsulfonium borate.
P–15–0067	10/27/2014	1/25/2015	CBI	(G) Destructive use	(G) Protected chlorohexanol.
P–15–0069	10/28/2014	1/26/2015	American Peptide Company.	(G) Pigment dispersant	(G) 2-propeonic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate and carbomonocyclicmethyl 2-methyl-2-propenoate.
P–15–0072	10/28/2014	1/26/2015	CBI	(G) Filter media for heavy metal removal from water.	(G) Alkali or alkaline earth containing hydros titanosilicate gel.

TABLE I—52 PMNS RECEIVED FROM 10/6/14 TO 10/30/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–15–0073	10/29/2014	1/27/2015	Cardolite Corporation.	(S) Curing agent for epoxy coatings.	(G) Cashew Nutshell Liquid, polymer with formaldehyde and ethanolamines.
P–15–0074	10/30/2014	1/28/2015	CBI	(G) Agricultural adjuvant ..	(G) Trisiloxane alkoxylate.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE II—26 NOCS RECEIVED FROM 10/6/14 TO 10/30/14

Case No.	Received date	Commencement notice end date	Chemical
P–14–0268	10/6/2014	9/15/2014	(S) Carbamic acid, *N*-(3-isoocyanatomethylphenyl)-, 2-[2-(2-butoxyethoxy)ethoxy]ethyl ester.
P–14–0441	10/6/2014	9/24/2014	(G) Heterocylic dione polymer with alkenylbenzene and alkoxpoly(oxy-alkanediyl)alkylacrylate.
P–14–0595	10/7/2014	9/16/2014	(G) Substituted isocyanate polymer.
P–14–0106	10/8/2014	9/19/2014	(G) Blown polymerized fatty acid.
P–13–0357	10/8/2014	9/24/2014	(G) Alkene carbonate derivative.
P–14–0644	10/8/2014	9/28/2014	(G)Aalkylacrylonitrile-acrylonitrile copolymer.
P–14–0537	10/8/2014	10/6/2014	(G) Polymeric Aspartate.
P–14–0372	10/9/2014	9/4/2014	(G) Depolymerized polyurethane.
P–14–0564	10/9/2014	9/29/2014	(S) 2-Propenal, 3-[4-(1-methylethyl)phenyl]-.
P–14–0646	10/9/2014	10/6/2014	(S) Cuprate(4-), [[3,3′,3″,3‴-[(29*H*,31*H*-phthalocyanine-1,8,15,22-tetrayl-.kappa.n29, .kappa.n30,.kappa.n31,.kappa.n32) tetrakis(sulfonyl)]tetrakis[1-propanesulfonato]](6-)]-, sodium (1:4), (sp-4-1)-.
P–13–0460	10/10/2014	9/28/2014	(G) Hexamethylene diisocyanate homopolymer, polyethylene glycol mono-me ether blocked, reaction products with alcohol.
P–13–0942	10/10/2014	9/28/2014	(G) Copolymer of alkyl methacrylate.
P–14–0647	10/15/2014	9/26/2014	(G) Polymer of substituted aromatic olefins.
P–13–0120	10/16/2014	9/18/2014	(G) Substituted dialkyltin.
P–14–0649	10/17/2014	10/14/2014	(G) Tetralkylammonium alkonate.
J–14–0020	10/21/2014	10/15/2014	(G) Modified microalgae.
P–11–0487	10/23/2014	9/27/2014	(G) Polyfluorinated alkyl polyamide.
P–14–0432	10/23/2014	10/13/2014	(G) Isocyanate-terminated urethane prepolymer.
P–14–0426	10/23/2014	10/18/2014	(G) Polyester polyol.
P–13–0375	10/23/2014	10/21/2014	(S) 6-DecenaL, (6E)-, 6-Decenal, (6Z), 7-Decenal, (7E), 7-Decenal, (7Z), 8-Decenal, (8E)-, 8-Decenal, (8Z)-.
P–09–0065	10/24/2014	10/21/2014	(G) Benzoic acid phenyl ester.
P–14–0717	10/26/2014	10/25/2014	(G) Substituted alkanoic acid ester, polymer with alkanoic acid esters, substituted alkanenitrile-initiated.
P–14–0739	10/28/2014	10/25/2014	(S) D-glucopyranose, oligomeric, decyl octyl glycosides, polymers with 1,3-dichloro-2-propanol.
P–14–0560	10/28/2014	10/28/2014	(S) D-glucopyranose, oligomeric, C_{10-16}-alkyl glycosides, polymers with epichlorohydrin.
P–14–0558	10/29/2014	10/7/2014	(S) 2-Propenoic acid, 2-[[(octadecylamino)carbonyl]oxy]ethyl ester.
P–01–0236	10/31/2014	6/4/2001	(G) Acrylic polymer salt.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 4, 2014.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–28944 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0848; FRL–9919–89]

Potassium Chloride; Receipt of Application for Emergency Exemption; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a quarantine exemption request from the Minnesota Department of Agriculture to use the chemical potassium chloride to treat Christmas Lake and Lake Independence in Hennepin County, Minnesota to control zebra mussels and quagga mussels. The applicant proposes the use of a new chemical which has not been registered by EPA. EPA is soliciting public comments about this notice and treatment program.

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

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0848, 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:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. 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 preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What action is the Agency taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. The Minnesota Department of Agriculture has requested the EPA Administrator to issue a quarantine exemption for the use of potassium chloride (Chemical Abstracts Service Registry Number (CAS No.) 7447–40–7) to treat Christmas Lake and Lake Independence to control zebra mussels (*Dreissena polymorpha*) and quagga mussels (*Dreissena bugensis*). Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that zebra and quagga mussels need to be eradicated in these bodies of water to prevent the establishment and spread of this aquatic invasive species. Zebra and quagga mussels have a variety of detrimental environmental and recreational impacts. Without treatment it is likely that zebra and quagga mussels will establish a reproducing, self-sustaining population in both lakes, which would, in turn, serve as another source population and possibly contribute to the infestation of other area lakes. This chemical provides the best efficacy for the desired result with the best economic and environmental feasibility and least impact to human health and the environment.

The applicant proposes to apply an initial dose of approximately 1,700 lbs of granular potassium chloride, formulated as muriate of potash, mixed with water to form a slurry, to each treatment area. The chemical will be applied to the surface water or injected below the surface of the ice using a spray wand. Additional applications may be required to achieve and maintain the desired 100 parts per million (ppm) potassium concentration. The treatment areas are within Christmas Lake and Lake Independence in Hennepin County, MN.

This notice does not constitute a decision by EPA on the application itself. The regulations governing FIFRA section 18 require publication of a notice of receipt of an application for a quarantine exemption proposing use of a new chemical (*i.e.,* an active ingredient) which has not been registered by EPA. The Agency will review and consider all comments received regarding the Minnesota Department of Agriculture's treatment program.

Authority: 7 U.S.C. 136 *et seq.*

Dated: November 25, 2014.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–28703 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0011; FRL–9919–13]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before January 9, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0011 and the File Symbol of interest as shown in

the body of this document, 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:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: Jennifer McLain, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305–7090; email address: *ADFRNotices@epa.gov.,* or Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. 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. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

EPA Registration Number(s)/EPA File Symbol: 84542–RU. *Docket ID number:* EPA–HQ–OPP–2014–0478. *Applicant:* Cupron, Inc. 12208 Quinque Lane, Clifton, Virginia 20124. *Active ingredient:* Cuprous Oxide. *Product type:* Antimicrobial. *Proposed Use(s):* Materials Preservative for Drinking Water Systems. *Contact:* AD.

EPA Registration Number(s)/EPA File Symbol: 352–856, 352–857, 352–859, 352–860. *Docket ID Number:* EPA–HQ–OPP–2014–0357. *Applicant:* E.I. du Pont de Nemours & Company, 1007 Market St., Wilmington, DE 19898. *Active ingredient:* Cyantraniliprole. *Product Type:* Insecticide. *Proposed Uses:* Berry, low growing, except strawberry, subgroup 13–07H; peanut; soybean; strawberry; tobacco; vegetable, foliage of legume, group 7; vegetable, leaves of root and tuber, group 2; vegetable, legume, dried shelled pea and bean except soybean, subgroup 6C; vegetable, legume, edible podded, subgroup 6A; vegetable, legume, succulent shelled pea and bean, subgroup 6B; vegetable, root, except sugar beet, subgroup 1B. *Contact:* RD.

EPA Registration Number/EPA File Symbol: 100–811. *Docket ID Number:* EPA–HQ–OPP–2014–0506. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27419. *Active ingredient:* Cyprodinil. *Product Type:* Fungicide. *Proposed Uses:* Stone Fruit Crop Group 12–12; artichoke; pomegranate. *Contact:* RD.

EPA Registration Number/EPA File Symbol: 100–828. *Docket ID Number:* EPA–HQ–OPP–2014–0506. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27419. *Active ingredient:* Cyprodinil. *Product Type:* Fungicide. *Proposed Uses:* Stone Fruit Crop Group 12–12; Artichoke; acerola; feijoa; guava; jaboticaba; passionfruit; starfruit; wax jambu. *Contact:* RD.

EPA Registration Number/EPA File Symbol: 100–953. *Docket ID Number:* EPA–HQ–OPP–2014–0506. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27419. *Active ingredient:* Cyprodinil/Fludioxonil. *Product Type:* Fungicide. *Proposed Uses:* Acerola; feijoa; guava; jaboticaba; passionfruit; starfruit; wax jambu; pomegranates (post-harvest). *Contact:* RD.

EPA Registration Number/EPA File Symbol: 100–1317. *Docket ID Number:* EPA–HQ–OPP–2014–0506. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27419. *Active ingredient:* Cyprodinil/Difenoconazole. *Product Type:* Fungicide. *Proposed Uses:* Stone Fruit Crop Group 12–12; Artichoke. *Contact:* RD.

EPA Registration Number(s)/EPA File Symbol: 352–503, 352–515 and 352–672. *Docket ID Number:* EPA–HQ–OPP–2014–0552. *Applicant:* Du Pont Crop Protection, Stine-Haskell Research Center, P.O. Box 30, Newark, Delaware

19714–0030. *Active ingredient:* Esfenvalerate. *Product Type:* Insecticide. *Proposed Uses:* Oilseed Crop Group 20. *Contact:* RD.

EPA Registration Number(s)/EPA File Symbol: 100–758; 100–759. *Docket ID Number:* EPA–HQ–OPP–2014–0496. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27419. *Active ingredient:* Fludioxonil. *Product Type:* Fungicide. *Proposed Uses:* Rapeseed crop subgroup 20A, except Flax Seed. *Contact:* RD.

EPA Registration Number(s)/EPA File Symbol: 100–759; 100–1242. *Docket ID Number:* EPA–HQ–OPP–2014–0496. *Applicant:* Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27419. *Active ingredient:* Fludioxonil. *Product Type:* Fungicide. *Proposed Uses:* Carrot (post-harvest); Stone Fruit Group 12–12. *Contact:* RD.

EPA Registration Number(s)/EPA File Symbol: 4787–55; 4787–61; 67760–75; 67760–120; 67760–REA. Docket ID Number: EPA–HQ–OPP–2014–0482. *Applicant:* Cheminova A/S, c/o Cheminova, Inc., 1600 Wilson Blvd., Suite 700, Arlington, VA 22209–2510. *Active Ingredient:* Flutriafol. *Product Type:* Fungicide. *Proposed Use:* Brassica, head and stem, Subgroup 5A; Brassica, leafy greens, Subgroup 5B; leaf petioles, Subgroup 4B; leafy greens, Subgroup 4A, except head lettuce; head lettuce; radicchio; sorghum. *Contact:* RD.

EPA Registration Numbers/EPA File Symbols: 7969–226, 7969–270. *Docket ID Number:* EPA–HQ–OPP–2014–0607. *Applicant:* BASF Corporation; 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Metaflumizone. *Product Type:* Insecticide. *Proposed Uses:* Granular fire ant bait for use in pome fruit and stone fruit nurseries and orchards. *Contact:* RD.

EPA Registration Number/EPA File Symbols: 62719–437. *Docket ID Number:* EPA–HQ–OPP–2014–0591. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Product Name:* Methoxyfenozide Technical. *Active Ingredient:* Insecticide, Methoxyfenozide at 98.2%. *Proposed Use:* Chives, Stone Fruit Group 12–12 (except plum) and Tree Nut Group 14–12. *Contact:* RD.

EPA Registration Number/EPA File Symbols: 62719–442. *Docket ID Number:* EPA–HQ–OPP–2014–0591. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Product Name:* Intrepid 2F. *Active Ingredient:* Insecticide, Methoxyfenozide at 22.6%. *Proposed Use:* Chives, Stone Fruit Group 12–12 (except plum) and Tree Nut Group 14–12. *Contact:* RD.

EPA Registration Number(s)/EPA File Symbols: 62719–394, 62719–578. *Docket ID number:* EPA–HQ–OPP–2014–0680. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient:* Pronamide (Propyzamide). *Product type:* Herbicide. *Proposed Use(s):* Lettuce leaf. *Contact:* RD.

EPA Registration Number/EPA File Symbols: 43813–32. Docket ID Number: EPA–HQ–OPP–2014–0530. *Applicant:* Janssen PMP, Janssen Pharmaceutica NV, 1125 Trenton-Harbourton Road, Titusville, NJ 08560. *Active Ingredient:* Pyrimethanil. *Product Type:* Fungicide. *Proposed Use:* Pomegranate (post-harvest). *Contact:* RD.

EPA Registration Number/EPA File Symbol: 71185–4. *Docket ID Number:* EPA–HQ–OPP–2014–0134. *Applicant:* Geo Logic Corporation, P.O. Box 3091, Tequesta, FL 33469. *Active ingredient:* Streptomycin. *Product Type:* Fungicide. *Proposed Uses:* Tomato, Grapefruit, Pome Fruit Group 11–10. *Contact:* RD.

EPA Registration Number/EPA File Symbol: 80990–4. *Docket ID Number:* EPA–HQ–OPP–2014–0134. *Applicant:* AgroSource, Inc., P.O. Box 3091, Tequesta, FL 33469. *Active ingredient:* Streptomycin. *Product Type:* Fungicide. *Proposed Uses:* Tomato, Grapefruit, Pome Fruit Group 11–10. *Contact:* RD.

EPA Registration Number(s)/EPA File Symbols: 264–776, 264–826, and 264–1090. *Docket ID number:* EPA–HQ–OPP–2014–0709. *Applicant:* Bayer Crop Science, 2 T.W. Alexander Drive, P.O. Box 12014, RTP, NC 27709. *Active ingredient:* Trifloxystrobin. *Product type:* Fungicide. *Proposed Use(s):* Leafy greens (crop subgroup 4A), Leafy petioles (crop subgroup 4B), Head and stem brassica vegetables (crop subgroup 5A), Leafy brassica greens (crop subgroup 5B), Tuberous and corm vegetables (crop subgroup 1C), Small fruit vine climbing subgroup except fuzzy kiwifruit (crop subgroup 13–07F), Low growing berries (crop subgroup 13–07G), Herbs (crop subgroup 19A), and Spices (subgroup 19B) except black pepper. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 3, 2014.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–28943 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9920–27–OA]

Request for Nominations of Candidates to the EPA's Science Advisory Board (SAB) Agricultural Science Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites public nominations of scientific experts to be considered for appointment to the EPA's Science Advisory Board (SAB) Agricultural Science Committee to provide advice to the chartered SAB regarding matters referred to the SAB that will have a significant direct impact on farming and agriculture-related industries.

DATES: Nominations should be submitted in time to arrive no later than January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Nominators unable to submit nominations electronically as described below may submit a paper copy to Ms. Stephanie Sanzone, Designated Federal Officer (DFO) for the committee, by email at *sanzone.stephanie@epa.gov* or by telephone at 202–564–2067.

Background: The chartered SAB (the Board) was established in 1978 by the Environmental Research, Development and Demonstration Authorization Act (42 U.S.C. 4365) to provide independent advice to the Administrator on general scientific and technical matters underlying the Agency' policies and actions. Members of the SAB and its subcommittees constitute a distinguished body of non-EPA scientists, engineers, economists, and social scientists that are nationally and internationally recognized experts in their respective fields. Members are appointed by the EPA Administrator, generally for a period of three years. The SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Generally, SAB meetings are announced in the **Federal Register**, conducted in public view, and provide opportunities for public input during deliberations. All the work of the SAB subcommittees is performed under the direction of the Board. The chartered Board provides strategic advice to the EPA Administrator on a variety of EPA science and research programs and reviews and approves all SAB subcommittee and panel reports. Additional information about the SAB

Federal Advisory Committees may be found at *http://www.epa.gov/sab.*

Pursuant to section 12307 of the Agricultural Act of 2014 (Pub. L. 133–79), the EPA is establishing a new agriculture-related standing committee of the SAB. The SAB Agricultural Science Committee will provide advice to the chartered SAB on matters referred to the Board that EPA and the Board, in consultation with the Secretary of Agriculture, determine will have a significant direct impact on farming and agriculture-related industries. Initial appointments to the committee will be for a mix of 2 and 3 year terms to ensure rotation and staggered terms for future years.

Expertise Sought: The SAB Staff Office is seeking nominations of experts to serve on the SAB Agricultural Science Committee with demonstrated expertise in agriculture-related sciences, including: Agricultural economics, including valuation of ecosystem goods and services; agricultural chemistry; agricultural engineering; agronomy, including soil science; aquaculture science; biofuels engineering; biotechnology; crop and animal science; environmental chemistry; forestry; and hydrology. For further information, please contact Ms. Sanzone, DFO, as identified above.

Selection criteria include:

—Demonstrated scientific credentials and disciplinary expertise in relevant fields;
—Willingness to commit time to the committee and demonstrated ability to work constructively and effectively on committees;
—Background and experiences that would contribute to the diversity of perspectives on the committee, *e.g.,* geographic, economic, social, cultural, educational backgrounds, and professional affiliations; and
—For the committee as a whole, consideration of the collective breadth and depth of scientific expertise; and a balance of scientific perspectives.

As the committee undertakes specific advisory activities, the SAB Staff Office will consider two additional criteria for each new activity: absence of financial conflicts of interest and absence of an appearance of a loss of impartiality.

How To Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals may self-nominate. Nominations should be submitted in electronic format (preferred) following the instructions for ''Nominating Experts to the SAB Agricultural Science Committee'' provided on the SAB Web site. Instructions can be accessed through the ''Nomination of Experts'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* To be considered, all nominations should include the information requested. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

The following information should be provided on the nomination form: Contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; and a biographical sketch of the nominee indicating current position, educational background; research activities; sources of any research funding over the last two years; and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact the Designated Federal Officer for the committee, as identified above. Non-electronic submissions must follow the same format and contain the same information as the electronic form. The SAB Staff Office will acknowledge receipt of nominations.

Candidates invited to serve will be asked to submit the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows the EPA to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a loss of impartiality, as defined by Federal regulation. The form may be viewed and downloaded through the ''Ethics Requirements for Advisors'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.*

Dated: December 1, 2014.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2014–28975 Filed 12–9–14; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2014–3010]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 11–03 Used Equipment.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

This collection will provide information needed to determine compliance and creditworthiness for transaction requests submitted to Ex-Im Bank under its insurance, guarantee, and direct loan programs. Information presented in this form will be considered in the overall evaluation of the transaction, including Export-Import Bank's determination of the appropriate term for the transaction.

The form can be viewed at: *http://www.exim.gov/pub/pending/eib11-03.pdf.*

DATES: Comments should be received on or before January 9, 2015, 2014 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* (EIB:11–03) or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038, Attn: OMB 3048–0039.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 11–03 Used Equipment Questionnaire.

OMB Number: 3048–0039.

Type of Review: Regular.

Need and Use: The information collected will provide information needed to determine compliance and creditworthiness for transaction requests submitted to the Export-Import Bank under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 1,000.

Estimated Time per Respondent: 15 minutes.

Annual Burden Hours: 250 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:
Reviewing Time per Year: 250 hours.
Average Wages per Hour: $42.50.
Average Cost per Year: $10,625 (time*wages).
Benefits and Overhead: 20%.
Total Government Cost: $12,750.

Bonita Jones-McNeil,

Records Management Division, Office of the Chief Information Officer.

[FR Doc. 2014–28890 Filed 12–9–14; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–0430]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 9, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0430.

Title: Section 1.1206, Permit-but-Disclose Proceedings.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

Number of Respondent and Responses: 11,500 respondents; 34,500 responses.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. Statutory authority for this collection of information is contained in sections 4(i) and (j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 303(r), and 409.

Estimated Time per Response: 45 minutes (0.75 hours).

Total Annual Burden: 25,875 hours.

Total Annual Costs: No cost.

Nature and Extent of Confidentiality: Consistent with the Commission's rules on confidential treatment of submissions, under 47 CFR 0.459, a presenter may request confidential treatment of *ex parte* presentations. In addition, the Commission will permit parties to remove metadata containing confidential or privileged information, and the Commission will also not require parties to file electronically *ex parte* notices that contain confidential information. The Commission will, however, require a redacted version to be filed electronically at the same time the paper filing is submitted, and that the redacted version must be machine-readable whenever technically possible.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission's rules, under 47 CFR 1.1206, require that a public record be made of *ex parte* presentations (*i.e.,* written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in ''permit-but-disclose'' proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings.

On February 2, 2011, the FCC released a *Report and Order and Further Notice of Proposed Rulemaking,* GC Docket Number 10–43, FCC 11–11, which amended and reformed the Commission's rules on *ex parte* presentations (47 CFR 1.1206(b)(2)) made in the course of Commission rulemakings and other permit-but-disclose proceedings. The modifications to the existing rules adopted in this Report and Order require that parties file more descriptive summaries of their *ex parte* contacts, by ensuring that other parties and the public have an adequate opportunity to review and respond to information submitted *ex parte,* and by improving the FCC's oversight and enforcement of the *ex parte* rules. The modified *ex parte* rules which contain information collection requirements which OMB approved on December 6, 2011, are as follows: (1) *Ex parte* notices will be required for all oral *ex parte* presentations in permit-but-disclose proceedings, not just for those presentations that involve new information or arguments not already in the record; (2) If an oral *ex parte* presentation is limited to material already in the written record, the notice must contain either a succinct summary of the matters discussed or a citation to the page or paragraph number in the party's written submission(s) where the matters discussed can be found; (3) Notices for all *ex parte* presentations must include the name of the person(s) who made the *ex parte* presentation as well as a list of all persons attending or otherwise participating in the meeting at

which the presentation was made; (4) Notices of *ex parte* presentations made outside the Sunshine period must be filed within two business days of the presentation; (5) The Sunshine period will begin on the day (including business days, weekends, and holidays) after issuance of the Sunshine notice, rather than when the Sunshine Agenda is issued (as the current rules provide); (6) If an *ex parte* presentation is made on the day the Sunshine notice is released, an *ex parte* notice must be submitted by the next business day, and any reply would be due by the following business day. If a permissible *ex parte* presentation is made during the Sunshine period (under an exception to the Sunshine period prohibition), the *ex parte* notice is due by the end of the same day on which the presentation was made, and any reply would need to be filed by the next business day. Any reply must be in writing and limited to the issues raised in the *ex parte* notice to which the reply is directed; (7) Commissioners and agency staff may continue to request *ex parte* presentations during the Sunshine period, but these presentations should be limited to the specific information required by the Commission; (8) *Ex parte* notices must be submitted electronically in machine-readable format. PDF images created by scanning a paper document may not be submitted, except in cases in which a word-processing version of the document is not available.

Confidential information may continue to be submitted by paper filing, but a redacted version must be filed electronically at the same time the paper filing is submitted. An exception to the electronic filing requirement will be made in cases in which the filing party claims hardship. The basis for the hardship claim must be substantiated in the *ex parte* filing; (9) To facilitate stricter enforcement of the *ex parte* rules, the Enforcement Bureau is authorized to levy forfeitures for *ex parte* rule violations; (10) Copies of electronically filed *ex parte* notices must also be sent electronically to all staff and Commissioners present at the *ex parte* meeting so as to enable them to review the notices for accuracy and completeness. Filers may be asked to submit corrections or further information as necessary for compliance with the rules; and (11) Parties making permissible *ex parte* presentations in restricted proceedings must conform and clarify rule changes when filing an ex parte notice with the Commission

The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making.

The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–28895 Filed 12–9–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0991]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 9, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0991.

Title: AM Measurement Data.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,900 respondents; 3,335 responses.

Estimated Hours per Response: 0.50–25 hours.

Frequency of Response: Recordkeeping requirement, Third party disclosure requirement, On occasion reporting requirement.

Total Annual Burden: 20,780 hours.

Total Annual Cost: $2,171,500.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality

treatment with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The following information collection requirements are contained in this collection:

47 CFR 73.54(c) requires that AM licensees file a letter notification with the FCC when determining power by the direct method. In addition, Section 73.54(c) requires that background information regarding antenna resistance measurement data for AM stations must be kept on file at the station.

47 CFR 73.54(d) requires AM stations using direct reading power meters to either submit the information required by (c) or submit a statement indicating that such a meter is being used.

47 CFR 73.61(a) states each AM station using a directional antenna with monitoring point locations specified in the instrument of authorization must make field strength measurements at the monitoring point locations specified in the instrument of authorization, as often as necessary to ensure that the field at those points does not exceed the values specified in the station authorization. Additionally, stations not having an approved sampling system must make the measurements once each calendar quarter at intervals not exceeding 120 days. The provision of this paragraph supersedes any schedule specified on a station license issued prior to January 1, 1986. The results of the measurements are to be entered into the station log pursuant to the provisions of Section 73.1820.

47 CFR 73.61(b) states if the AM license was granted on the basis of field strength measurements performed pursuant to Section 73.151(a), partial proof of performance measurements using the procedures described in Section 73.154 must be made whenever the licensee has reason to believe that the radiated field may be exceeding the limits for which the station was most recently authorized to operate.

47 CFR 73.61(c) requires a station may be directed to make a partial proof of performance by the FCC whenever there is an indication that the antenna is not operating as authorized.

47 CFR 73.62(b) requires an AM station with a directional antenna system to measure and log every monitoring point at least once for each mode of directional operation within 24 hours of detection of variance of operating parameters from allowed tolerances.

47 CFR 73.68(c) states a station having an antenna sampling system constructed according to the specifications given in paragraph (a) of this section may obtain approval of that system by submitting an informal letter request to the FCC in Washington, DC, Attention: Audio Division, Media Bureau. The request for approval, signed by the licensee or authorized representative, must contain sufficient information to show that the sampling system is in compliance with all requirements of paragraph (a) of this section.

47 CFR 73.68(d) states in the event that the antenna monitor sampling system is temporarily out of service for repair or replacement, the station may be operated, pending completion of repairs or replacement, for a period not exceeding 120 days without further authority from the FCC if all other operating parameters and the field monitoring point values are within the limits specified on the station authorization.

47 CFR 73.68(e)(1) Special Temporary Authority (see Section 73.1635) shall be requested and obtained from the Commission's Audio Division, Media Bureau in Washington to operate with parameters at variance with licensed values pending issuance of a modified license specifying parameters subsequent to modification or replacement of components.

47 CFR 73.68(e)(4) states request for modification of license shall be submitted to the FCC in Washington, DC, within 30 days of the date of sampling system modification or replacement. Such request shall specify the transmitter plate voltage and plate current, common point current, base currents and their ratios, antenna monitor phase and current indications, and all other data obtained pursuant to this paragraph.

47 CFR 73.68(f) states if an existing sampling system is found to be patently of marginal construction, or where the performance of a directional antenna is found to be unsatisfactory, and this deficiency reasonably may be attributed, in whole or in part, to inadequacies in the antenna monitoring system, the FCC may require the reconstruction of the sampling system in accordance with requirements specified above.

47 CFR 73.69(c) requires AM station licensees with directional antennas to file an informal request to operate without required monitors with the Media Bureau in Washington, DC, when conditions beyond the control of the licensee prevent the restoration of an antenna monitor to service within a 120 day period. This request is filed in conjunction with Section 73.3549.

47 CFR 73.69(d)(1) requires that AM licensees with directional antennas request to obtain temporary authority to operate with parameters at variance with licensed values when an authorized antenna monitor is replaced pending issuance of a modified license specifying new parameters.

47 CFR 73.69(d)(5) requires AM licensees with directional antennas to submit an informal request for modification of license to the FCC within 30 days of the date of antenna monitor replacement.

47 CFR 73.151(c)(1)(ix) states the orientation and distances among the individual antenna towers in the array shall be confirmed by a post-construction certification by a land surveyor (or, where permitted by local regulation, by an engineer) licensed or registered in the state or territory where the antenna system is located.

47 CFR 73.151(c)(2)(i) describes techniques for moment method modeling, sampling system construction, and measurements that must be taken as part of a moment method proof. A description of the sampling system and the specified measurements must be filed with the license application.

47 CFR 73.151(c)(3) states reference field strength measurement locations shall be established in directions of pattern minima and maxima. On each radial corresponding to a pattern minimum or maximum, there shall be at least three measurement locations. The field strength shall be measured at each reference location at the time of the proof of performance. The license application shall include the measured field strength values at each reference point, along with a description of each measurement location, including GPS coordinates and datum reference.

47 CFR 73.154 requires the result of the most recent partial proof of performance measurements and analysis to be retained in the station records and made available to the FCC upon request. Maps showing new measurement points shall be associated with the partial proof in the station's records and shall be made available to the FCC upon request.

47 CFR 73.155 states a station licensed with a directional antenna pattern pursuant to a proof of performance using moment method modeling and internal array parameters as described in § 73.151(c) shall recertify the performance of that directional antenna pattern at least once within every 24 month period.

47 CFR 73.155(c) states the results of the periodic directional antenna performance recertification measurements shall be retained in the station's public inspection file.

47 CFR 73.158(b) requires a licensee of an AM station using a directional

antenna system to file a request for a corrected station license when the description of monitoring point in relation to nearby landmarks as shown on the station license is no longer correct due to road or building construction or other changes. A copy of the monitoring point description must be posted with the existing station license.

47 CFR 73.3538(b) requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.

47 CFR 73.3549 requires licensees to file with the FCC requests for extensions of authority to operate without required monitors, transmission system indicating instruments, or encoders and decoders for monitoring and generating the Emergency Alert System codes. Such requests musts contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the equipment is out of service.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–28894 Filed 12–9–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 14–1737]

Federal Advisory Committee Act; Disability Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Announcement of committee; solicitation of applications and membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Federal Communications Commission (Commission) announces its intent to establish a Federal Advisory Committee, known as the ''Disability Advisory Committee'' (hereinafter ''the Committee'' or ''DAC''), and to solicit nominations for membership to the Committee.

DATES: Please submit applications as soon as possible, but no later than January 12, 2015.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: E. Elaine Gardner, Designated Federal Officer, Federal Communications Commission, Consumer and Governmental Affairs Bureau, (202) 418–0581, or email: *Elaine.Gardner@fcc.gov.*

SUPPLEMENTARY INFORMATION: Applications and nominations for membership, including a statement of qualifications as noted below, should be submitted by email to the Federal Communications Commission at *DAC@fcc.gov.*

Background

The Chairman of the Commission has determined that the establishment of the Committee is necessary and in the public interest in connection with the performance of duties imposed on the Commission by law, and the Committee Management Secretariat, General Service Administration concurs with the establishment of the Committee. The purpose of the Committee is to provide advice, technical support, and recommended proposals to the Commission on the full range of disability access issues within the Commission's jurisdiction. This Committee will also provide a means for stakeholders with interests in accessibility issues to exchange ideas, facilitate the participation of consumers with disabilities in proceedings before the Commission, and assist the Commission in educating the greater disability community and covered entities on disability-related matters. Issues or questions to be considered by the Committee may include, but are not limited to the following:

- Telecommunications relay services;
- Closed captioning;
- Video description;
- Access to televised emergency information;
- Access to video programming apparatus;
- Access to telecommunications services and equipment;
- Access to advanced communications services and equipment;
- Hearing aid compatibility;
- Access to 9–1–1 emergency services;
- The National Deaf-Blind Equipment Distribution Program; and
- The impact of IP and other network transitions on people with disabilities.

Advisory Committee

The Committee will be organized under, and will operate in accordance with, the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). The Committee will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the Committee will be open to the public unless otherwise noticed. A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. All activities of the Committee will be conducted in an open, transparent and accessible manner. The Committee shall terminate two (2) years from the renewal date of its charter, unless its charter is being renewed prior to the termination date.

During the Committee's first term, it is anticipated that the Committee will meet in Washington, DC for at least three (3) one-day meetings. The first meeting date and agenda topics will be described in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date. In addition, as needed, working groups or subcommittees (ad hoc or steering) will be established to facilitate the Committee's work between meetings of the full Committee. All meetings, including working groups and subcommittees, will be fully accessible to individuals with disabilities.

Application for Advisory Committee Appointment

The Chairman is seeking nominations to fill approximately 25 membership vacancies, with a term up to two (2) years. The Commission seeks applications from representatives of interested organizations, institutions, or other entities from both the public and private sectors that wish to be considered for membership on the Committee. The Commission is particularly interested in receiving nominations and expressions of interest from individuals and organizations representing the following categories:

- Individuals, organizations and other entities representing people with disabilities, including people who are blind and visually impaired, people who are deaf or hard of hearing, people with intellectual disabilities, people with multiple disabilities, including those who are deaf-blind, people with speech disabilities, and people with mobility disabilities;
- Individuals, organizations and other entities with a particular interest in the accessibility needs of children and senior citizens with disabilities;

Communications service providers, including TRS providers, wireline and wireless communications service providers; equipment manufacturers, video programming providers, owners, distributors and manufacturers; voice over Internet protocol and other IP-

enabled service providers and manufacturers; researchers; educators; and accessible design developers and inventors;

- Federal government agencies;
- State and local government agencies; and
- Qualified representatives of other stakeholders and interested parties with relevant experience.

Selections will be made on the basis of factors such as expertise and diversity of viewpoints that are necessary to address effectively the questions before the Committee. Individuals who do not represent an organization, institution, or entity, but who possess expertise valuable to the Committee's work are also welcome to apply. If appointed, such individuals would serve as Special Government Employees (SGEs) subject to conflict of interest rules, financial disclosure requirements, and limitations on financial holdings similar to those applicable to regular agency employees. In addition, under current White House guidance, such individuals (unlike those who are serving in a representative capacity) cannot be registered federal lobbyists. Committee members will not be compensated for their service. Members must be willing to commit to a two (2) year term of service, should be willing and able to attend at least three (3) one-day plenary committee meetings during each year of the Committee's term, and are also encouraged to participate in deliberations of at least one (1) subcommittee or working group for which they have interest and qualifications. The time commitment for participation in any subcommittee or working group may be substantial. However, subcommittee and working group meetings may be conducted informally, using suitable technology to facilitate the meetings, subject to oversight by the Designated Federal Official of the DAC.

Application Procedure, Deadline and Member Appointments

Nominations should be received by the Commission as soon as possible, but no later than January 12, 2015. No specific nomination form is required; however, each nomination must include the following information:

- Name, title, and organization of the nominee and a description of the organization, sector or other interest the nominee will represent;
- Nominee's mailing address, email address, and telephone number;
- A statement summarizing the nominee's qualifications (including relevant experience and expertise) and reasons why the nominee should be appointed to the Committee. To the extent the nominee will represent a specific organization, the statement should also include a description of the organization as well as the benefit of having the organization represented on the Committee;
- A statement confirming that the nominee is not a registered federal lobbyist, if seeking appointment for the individual's expertise and not as a representative of an organization or entity; and
- The specific subcommittee(s), if any, on which the nominee has an interest in serving, along with the nominee's qualifications to serve on such subcommittee. If indicating more than one subcommittee, the nominee should list these in order of preference.

For applicants seeking to represent an organization or company, the applicant's nomination to the Committee must be confirmed by an authorized person (*e.g.,* organization or company official) confirming that the organization or company wants the nominated person to represent it on the Committee.

Nominations, including all information outlined herein, should be submitted by email to *DAC@fcc.gov.* Nominations should be submitted by January 12, 2015.

Please note this Notice is not intended to be the exclusive method by which the Commission will solicit nominations and expressions of interest to identify qualified candidates; however, all candidates for membership on the Committee will be subject to the same evaluation criteria.

After the applications have been reviewed, the Commission will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. Members serve at the discretion of the Chairman of the Commission and must be willing to commit to serve for a period of two (2) years from the date of establishment of the Committee.

Accessible Formats: 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 and Governmental Affairs Bureau at (202) 418–0530 (voice), or call ASL Consumer Support Line at (844) 432–2275 via videophone.

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2014–28996 Filed 12–9–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012308.

Title: MOL/CMA CGM Japan/USWC Slot Charter Agreement.

Parties: CMA CGM, S.A. and Mitsui O.S.K. Lines, Ltd.

Filing Party: Draughn B. Arbona, Senior Counsel; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The agreement would authorizes CMA CGM to charter space from MOL between ports on the West Coast of the United States, and Japan.

By Order of the Federal Maritime Commission.

Dated: December 5, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–28893 Filed 12–9–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

[File No. 132 3088]

Michael C. Hughes; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 2, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/michaelchughesconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section

below. Write ''Michael C. Hughes—Consent Agreement; File No. 132 3088'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/michaelchughesconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Michael C. Hughes—Consent Agreement; File No. 132 3088'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jacqueline Connor, Bureau of Consumer Protection, (202–326–2844), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 3, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 2, 2015. Write ''Michael C. Hughes—Consent Agreement; File No. 132 3088'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR § 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/michaelchughesconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Michael C. Hughes—Consent Agreement; File No. 132 3088'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 2, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to Michael C. Hughes (''Hughes'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

Michael C. Hughes is the former Chief Executive Officer, sole employee, and part owner of PaymentsMD, LLC (''PaymentsMD''). PaymentsMD's principal line of business is the delivery of electronic billing records and the collection of accounts receivable for medical providers. In December 2011, PaymentsMD launched a free ''Patient Portal'' product that enabled consumers to pay their bills and to view their balance, payments made, adjustments taken, and information for other service dates.

The Commission's complaint alleges that PaymentsMD, under Hughes' direction and control, deceived consumers regarding the collection of consumers' sensitive health information from third parties. In June 2012, PaymentsMD entered into an agreement with Metis Health LLC (''Metis Health'') to develop an entirely new service called Patient Health Report, a fee-based service that would enable consumers to access, review, and manage their consolidated health records through a Patient Portal account. In order to populate the Patient Health Report, PaymentsMD, under Hughes' direction and control, obtained consumers' authorization to collect sensitive health information for one purpose—to track

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

their medical bills—and then used that authority to attempt to collect a massive amount of sensitive health information, including treatment information, from third parties without consumers' knowledge or consent. Based on such authorization, sensitive health information about everyone who registered for the Patient Portal was then requested from a large number of health plans, pharmacies, and a medical lab.

The first count of the Commission's complaint alleges that Hughes, through his direction and control of PaymentsMD, represented that consumers registering for their free Patient Portal billing service could access and review their medical payment history, but failed to disclose adequately that PaymentsMD would also engage in a comprehensive collection of consumers' sensitive health information for a Patient Health Report. The second count alleges that Hughes, through his direction and control of PaymentsMD, deceptively represented that the consumers' authorizations were to be used exclusively to provide the billing service.

The proposed order contains provisions designed to prevent Hughes from engaging in the future in practices similar to those alleged in the complaint. Part I prohibits Hughes or any entity he owns or controls from misrepresenting the extent to which he or any entity he owns or controls uses, maintains, and protects the privacy, confidentiality, and security of covered information collected from or about consumers, including but not limited to (1) the services for which consumers are being enrolled as part of any sign-up process; (2) the extent to which he will share covered information with, or seek covered information from, third parties; and (3) the purpose(s) for which covered information collected from third parties will be used. Part II requires Hughes or any entity he owns or controls to clearly and prominently disclose practices regarding the collection, use, storage, disclosure or sharing of health information prior to seeking authorization to collect health information from a third party, and to obtain affirmative express consent from consumers prior to collecting health information from a third party.

Part III prohibits Hughes or any entity he owns or controls from using, collecting, or permitting any third party to use or maintain any covered information pursuant to any authorization obtained prior to the date of the order from consumers registering for the Patient Portal. Hughes also must, within sixty days, delete all covered information in his possession or control that was collected in relation to the Patient Health Report service.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Hughes to retain documents relating to his compliance with the order. The order requires that Hughes retain all of the documents for a five-year period. Part V requires dissemination of the order for a period of five years to all current and future subsidiaries, principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order for any business that Hughes is the majority owner of or controls directly or indirectly. Part VI ensures notification, for a period of five years, to the FTC of changes to Hughes' current business or employment, or his affiliation with any new business or employment. Part VII mandates that Hughes submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–28973 Filed 12–9–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 132 3088]

PaymentsMD, LLC; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 2, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/paymentsmdllcconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''PaymentsMD, LLC—Consent Agreement; File No. 132 3088'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/paymentsmdllcconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''PaymentsMD, LLC—Consent Agreement; File No. 132 3088'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jacqueline Connor, Bureau of Consumer Protection, (202–326–2844), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 3, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 2, 2015. Write ''PaymentsMD, LLC—Consent Agreement; File No. 132 3088'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/paymentsmdllcconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''PaymentsMD, LLC—Consent Agreement; File No. 132 3088'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 2, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to PaymentsMD, LLC (''PaymentsMD'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

PaymentsMD's principal line of business is the delivery of electronic billing records and the collection of accounts receivable for medical providers. In December 2011, PaymentsMD launched a free ''Patient Portal'' product that enabled consumers to pay their bills and to view their balance, payments made, adjustments taken, and information for other service dates.

The Commission's complaint alleges that PaymentsMD deceived consumers regarding the collection of consumers' sensitive health information from third parties. In June 2012, PaymentsMD entered into an agreement with Metis Health LLC (''Metis Health'') to develop an entirely new service called Patient Health Report, a fee-based service that would enable consumers to access, review, and manage their consolidated health records through a Patient Portal account. In order to populate the Patient Health Report, PaymentsMD obtained consumers' authorization to collect sensitive health information for one purpose—to track their medical bills—and then used that authority to attempt to collect a massive amount of sensitive health information, including treatment information, from third parties without consumers' knowledge or consent. Based on such authorization, sensitive health information about everyone who registered for the Patient Portal was then requested from a large number of health plans, pharmacies, and a medical lab.

The first count of the Commission's complaint alleges that PaymentsMD represented that consumers registering for their free Patient Portal billing service could access and review their medical payment history, but failed to disclose adequately that PaymentsMD would also engage in a comprehensive collection of consumers' sensitive health information for a Patient Health Report. The second count alleges that PaymentsMD deceptively represented that the consumers' authorizations were to be used exclusively to provide the billing service.

The proposed order contains provisions designed to prevent PaymentsMD from engaging in the future in practices similar to those alleged in the complaint. Part I prohibits PaymentsMD from making any future misrepresentation regarding the extent to which it uses, maintains, and protects the privacy, confidentiality, and security of covered information collected from or about consumers, including but not limited to: (1) The services for which consumers are being enrolled as part of any sign-up process; (2) the extent to which PaymentsMD will share covered information with, or seek covered information from, third parties; and (3) the purpose(s) for which covered information collected from third parties will be used. Part II requires PaymentsMD to clearly and prominently disclose its practices regarding the collection, use, storage, disclosure or sharing of health information prior to seeking authorization to collect health information from a third party. PaymentsMD must also obtain affirmative express consent from consumers prior to collecting health information from a third party.

Part III prohibits PaymentsMD from using, collecting, or permitting any third party to use or collect any covered information pursuant to any authorization obtained prior to the date of the order from consumers registering for the Patient Portal, except for the purpose of offering health-related bill-payment or bill history services. PaymentsMD also must, within sixty days, delete all covered information that was collected in relation to the Patient Health Report service. (PaymentsMD need not destroy the information related

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

to the bill-payment or bill history services that consumers actually signed up for.)

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires PaymentsMD to retain documents relating to its compliance with the order. The order requires that PaymentsMD retain all of the documents for a five-year period. Part V requires dissemination of the order now and in the future to all current and future subsidiaries, principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that PaymentsMD submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–28969 Filed 12–9–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Ebola Virus Disease Vaccines

ACTION: Notice of Declaration under the Public Readiness and Emergency Preparedness Act.

SUMMARY: The Secretary is issuing a declaration pursuant to section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to provide liability protection for activities related to Ebola Virus Disease Vaccines consistent with the terms of the declaration.

DATES: The declaration is effective as of December 3, 2014.

FOR FURTHER INFORMATION CONTACT: Nicole Lurie, MD, MSPH, Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201, Telephone (202) 205–2882 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Public Readiness and Emergency Preparedness Act (''PREP Act'') authorizes the Secretary of Health and Human Services (''the Secretary'') to issue a declaration to provide liability immunity to certain individuals and entities (''Covered Persons'') against any claim of loss caused by, arising out of, relating to, or resulting from the administration or use of medical countermeasures (''Covered Countermeasures''), except for claims that meet the PREP Act's definition of willful misconduct. Using this authority, the Secretary is issuing a declaration to provide liability immunity to Covered Persons for activities related to the Covered Countermeasures, Ebola Virus Disease Vaccines as listed in Section VI of the Declaration, consistent with the terms of this declaration.

The PREP Act was enacted on December 30, 2005, as Public Law 109–148, Division C, Section 2. It amended the Public Health Service (''PHS'') Act, adding section 319F–3, which addresses liability immunity, and section 319F–4, which creates a compensation program. These sections are codified in the U.S. Code as 42 U.S.C. 247d–6d and 42 U.S.C. 247d–6e, respectively.

The Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA), Public Law 113–5, was enacted on March 13, 2013. Among other things, PAHPRA added sections 564A and 564B to the Federal Food, Drug, & Cosmetic (FD&C) Act to provide new emergency authorities for dispensing approved products in emergencies and products held for emergency use. PAHPRA accordingly amended the definitions of ''Covered Countermeasures'' and ''qualified pandemic and epidemic products'' in section 319F–3 of the Public Health Service Act (the PREP Act provisions), so that products made available under these new FD&C Act authorities could be covered under PREP Act declarations. PAHPRA also extended the definition of qualified pandemic and epidemic products that may be covered under a PREP Act declaration to include products or technologies intended to enhance the use or effect of a drug, biological product, or device used against the pandemic or epidemic or against adverse events from these products.

The Ebola virus causes an acute, serious illness that is often fatal. Since March 2014, West Africa has been experiencing the largest and most complex Ebola outbreak since the Ebola virus was first discovered in 1976, affecting populations in multiple West African Countries and travelers from West Africa to the United States and other countries. The World Health Organization has declared the Ebola Virus Disease Outbreak as a Public Health Emergency of International Concern (PHEIC) under the framework of the International Health Regulations (2005).

Unless otherwise noted, all statutory citations below are to the U.S. Code.

Section I, Determination of Public Health Emergency or Credible Risk of Future Public Health Emergency

Before issuing a declaration under the PREP Act, the Secretary is required to determine that a disease or other health condition or threat to health constitutes a public health emergency or that there is a credible risk that the disease, condition, or threat may in the future constitute such an emergency. This determination is separate and apart from a declaration issued by the Secretary under section 319 of the PHS Act that a disease or disorder presents a public health emergency or that a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists, or other declarations or determinations made under other authorities of the Secretary. Accordingly, in Section I, the Secretary determines that there is a credible risk that the spread of Ebola virus and the resulting disease may in the future constitute a public health emergency.

Section II, Factors Considered

In deciding whether and under what circumstances to issue a declaration with respect to a Covered Countermeasure, the Secretary must consider the desirability of encouraging the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of the countermeasure. In Section II, the Secretary states that she has considered these factors.

Section III, Recommended Activities

The Secretary must recommend the activities for which the PREP Act's liability immunity is in effect. These activities may include, under conditions as the Secretary may specify, the manufacture, testing, development, distribution, administration, or use of one or more Covered Countermeasures (''Recommended Activities''). In Section III, the Secretary recommends activities for which the immunity is in effect.

Section IV, Liability Immunity

The Secretary must also state that liability protections available under the PREP Act are in effect with respect to the Recommended Activities. These

liability protections provide that, ''[s]ubject to other provisions of [the PREP Act], a covered person shall be immune from suit and liability under Federal and State law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a covered countermeasure if a declaration . . . has been issued with respect to such countermeasure.'' In Section IV, the Secretary states that liability protections are in effect with respect to the Recommended Activities.

Section V, Covered Persons

The PREP Act's liability immunity applies to ''Covered Persons'' with respect to administration or use of a Covered Countermeasure. The term ''Covered Persons'' has a specific meaning and is defined in the PREP Act to include manufacturers, distributors, program planners, and qualified persons, and their officials, agents, and employees, and the United States. The PREP Act further defines the terms ''manufacturer,'' ''distributor,'' ''program planner,'' and ''qualified person'' as described below.

A manufacturer includes a contractor or subcontractor of a manufacturer; a supplier or licenser of any product, intellectual property, service, research tool or component or other article used in the design, development, clinical testing, investigation or manufacturing of a Covered Countermeasure; and any or all of the parents, subsidiaries, affiliates, successors, and assigns of a manufacturer.

A distributor means a person or entity engaged in the distribution of drug, biologics, or devices, including but not limited to: Manufacturers; repackers; common carriers; contract carriers; air carriers; own-label distributors; private-label distributors; jobbers; brokers; warehouses and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies.

A program planner means a State or local government, including an Indian Tribe; a person employed by the State or local government; or other person who supervises or administers a program with respect to the administration, dispensing, distribution, provision, or use of a Covered Countermeasure, including a person who establishes requirements, provides policy guidance, or supplies technical or scientific advice or assistance or provides a facility to administer or use a Covered Countermeasure in accordance with the Secretary's declaration. Under this definition, a private sector employer or community group or other ''person'' can be a program planner when it carries out the described activities.

A qualified person means a licensed health professional or other individual who is authorized to prescribe, administer, or dispense Covered Countermeasures under the law of the State in which the countermeasure was prescribed, administered, or dispensed; or a person within a category of persons identified as qualified in the Secretary's declaration. Under this definition, the Secretary can describe in the declaration other qualified persons, such as volunteers, who are Covered Persons. Section V describes other qualified persons covered by this declaration.

The PREP Act also defines the word ''person'' as used in the Act: A person includes an individual, partnership, corporation, association, entity, or public or private corporation, including a Federal, State, or local government agency or department.

Section V describes Covered Persons under the declaration, including Qualified Persons.

Section VI, Covered Countermeasures

As noted above, section III describes the Secretary's Recommended Activities for which liability immunity is in effect. This section identifies the countermeasures for which the Secretary has recommended such activities. The PREP Act states that a ''Covered Countermeasure'' must be: A ''qualified pandemic or epidemic product,'' or a ''security countermeasure,'' as described immediately below; or a drug, biological product or device authorized for emergency use in accordance with sections 564, 564A, or 564B of the FD&C Act.

A qualified pandemic or epidemic product means a drug or device, as defined in the FD&C Act or a biological product, as defined in the PHS Act that is: (i) Manufactured, used, designed, developed, modified, licensed or procured to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic or limit the harm such a pandemic or epidemic might otherwise cause; (ii) manufactured, used, designed, developed, modified, licensed, or procured to diagnose, mitigate, prevent, treat, or cure a serious or life-threatening disease or condition caused by such a drug, biological product, or device; (iii) or a product or technology intended to enhance the use or effect of such a drug, biological product, or device.

A security countermeasure is a drug or device, as defined in the FD&C Act or a biological product, as defined in the PHS Act that: (i) (a) The Secretary determines to be a priority to diagnose, mitigate, prevent, or treat harm from any biological, chemical, radiological, or nuclear agent identified as a material threat by the Secretary of Homeland Security, or (b) to diagnose, mitigate, prevent, or treat harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent; and (ii) is determined by the Secretary of Health and Human Services to be a necessary countermeasure to protect public health.

To be a Covered Countermeasure, qualified pandemic or epidemic products or security countermeasures also must be approved or cleared under the FD&C Act; licensed under the PHS Act; or authorized for emergency use under sections 564, 564A, or 564B of the FD&C Act.

A qualified pandemic or epidemic product also may be a Covered Countermeasure when it is exempted under the FD&C Act for use as an investigational drug or device that is the object of research for possible use for diagnosis, mitigation, prevention, treatment, or cure, or to limit harm of a pandemic or epidemic or serious or life-threatening condition caused by such a drug or device. A security countermeasure also may be a Covered Countermeasure if it may reasonably be determined to qualify for approval or licensing within ten years after the Department's determination that procurement of the countermeasure is appropriate.

Section VI lists the Ebola Virus Disease Vaccines that are Covered Countermeasures.

Section VI also refers to the statutory definitions of Covered Countermeasures to make clear that these statutory definitions limit the scope of Covered Countermeasures. Specifically, the declaration notes that Covered Countermeasures must be ''qualified pandemic or epidemic products,''' or ''security countermeasures,'' or drugs, biological products, or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act, and the Public Health Service Act.''

Section VII, Limitations on Distribution

The Secretary may specify that liability immunity is in effect only to Covered Countermeasures obtained through a particular means of distribution. The declaration states that liability immunity is afforded to Covered Persons for Recommended Activities related to:

(a) Present or future Federal contracts, cooperative agreements, grants, other transactions, interagency agreements, or memoranda of understanding or other Federal agreements; or (b) Activities authorized in accordance with the public health and medical response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures following a declaration of an emergency.

Section VII defines the terms ''Authority Having Jurisdiction'' and ''declaration of an emergency.''

We have specified in the definition that Authorities having jurisdiction include federal, state, local and tribal authorities and institutions or organizations acting on behalf of those governmental entities.

For governmental program planners only, liability immunity is afforded only to the extent they obtain Covered Countermeasures through voluntary means, such as (1) donation; (2) commercial sale; (3) deployment of Covered Countermeasures from Federal stockpiles; or (4) deployment of donated, purchased, or otherwise voluntarily obtained Covered Countermeasures from State, local, or private stockpiles.

This last limitation on distribution is intended to deter program planners that are government entities from seizing privately held stockpiles of Covered Countermeasures. It does not apply to any other Covered Persons, including other program planners who are not government entities.

Section VIII, Category of Disease, Health Condition, or Threat

The Secretary must identify, for each Covered Countermeasure, the categories of diseases, health conditions, or threats to health for which the Secretary recommends the administration or use of the countermeasure. In Section VIII, the Secretary states that the disease threat for which she recommends administration or use of the Covered Countermeasures is Ebola virus disease.

Section IX, Administration of Covered Countermeasures

The PREP Act does not explicitly define the term ''administration'' but does assign the Secretary the responsibility to provide relevant conditions in the declaration. In Section IX, the Secretary defines ''Administration of a Covered Countermeasure'':

Administration of a Covered Countermeasure means physical provision of the countermeasures to recipients, or activities and decisions directly relating to public and private delivery, distribution, and dispensing of the countermeasures to recipients; management and operation of countermeasure programs; or management and operation of locations for purpose of distributing and dispensing countermeasures.

The definition of ''administration'' extends only to physical provision of a countermeasure to a recipient, such as vaccination or handing drugs to patients, and to activities related to management and operation of programs and locations for providing countermeasures to recipients, such as decisions and actions involving security and queuing, but only insofar as those activities directly relate to the countermeasure activities. Claims for which Covered Persons are provided immunity under the Act are losses caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a Covered Countermeasure consistent with the terms of a declaration issued under the Act. Under the Secretary's definition, these liability claims are precluded if the claims allege an injury caused by physical provision of a countermeasure to a recipient, or if the claims are directly due to conditions of delivery, distribution, dispensing, or management and operation of countermeasure programs at distribution and dispensing sites.

Thus, it is the Secretary's interpretation that, when a declaration is in effect, the Act precludes, for example, liability claims alleging negligence by a manufacturer in creating a vaccine, or negligence by a health care provider in prescribing the wrong dose, absent willful misconduct. Likewise, the Act precludes a liability claim relating to the management and operation of a countermeasure distribution program or site, such as a slip-and-fall injury or vehicle collision by a recipient receiving a countermeasure at a retail store serving as an administration or dispensing location that alleges, for example, lax security or chaotic crowd control. However, a liability claim alleging an injury occurring at the site that was not directly related to the countermeasure activities is not covered, such as a slip and fall with no direct connection to the countermeasure's administration or use. In each case, whether immunity is applicable will depend on the particular facts and circumstances.

Section X, Population

The Secretary must identify, for each Covered Countermeasure specified in a declaration, the population or populations of individuals for which liability immunity is in effect with respect to administration or use of the countermeasure. This section explains which individuals should use the countermeasure or to whom the countermeasure should be administered—in short, those who should be vaccinated or take a drug or other countermeasure. Section X provides that the population includes ''any individual who uses or who is administered a Covered Countermeasure in accordance with the declaration.''

In addition, the PREP Act specifies that liability immunity is afforded: (1) To manufacturers and distributors without regard to whether the countermeasure is used by or administered to this population; and (2) to program planners and qualified persons when the countermeasure is either used by or administered to this population or the program planner or qualified person reasonably could have believed the recipient was in this population. Section X includes these statutory conditions in the declaration for clarity.

Section XI, Geographic Area

The Secretary must identify, for each Covered Countermeasure specified in the declaration, the geographic area or areas for which liability immunity is in effect with respect to administration or use of the countermeasure, including, as appropriate, whether the declaration applies only to individuals physically present in the area or, in addition, applies to individuals who have a described connection to the area. Section XI provides that liability immunity is afforded for the administration or use of a Covered Countermeasure without geographic limitation. This could include claims related to administration or use in West Africa. It is possible that claims may arise in regard to administration or use of the Covered Countermeasures outside the U.S. that may be resolved under U.S. law.

In addition, the PREP Act specifies that liability immunity is afforded: (1) To manufacturers and distributors without regard to whether the countermeasure is used by or administered to individuals in the geographic areas; and (2) to program planners and qualified persons when the countermeasure is either used or administered in the geographic areas or the program planner or qualified person reasonably could have believed the countermeasure was used or administered in the areas. Section XI includes these statutory conditions in the declaration for clarity.

Section XII, Effective Time Period

The Secretary must identify, for each Covered Countermeasure, the period or periods during which liability immunity is in effect, designated by dates, milestones, or other description of events, including factors specified in the PREP Act. Section XII explains the effective time periods for different means of distribution of Covered Countermeasures.

Section XIII, Additional Time Period of Coverage

The Secretary must specify a date after the ending date of the effective period of the declaration that is reasonable for manufacturers to arrange for disposition of the Covered Countermeasure, including return of the product to the manufacturer, and for other Covered Persons to take appropriate actions to limit administration or use of the Covered Countermeasure. In addition, the PREP Act specifies that for Covered Countermeasures that are subject to a declaration at the time they are obtained for the Strategic National Stockpile under 42 U.S.C. 247d–6b(a), the effective period of the declaration extends through the time the countermeasure is used or administered pursuant to a distribution or release from the Stockpile. Liability immunity under the provisions of the PREP Act and the conditions of the declaration continues during these additional time periods. Thus, liability immunity is afforded during the ''Effective Time Period,'' described under XII of the declaration, plus the ''Additional Time Period''' described under section XIII of the declaration.

Section XIII provides for twelve (12) months as the additional time period of coverage after expiration of the declaration.'' Section XIII also explains the extended coverage that applies to any products obtained for the Strategic National Stockpile during the effective period of the declaration.

Section XIV, Countermeasures Injury Compensation Program

Section 319F–4 of the PREP Act authorizes a Countermeasures Injury Compensation Program (CICP) to provide benefits to eligible individuals who sustain a serious physical injury or die as a direct result of the administration or use of a Covered Countermeasure. Compensation under the CICP for an injury directly caused by a Covered Countermeasure is based on the requirements set forth in this declaration, the administrative rules for the Program, and the statute. To show direct causation between a Covered Countermeasure and a serious physical injury, the statute requires ''compelling, reliable, valid, medical and scientific evidence.'' The administrative rules for the Program further explain the necessary requirements for eligibility under the CICP. Please note that, by statute, requirements for compensation under the CICP may not always align with the requirements for liability immunity provided under the PREP Act. Section XIV, ''Countermeasures Injury Compensation Program'' explains the types of injury and standard of evidence needed to be considered for compensation under the CICP.

Further, the administrative rules for the CICP specify if countermeasures are administered or used outside the United States, only otherwise eligible individuals at American embassies, military installations abroad (such as military bases, ships, and camps) or at North Atlantic Treaty Organization (NATO) installations (subject to the NATO Status of Forces Agreement) where American servicemen and servicewomen are stationed may be considered for CICP benefits. Other individuals outside the United States may not be eligible for CICP benefits.

Section XV, Amendments

The Secretary may amend any portion of a declaration through publication in the **Federal Register**.

Declaration

Declaration, Public Readiness and Emergency Preparedness Act Coverage for Ebola Virus

Disease Vaccines

I. Determination of Public Health Emergency or Credible Risk of Future Public Health Emergency

42 U.S.C. 247d–6d(b)(1)

I have determined that there is a credible risk that the spread of Ebola virus and the resulting disease or conditions may in the future constitute a public health emergency.

II. Factors Considered

42 U.S.C. 247d–6d(b)(6)

I have considered the desirability of encouraging the design, development, clinical testing, or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of the Covered Countermeasures.

III. Recommended Activities

42 U.S.C. 247d–6d(b)(1)

I recommend, under the conditions stated in this declaration, the manufacture, testing, development, distribution, administration, and use of the Covered Countermeasures.

IV. Liability Immunity

42 U.S.C. 247d–6d(a), 247d–6d(b)(1)

Liability immunity as prescribed in the PREP Act and conditions stated in this declaration is in effect for the Recommended Activities described in section III.

V. Covered Persons

42 U.S.C. 247d–6d(i)(2),(3),(4),(6),(8)(A) and (B)

Covered Persons who are afforded liability immunity under this declaration are ''manufacturers,'' ''distributors,'' ''program planners,'' ''qualified persons,'' and their officials, agents, and employees, as those terms are defined in the PREP Act, and the United States.

In addition, I have determined that the following additional persons are qualified persons: (a) Any person authorized in accordance with the public health and medical emergency response of the Authority Having Jurisdiction, as described in section VII below, to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures, and their officials, agents, employees, contractors and volunteers, following a declaration of an emergency; (b) any person authorized to prescribe, administer, or dispense the Covered Countermeasures or who is otherwise authorized to perform an activity under an Emergency Use Authorization in accordance with section 564 of the FD&C Act; (c) any person authorized to prescribe, administer, or dispense Covered Countermeasures using Emergency Use Instructions or under an order issued in accordance with Section 564A of the FD&C Act.

VI. Covered Countermeasures

42 U.S.C. 247d–6b(c)(1)(B), 42 U.S.C. 247d–6d(i)(1) and (7)

Covered Countermeasures are the following Ebola Virus Disease Vaccines:

(1) Recombinant Replication Deficient Chimpanzee Adenovirus Type 3-Vectored Ebola Zaire Vaccine (ChAd3–EBO–Z) GlaxoSmithKline [GSK code name GSK3390107A]

(2) BPSC1001 (rVSV–ZEBOV–GP) BioProtection Services Corporation, subsidiary of Newlink Genetics; and

(3) Ad26.ZEBOV/MVA–BN-Filo (MVA-mBN226B) Janssen Corporation, subsidiary of Johnson & Johnson/ Bavarian Nordic.

Covered Countermeasures must be ''qualified pandemic or epidemic products,''' or ''security countermeasures,'' or drugs, biological products, or devices authorized for investigational or emergency use, as those terms are defined in the PREP Act, the FD&C Act, and the Public Health Service Act.

VII. Limitations on Distribution

42 U.S.C. 247d–6d(a)(5) and (b)(2)(E)

I have determined that liability immunity is afforded to Covered Persons only for Recommended Activities involving Covered Countermeasures that are related to:

(a) Present or future Federal contracts, cooperative agreements, grants, other transactions, interagency agreements, memoranda of understanding, or other Federal agreements;

or

(b) Activities authorized in accordance with the public health and medical response of the Authority Having Jurisdiction to prescribe, administer, deliver, distribute or dispense the Covered Countermeasures following a declaration of an emergency.

i. The Authority Having Jurisdiction means the public agency or its delegate that has legal responsibility and authority for responding to an incident, based on political or geographical (*e.g.,* city, county, Tribal, State, or Federal boundary lines) or functional (*e.g.,* law enforcement, public health) range or sphere of authority.

ii. A declaration of emergency means any declaration by any authorized local, regional, State, or Federal official of an emergency specific to events that indicate an immediate need to administer and use the Covered Countermeasures, with the exception of a Federal declaration in support of an emergency use authorization under section 564 of the FD&C Act unless such declaration specifies otherwise;

I have also determined that for governmental program planners only, liability immunity is afforded only to the extent such program planners obtain Covered Countermeasures through voluntary means, such as (1) donation; (2) commercial sale; (3) deployment of Covered Countermeasures from Federal stockpiles; or (4) deployment of donated, purchased, or otherwise voluntarily obtained Covered Countermeasures from State, local, or private stockpiles.

VIII. Category of Disease, Health Condition, or Threat

42 U.S.C. 247d–6d(b)(2)(A)

The category of disease, health condition, or threat for which I recommend the administration or use of the Covered Countermeasures is Ebola virus disease.

IX. Administration of Covered Countermeasures

42 U.S.C. 247d–6d(a)(2)(B)

Administration of the Covered Countermeasure means physical provision of the countermeasures to recipients, or activities and decisions directly relating to public and private delivery, distribution and dispensing of the countermeasures to recipients, management and operation of countermeasure programs, or management and operation of locations for purpose of distributing and dispensing countermeasures.

X. Population

42 U.S.C. 247d–6d(a)(4), 247d–6d(b)(2)(C)

The populations of individuals include any individual who uses or is administered the Covered Countermeasures in accordance with this declaration.

Liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered to this population; liability immunity is afforded to program planners and qualified persons when the countermeasure is used by or administered to this population, or the program planner or qualified person reasonably could have believed the recipient was in this population.

XI. Geographic Area

42 U.S.C. 247d–6d(a)(4), 247d–6d(b)(2)(D)

Liability immunity is afforded for the administration or use of a Covered Countermeasure without geographic limitation.

Liability immunity is afforded to manufacturers and distributors without regard to whether the countermeasure is used by or administered in any designated geographic area; liability immunity is afforded to program planners and qualified persons when the countermeasure is used by or administered in any designated geographic area, or the program planner or qualified person reasonably could have believed the recipient was in that geographic area.

XII. Effective Time Period

42 U.S.C. 247d–6d(b)(2)(B)

Liability immunity for Covered Countermeasures through means of distribution, as identified in Section VII(a) of this Declaration, other than in accordance with the public health and medical response of the Authority Having Jurisdiction begins on the date of signature and extends for twelve (12) months from that date.

Liability immunity for Covered Countermeasures administered and used in accordance with the public health and medical response of the Authority Having Jurisdiction begins with a declaration and lasts through (1) the final day the emergency declaration is in effect or (2) twelve (12) months from the date of signature, whichever occurs first.

XIII. Additional Time Period of Coverage

42 U.S.C. 247d–6d(b)(3)(B) and (C)

I have determined that an additional twelve (12) months of liability protection is reasonable to allow for the manufacturer(s) to arrange for disposition of the Covered Countermeasure, including return of the Covered Countermeasures to the manufacturer, and for Covered Persons to take such other actions as are appropriate to limit the administration or use of the Covered Countermeasures.

Covered Countermeasures obtained for the Strategic National Stockpile (''SNS'') during the effective period of this declaration are covered through the date of administration or use pursuant to a distribution or release from the SNS.

XIV. Countermeasures Injury Compensation Program

42 U.S.C 247d–6e

The PREP Act authorizes a Countermeasures Injury Compensation Program (''CICP'') to provide benefits to certain individuals or estates of individuals who sustain a covered serious physical injury as the direct result of the administration or use of the Covered Countermeasures, and benefits to certain survivors of individuals who die as a direct result of the administration or use of the Covered Countermeasures. The causal connection between the countermeasure and the serious physical injury must be supported by compelling, reliable, valid, medical and scientific evidence in order for the individual to be considered for compensation. The CICP is administered by the Health Resources and Services Administration (''HRSA''),

within the Department of Health and Human Services. Information about the CICP is available at the toll free number 1–855–266–2427 or *http://www.hrsa.gov/cicp/.*

XV. Amendments

42 U.S.C. 247d–6d(b)(4)

Any amendments to this declaration will be published in the **Federal Register**.

Authority: 42 U.S.C. 247d–6d.

Dated: December 3, 2014.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2014–28856 Filed 12–9–14; 8:45 am]

BILLING CODE 4150–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; Federal Health IT Strategic Plan: 2015–2020 Open Comment Period

AGENCY: ONC, HHS.

ACTION: Notice.

Authority: Section 3001(c)(3) of the Public Health Service Act.

SUMMARY: Section 3001(c)(3) of the Public Health Service Act, as added by the Health Information Technology for Economic and Clinical Health (HITECH) Act, requires the National Coordinator for Health Information Technology (ONC) to update the Federal Health IT Strategic Plan (developed June 3, 2008; last updated on September 15, 2011) in consultation with other appropriate federal agencies and in collaboration with private and public entities. The Plan was developed in collaboration across multiple federal agencies, and ONC will seek input on the draft Plan from the private sector through the Health IT Policy Committee. This notice serves to announce that the public comment period for the Federal Health IT Strategic Plan is open through Tuesday, February 6 at 5:00 p.m. (Eastern). ONC welcomes and encourages all comments from the public regarding the Plan.

In order for your comments to be read and considered, you must submit your comment via *http://www.healthit.gov/policy-researchers-implementers/strategic-plan-public-comments.*

FOR FURTHER INFORMATION CONTACT: Matthew Swain, Program Analyst in the Office of Planning, Evaluation, and Analysis, *matthew.swain@hhs.gov,* 202.205.3754.

Dated: December 4, 2014.

Matthew Swain,

Program Analyst, Office of Planning, Evaluation, and Analysis, Office of the National Coordinator for Health Information Technology (ONC), Office of the Secretary (OS).

[FR Doc. 2014–28855 Filed 12–9–14; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Safety and Health Research Advisory Committee; Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Mine Safety and Health Research Advisory Committee, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through November 30, 2016.

For information, contact Jeffrey H. Welsh, B.A., Designated Federal Officer, Mine Safety and Health Research Advisory Committee, Centers for Disease Control and Prevention, Department of Health and Human Services, 626 Cochrans Mill Road, Mailstop P05, Pittsburgh, Pennsylvania 15236, Telephone (412) 386–4040 or fax (412) 386–6614.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–28933 Filed 12–9–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The Centers for Disease Control (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment; Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment, Department of Health and Human Services, has been renewed for a 2-year period through November 25, 2016.

Contact Person for More Information: Johnathan Mermin, M.D., M.P.H., Designated Federal Officer, CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment, Department of Health and Human Services, CDC, 1600 Clifton Road NE., Mailstop E07, Atlanta, Georgia 30333, telephone (404) 639–8000 or fax (404) 639–8600.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–28932 Filed 12–9–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Impact Study Participants Beyond 8th Grade.

OMB No.: 0970–0229.

Description: The Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS) will collect follow-up information from children and families in the Head Start Impact Study. In anticipation of conducting a future follow-up for the study, ACF will collect information necessary to identify

respondents' current location and follow-up with respondents in the future.

The Head Start Impact Study is a longitudinal study involving 4,667 first-time enrolled three- and four-year-old preschool children across 84 nationally representative grantee/delegate agencies (in communities where there were more eligible children and families than can be served by the program). Participants were randomly assigned to either a Head Start group (that could enroll in Head Start services) or a control group (that could not enroll in Head services) or a control group (that could not enroll in Head Start services but could enroll in other available services selected by their parents). Data collection for the study began in fall of 2002 and has continued through late spring 2008 to include the participants' 3rd grade year. Location and contact information for participants has continued every spring beginning in 2009 and continued through spring 2014.

ACF will continue to collect a small amount of information for the sample through the spring of the participant's 12th grade year. To maintain adequate sample size, telephone interviews (with in-person follow-up as necessary) will be conducted in order to update the children's status and their location and contact information. Additionally, the parent interview will include a small set of items on children's special education needs, grade retention, school safety, school engagement, and parental monitoring to provide information on factors during adolescence that may influence long-term impacts of Head Start examined in a potential follow-up study. This information will be collected from parents or guardians in the spring of 2015 and 2016. Updates will take about 20 minutes to complete.

Respondents: The original sample of 4,667 treatment and control group members in the Head Start Impact Study, less 432 families that have given a ''hard'' refusal to participate in the study (*e.g.*, refused to participate if they were contacted again). The number of respondents for this requested data collection is 4,235.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Parent Interview	8470	4235	1	1/3	1412

Estimated Total Annual Burden Hours: 1412.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration, for Children and Families.

Naomi Goldstein,

Director, Office of Planning, Research and Evaluation; Administration for Children and Families.

[FR Doc. 2014–28843 Filed 12–9–14; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2029]

Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Practices and Procedures; Formal Evidentiary Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements contained in current FDA regulations: Administrative Practices and Procedures; Formal Evidentiary Public Hearing.

DATES: Submit either electronic or written comments on the collection of information by February 9, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Administrative Practices and Procedures (21 CFR 10.30, 10.33, 10.35, 10.85); Formal Evidentiary Public Hearing (21 CFR 12.22, 12.45) (OMB Control Number 0910–0191)—Extension

The Administrative Procedures Act (5 U.S.C. 553(e)) provides that every Agency shall give an interested person the right to petition for issuance, amendment, or repeal of a rule. Section 10.30 (21 CFR 10.30) sets forth the format and procedures by which an interested person may submit to FDA, in accordance with § 10.20 (21 CFR 10.20) (Submission of documents to Division of Dockets Management), a citizen petition requesting the Commissioner to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action.

The Commissioner may grant or deny such a petition, in whole or in part, and may grant such other relief or take other action as the petition warrants. Respondents are individuals or households, State or local governments, and not-for profit institutions or groups.

Section 10.33 (21 CFR 10.33), issued under section 701(a) of the Federal, Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 371(a)), sets forth the format and procedures by which an interested person may request reconsideration of part or all of a decision of the Commissioner on a petition submitted under 21 CFR 10.25 (Initiation of administrative proceedings). A petition for reconsideration must contain a full statement in a well-organized format of the factual and legal grounds upon which the petition relies. The grounds must demonstrate that relevant information and views contained in the administrative record were not previously or not adequately considered by the Commissioner. The respondent must submit a petition no later than 30 days after the decision involved. However, the Commissioner may, for good cause, permit a petition to be filed after 30 days. An interested person who wishes to rely on information or views not included in the administrative record shall submit them with a new petition to modify the decision. FDA uses the information provided in the request to determine whether to grant the petition for reconsideration. Respondents to this collection of information are individuals of households, State or local governments, not-for-profit institutions, and businesses or other for-profit institutions who are requesting from the Commissioner of FDA a reconsideration of a matter.

Section 10.35 (21 CFR 10.35), issued under section 701(a) of the FD&C Act, sets forth the format and procedures by which an interested person may request, in accordance with § 10.20 (Submission of documents to Division of Dockets Management), the Commissioner to stay the effective date of any administrative action.

Such a petition must do the following: (1) Identify the decision involved; (2) state the action requested, including the length of time for which a stay is requested; and (3) include a statement of the factual and legal grounds on which the interested person relies in seeking the stay. FDA uses the information provided in the request to determine whether to grant the petition for stay of action.

Respondents to this information collection are interested persons who choose to file a petition for an administrative stay of action.

Section 10.85 (21 CFR 10.85), issued under section 701(a) of the FD&C Act, sets forth the format and procedures by which an interested person may request, in accordance with § 10.20 (Submission of documents to Division of Dockets Management), an advisory opinion from the Commissioner on a matter of general applicability. An advisory opinion represents the formal position of FDA on a matter of general applicability. When making a request, the petitioner must provide a concise statement of the issues and questions on which an opinion is requested, and a full statement of the facts and legal points relevant to the request. Respondents to this collection of information are interested persons seeking an advisory opinion from the Commissioner on the Agency's formal position for matters of general applicability.

FDA has developed a method for electronic submission of citizen petitions. The Agency still allows for non-electronic submissions; however, electronic submissions of a citizen petition to a specific electronic docket presents a simpler and more straightforward approach. FDA has created a single docket on *http://www.regulations.gov,* the U.S. Government's consolidated docket Web site for Federal Agencies, for the initial electronic submission of all citizen petitions. The advantage to this change is that it ensures efficiency and ease in communication, quicker interaction between citizen petitioners and FDA, and easier access to FDA to seek input through the citizen petition process.

The regulations in 21 CFR 12.22, issued under section 701(e)(2) of the FD&C Act (21 U.S.C. 371(e)(2)), set forth the instructions for filing objections and requests for a hearing on a regulation or order under § 12.20(d) (21 CFR 12.20(d)). Objections and requests must be submitted within the time specified in § 12.20(e). Each objection, for which a hearing has been requested, must be separately numbered and specify the provision of the regulation or the proposed order. In addition, each objection must include a detailed description and analysis of the factual information and any other document, with some exceptions, supporting the objection. Failure to include this information constitutes a waiver of the right to a hearing on that objection. FDA uses the description and analysis to determine whether a hearing request is justified. The description and analysis may be used only for the purpose of determining whether a hearing has been justified under 21 CFR 12.24 and does not limit the evidence that may be presented if a hearing is granted.

Respondents to this information collection are those parties that may be adversely affected by an order or regulation.

Section 12.45 (21 CFR 12.45) issued under section 701 of the FD&C Act (21 U.S.C. 371), sets forth the format and procedures for any interested person to file a petition to participate in a formal evidentiary hearing, either personally or through a representative. Section 12.45 requires that any person filing a notice of participation state their specific interest in the proceedings, including the specific issues of fact about which the person desires to be heard. This section also requires that the notice include a statement that the person will present testimony at the hearing and will comply with specific requirements in 21 CFR 12.85, or, in the case of a hearing before a Public Board of Inquiry, concerning disclosure of data and information by participants (21 CFR 13.25). In accordance with § 12.45(e) the

presiding officer may omit a participant's appearance.

The presiding officer and other participants will use the collected information in a hearing to identify specific interests to be presented. This preliminary information serves to expedite the prehearing conference and commits participation.

The respondents are individuals or households, State or local governments, not-for-profit institutions and businesses, or other for-profit groups and institutions.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
10.30—Citizen Petition	207	1	207	24	4,968
10.33—Administrative reconsideration of action	4	1	4	10	40
10.35—Administrative Stay of Action	5	1	5	10	50
10.85—Advisory Opinions	4	1	4	16	64
12.22—Filing Objections and Requests for a Hearing on a Regulation or Order	3	1	3	20	60
12.45—Notice of Participation	4	1	4	3	12
Total					5,194

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates for this collection of information are based on Agency records and experience over the past 3 years.

Dated: December 4, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28825 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1067]

Patient Counseling Information Section of Labeling for Human Prescription Drug and Biological Products—Content and Format; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability of a guidance for industry entitled ''Patient Counseling Information Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' The recommendations in this guidance are intended to assist applicants in developing the ''Patient Counseling Information'' section of labeling and to help ensure that this section of labeling is clear, useful, informative, and to the extent possible, consistent in content and format. This guidance finalizes the draft guidance issued on September 18, 2013.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jonas Santiago, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6348, Silver Spring, MD 20993–0002, 301–796–5346; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Patient Counseling Information Section of Labeling for Human Prescription Drug and Biological Products—Content and Format.'' This guidance is intended to assist applicants in developing the Patient Counseling Information section of labeling required under 21 CFR 201.57(c)(18). Recommendations include the following: (1) How to decide what topics to include in the section, (2) how to present information within the section, and (3) how to format and organize section contents.

This guidance is one of a series of guidances FDA is developing, or has developed, to assist applicants with the content and format of labeling for human prescription drug and biological products. In the **Federal Register** of January 24, 2006 (71 FR 3922), FDA published a final rule on labeling for human prescription drug and biological products. The final rule and additional guidances can be accessed at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/LawsActsandRules/ucm084159.htm.* The labeling requirements and these guidances are intended to make information in prescription drug labeling easier for health care practitioners to access, read, and use.

This guidance finalizes the draft guidance issued on September 18, 2013 (78 FR 57394). FDA reviewed all received comments carefully during the finalization of the guidance. Other than clarifying edits, no changes of significance were made to the final version of the guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's

current thinking on the content and format of the Patient Counseling Information section of labeling for human prescription drug and biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control number 0910–0572.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov.*

Dated: December 4, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28888 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0588]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Guidance for Industry on Pharmacovigilance of Veterinary Medicinal Products: Electronic Standards for Transfer of Data; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry (GFI #214) entitled ''Pharmacovigilance of Veterinary Medicinal Products: Electronic Standards for Transfer of Data'' (VICH GL35). This guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This VICH guidance document is intended to provide recommended standards to construct a single Adverse Event Report (AER) electronic message to transmit VICH GL42 contents to all member regions and Product Problem Reports (PPR) to FDA for veterinary medicinal products. Please note that VICH GL42 has been harmonized in GFI #188, ''Data Elements for Submission of Veterinary Adverse Event Reports to the Center for Veterinary Medicine.''

DATES: Submit either electronic or written comments on Agency guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Margarita Brown, Center for Veterinary Medicine (HFV–240), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9048, *CVMAESupport@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based, harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency, European Federation of Animal Health, Committee on Veterinary Medicinal Products, FDA, U.S. Department of Agriculture, the Animal Health Institute, the Japanese Veterinary Pharmaceutical Association, the Japanese Association of Veterinary Biologics, and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Six observers are eligible to participate in the VICH Steering Committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, one representative from the industry of Canada, one representative from the government of South Africa, and one representative from the industry of South Africa. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International

Federation for Animal Health (IFAH). An IFAH representative also participates in the VICH Steering Committee meetings.

II. Guidance on Electronic Standards for Transfer of Data

In the **Federal Register** of September 15, 2011 (76 FR 57060), FDA published a notice of availability for a draft guidance document entitled ''Pharmacovigilance of Veterinary Medicinal Products: Electronic Standards for Transfer of Data'' (VICH GL35). Interested persons were given until November 14, 2011, to comment on the draft guidance. FDA received a few comments on the draft guidance, and those comments, as well as those received by other VICH member regulatory agencies, were considered as the guidance was finalized. The guidance announced in this document finalizes the draft guidance dated September 15, 2011. The final guidance is a product of the Pharmacovigilance Expert Working Group of the VICH.

In order to allow for electronic exchange of this information between stakeholders, further specification of the field descriptors and their relationships, including agreement on format of the electronic message is essential. This VICH guidance document is intended to provide recommended standards to construct a single electronic message to transmit data elements for submission of AERs to all member regions. The need to transfer and disseminate information quickly, accurately and easily between Regulatory Authorities and Marketing Authorization Holders on a worldwide scope is especially pertinent to the notification and assimilation of information for pharmacovigilance. Whereas the recommended definition of the pharmacovigilance information has been set forth within the draft guidance entitled, ''Pharmacovigilance of Veterinary Medicinal Products: Management of Adverse Event Reports (AER's)'' (VICH GL24), and the final guidances entitled ''Pharmacovigilance of Veterinary Medicinal Products: Controlled Lists of Terms'' (VICH GL30) and ''Pharmacovigilance of Veterinary Medicinal Products: Data Elements for Submission of Adverse Event Reports'' (VICH GL42), this guidance defines recommended electronic standards for transfer of data. Please note that VICH GL42 has been harmonized in GFI #188, ''Data Elements for Submission of Veterinary Adverse Event Reports to the Center for Veterinary Medicine.''

III. Significance of Guidance

This guidance, developed under the VICH process, has been revised to conform to FDA's good guidance practices regulation (21 CFR 10.115). For example, the document has been designated ''guidance'' rather than ''guideline.'' In addition, guidance documents must not include mandatory language such as ''shall,'' ''must,'' ''require,'' or ''requirement,'' unless FDA is using these words to describe a statutory or regulatory requirement.

The guidance represents the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of applicable statutes and regulations.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in this guidance have been approved under OMB control number 0910–0645.

V. Comments

Interested persons may submit either electronic comments regarding this document to *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.

VI. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov.*

Dated: December 4, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28830 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Postponement of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is postponing the meeting of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory scheduled for December 12, 2014. The meeting was announced in the **Federal Register** of September 22, 2014 (79 FR 56589). The meeting is postponed from December 12, 2014, until February 20, 2015. The location of the meeting has also changed.

Date and Time: The meeting will be held February 20, 2015, from 8 a.m. to 6 p.m.

Location: Hilton/Washington DC North, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 13, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 4, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 6, 2015.

Contact Person: Sara Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1611, Silver Spring, MD 20993–0002, or FDA Advisory Committee

Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Dated: December 4, 2014.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–28881 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1998]

Patient-Focused Drug Development Public Meeting on Chagas Disease

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting and an opportunity for public comment on Patient-Focused Drug Development for Chagas disease. Patient-Focused Drug Development is part of FDA's performance commitments in the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). The meeting is intended to allow FDA to obtain patients' perspectives on the impact that Chagas disease has on their daily lives, as well as their perspectives on the available therapies for Chagas disease. FDA is also interested in discussing issues related to scientific challenges in developing drugs to treat Chagas disease. In the afternoon, FDA will provide information for and gain perspective from patients and patient advocacy organizations, health care providers, academic experts, and industry on various aspects of clinical development of drug products intended to treat Chagas disease. The input from this public meeting will help in developing topics for further discussion.

DATES: The meeting will be held on April 28, 2015, from 9 a.m. to 5 p.m. Registration to attend the meeting must be received by April 20, 2015. See the **SUPPLEMENTARY INFORMATION** section for information on how to register for the meeting. Submit electronic or written comments by June 29, 2015.

ADDRESSES: The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, Sections B and C of the Great Room (Rm. 1503), Silver Spring, MD 20993. Participants must enter through Building 1 and undergo security screening. For more information on parking and security procedures, please visit *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FDA will post the agenda approximately 5 days before the meeting at *http://www.fda.gov/Drugs/NewsEvents/ucm420130.htm.*

FOR FURTHER INFORMATION CONTACT: Pujita Vaidya, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1144, Silver Spring, MD 20993, 301–796–0684, FAX: 301–847–8443, *Pujita.Vaidya@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on Patient-Focused Drug Development

FDA has selected Chagas disease as the focus of a meeting under Patient-Focused Drug Development, an initiative that involves obtaining a better understanding of patients' perspectives on the severity of the disease and the available therapies for the condition. Patient-Focused Drug Development is being conducted to fulfill FDA's performance commitments made as part of the authorization of PDUFA V under Title I of the Food and Drug Safety and Innovation Act (Public Law 112–144). The full set of performance commitments is available on the FDA Web site at *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm270412.pdf.*

FDA has committed to obtain the patient perspective in 20 disease areas during the course of PDUFA V. For each disease area, the Agency will conduct a public meeting to discuss the disease and its impact on patients' daily lives, the types of treatment benefit that matter most to patients, and patients' perspectives on the adequacy of the available therapies. These meetings will include participation of FDA review divisions, the relevant patient community, and other interested stakeholders.

On April 11, 2013, FDA published a notice (78 FR 21613) in the **Federal Register** announcing the disease areas for meetings in fiscal years (FYs) 2013 through 2015, the first 3 years of the 5-year PDUFA V time frame. To develop the list of disease areas, the Agency used several criteria that were outlined in the April 11 notice. The Agency obtained public comment on these criteria and potential disease areas through a notice for public comment published in the **Federal Register** on September 24, 2012 (77 FR 58849), and through a public meeting held on October 25, 2012. In selecting the disease areas, FDA carefully considered the public comments received and the perspectives of its review divisions. On October 8, 2014, FDA published a notice in the **Federal Register** to initiate another public process to determine the disease areas for FYs 2016 through 2017 (79 FR 60857). More information, including the list of disease areas and a general schedule of meetings, is posted at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm326192.htm.*

II. Public Meeting Information

A. Purpose and Scope of the Meeting

As part of Patient-Focused Drug Development, FDA will obtain patient and patient stakeholder input on symptoms of Chagas disease (American trypanosomiasis) that matter most to patients and on current approaches to treating Chagas disease. When left untreated, acute Chagas disease may progress to chronic Chagas disease. There are currently no FDA-approved drug therapies to treat acute or chronic Chagas disease. FDA is committed to working with all stakeholders to develop safe and effective therapies for affected individuals.

The questions that will be asked of patients and patient stakeholders at the meeting are listed in this section and organized by topic. For each topic, a brief patient panel discussion will begin the dialogue, followed by a facilitated discussion inviting comments from other patients and patient stakeholders. In addition to input received through this public meeting, FDA is interested in receiving patient input addressing these

questions through written comments that can be submitted to the public docket (see **ADDRESSES**). When submitting comments, if you are commenting on behalf of a child, please indicate that and answer the following questions as much as possible from the patient's perspective.

Topic 1: Disease Symptoms and Daily Impacts That Matter Most to Patients

1. What *worries you most* about your condition?

2. Do you experience symptoms because of your condition? If so, of all the symptoms that you experience, which *one to three* symptoms have the most significant impact on your life? (Examples may include irregular heartbeat, shortness of breath, difficulty swallowing, stomach pain, or constipation.)

3. Are there *specific activities* that are important to you but that you cannot do at all or as fully as you would like because of your condition? (Examples of activities may include sleeping through the night, daily hygiene, driving, being a blood or organ donor, or for women in reproductive age concern about getting pregnant and transmitting the infection to your children, etc.)

4. How have your condition and its symptoms *changed over time*?

5. Do your symptoms come and go? If so, do you know of anything that makes your symptoms better or worse?

Topic 2: Patient Perspectives on Current Approaches To Treat Chagas Disease

1. *What are you currently doing* to help treat your condition? (Examples may include prescription medicines, over-the-counter products, and other therapies including non-drug therapies such as diet modification.)

a. What specific symptoms do your treatments address?

b. How has your treatment regimen changed over time, and why?

2. What are the most significant *downsides to your current treatments,* and how do they affect your daily life? (Examples of downsides may include bothersome side effects, length of treatment, number of pills to take daily, going to the hospital for frequent checkups or treatment, restrictions on driving, potential consequences to your health and your child's health during pregnancy, etc.)

3. What specific things would you look for in an *ideal treatment* for your condition?

In the afternoon, discussion will be related to scientific topics, with the goal of understanding issues that may affect the development of drugs for the treatment of Chagas disease and identifying topics for future discussion. Discussion topics for the afternoon will include designs and endpoints for clinical trials as well as appropriate trial populations.

B. Meeting Attendance and Participation

If you wish to attend the meeting, visit *http://chagasdiseasepatientfocused.eventbrite.com.* Please register for the meeting by April 20, 2015. If you are unable to attend the meeting in person, you can register to view a live Webcast. You will be asked to indicate in your registration whether you plan to attend in person or via the Webcast.

Seating will be limited, so early registration is recommended. Registration is free and will be on a first-come, first-served basis. However, FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meetings will be based on space availability. If you need special accommodations because of a disability, please contact Pujita Vaidya (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

Patients who are interested in presenting comments as part of the initial panel discussions must indicate in their registration which topic(s) they wish to address. These patients also must send a brief summary of responses to the topic questions by April 10, 2015, to *PatientFocused@fda.hhs.gov.* Panelists will be notified of their selection approximately 7 days before the public meeting. We will try to accommodate all patients and patient stakeholders who wish to speak, either through the panel discussion or audience participation; however, the duration of comments may be limited by time constraints.

FDA will hold an open public comment period to give the public an opportunity to comment. Registration for open public comment will occur at the registration desk on the day of the meeting on a first-come, first-served basis.

III. Comments

Regardless of attendance at the Patient-Focused Drug Development meeting, you can submit electronic or written comments, including responses to the questions pertaining to Topics 1 and 2, to the public docket (see **ADDRESSES**) by June 29, 2015. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Transcripts

As soon as a transcript is available, FDA will post it at *http://www.fda.gov/Drugs/NewsEvents/ucm420130.htm.*

Dated: December 3, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–28828 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 7, 2015, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Caleb Briggs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly

enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss biologics license application (BLA) 125553 for EP2006, a proposed biosimilar to Amgen Inc.'s NEUPOGEN (filgrastim), submitted by Sandoz, Inc. The proposed indications (uses) for this product are: (1) To decrease the incidence of infection, as manifested by febrile neutropenia, in patients with nonmyeloid malignancies receiving myelosuppressive anti-cancer drugs associated with a significant incidence of severe neutropenia with fever; (2) for reducing the time to neutrophil recovery and the duration of fever, following induction or consolidation chemotherapy treatment of adults with acute myeloid leukemia; (3) to reduce the duration of neutropenia and neutropenia-related clinical sequelae, *e.g.*, febrile neutropenia in patients with nonmyeloid malignancies undergoing myeloablative chemotherapy followed by marrow transplantation; (4) for the mobilization of hematopoietic progenitor cells into the peripheral blood for collection by leukapheresis; and (5) for chronic administration to reduce the incidence and duration of sequelae of neutropenia (*e.g.*, fever, infections, oropharyngeal ulcers) in symptomatic patients with congenital neutropenia, cyclic neutropenia, or idiopathic neutropenia.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before December 22, 2014. Oral presentations from the public will be scheduled between approximately 2:15 p.m. to 3:15 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before December 12, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by December 15, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Caleb Briggs at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 3, 2014.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–28847 Filed 12–8–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2032]

Request for Nominations for Voting Members on the Food Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Food Advisory Committee, Office of Regulations, Policy, and Social Sciences, Center for Food Safety and Applied Nutrition. FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before January 30, 2015, will be given first consideration for membership on the Food Advisory Committee. Nominations received after January 30, 2015, will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be submitted electronically by logging into the FDA Advisory Committee Membership Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm,* by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, or by FAX to 301–847–8640.

Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION: *Regarding all nominations questions for membership, the primary contact is:* Karen Strambler, Office of Regulations, Policy, and Social Sciences, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy., Rm. 1C–016, College Park, MD 20740, 240–402–2589, FAX: 301–436–2637, *FoodAdvisoryCommittee@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on the Food Advisory Committee.

I. General Description of the Committee Duties

The Food Advisory Committee provides advice to the Commissioner of Food and Drugs and other appropriate officials on emerging food safety, food science, nutrition, and other food-related health issues that FDA considers of primary importance for its food and cosmetics programs. The Committee may be charged with reviewing and evaluating available data and making recommendations on matters such as those relating to: (1) Broad scientific and technical food- or cosmetic-related

issues; (2) the safety of food ingredients and new foods; (3) labeling of foods and cosmetics; (4) nutrient needs and nutritional adequacy; and (5) safe exposure limits for food contaminants. The Committee may also be asked to provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues and on approaches that might be considered for addressing the issues.

II. Criteria for Voting Members

The Committee consists of a core of 15 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among individuals knowledgeable in the fields of food science, microbiology, epidemiology, pediatric immunology, nutrition, food technology, biochemistry, and environmental health. Members are invited to serve for overlapping terms of up to 4 years.

Almost all non-Federal members of this committee serve as Special Government Employees. Of the 15 members who vote, 2 are technically qualified members identified with consumer interests. In addition to the voting members, the Committee has two nonvoting members who are identified with industry interests.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the Committee. Self-nominations are also accepted. Nominations must include a current résumé or curriculum vitae for each nominee, including a current business address and/or home address, telephone number, and email address if available. Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, research grants, and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: December 5, 2014.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–28889 Filed 12–9–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0005]

PRA Extension: 1670–0023 Technical Assistance Request and Evaluation

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-day notice and request for comments; reinstatement of a previously approved collection: 1670–0023.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C), Office of Emergency Communications, (OEC) will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until February 9, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to DHS/NPPD/CS&C/OEC, 245 Murray Lane SW., Mail Stop 0640, Arlington,VA 20598–0640. Emailed requests should go to Kendall Carpenter, *Kendall.Carpenter@hq.dhs.gov.* Written comments should reach the contact person listed no later than February 9, 2015. Comments must be identified by ''DHS–2014–0005''and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* .
- *Email: Kendall.Carpenter@hq.dhs.gov*
  - Include the docket number in the subject line of the message.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

SUPPLEMENTARY INFORMATION: OEC formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C.574 *et seq.,* as amended, is authorized to provide technical assistance at no charge to State, regional, local, and tribal government officials. OEC will use the Technical Assistance Request Form to identify the number and type of technical assistance requests from each State and territory. OEC will use the Technical Assistance Evaluation Form to support quality improvement of its technical assistance services. Both Forms may be submitted electronically or in paper form.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Emergency Communications.

Title: Technical Asistance Request and Evaluation.

OMB Number: 1670–0023.

Frequency: Annually.

Affected Public: State, local and tribal government.

Number of Respondents: 56 respondents (estimate).

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 175 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $4,273.50.

Dated: December 2, 2014.

Scott Libby,

Deputy Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2014–28885 Filed 12–9–14; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2008–0059]

Solicitation of Proposal Information for Award of Public Contracts

AGENCY: Office of the Chief Procurement Officer, DHS.

ACTION: 60-day notice and request for comments; extension without change of a currently approved collection, 1601–0005.

SUMMARY: The Department of Homeland Security, Office of the Chief Procurement Officer, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until February 9, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number DHS–2008–0059, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: dhs.pra@hq.dhs.gov*. Please include docket number DHS–2008–0059 in the subject line of the message.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) and the Office of the Chief Procurement Officer (OCPO) collect information when inviting firms to submit bids, proposals, and offers for public contracts for supplies and services. The information collection is necessary for compliance with the Homeland Security Acquisition Regulation (HSAR), 48 CFR Chapter 30, and the Small Business Innovative Research (SBIR) and Small Business Technology Transfer (STTR) programs, 15 U.S.C 628.

For solicitations to contract made through a variety of means, whether conducted orally or in writing, contracting officers normally request information from prospective offerors such as pricing information, delivery schedule compliance, and whether the offeror has the resources (both human and financial) to accomplish requirements. Examples of the kinds of information collected can be found in the HSAR in Part 9, Part 19 and Part 47, along with associated solicitation provisions and contract clauses.

Examples where collections of information occur in soliciting for supplies/services include the issuance of draft Requests for Proposal (RFP), Requests for Information (RFI), and Broad Agency Announcements (BAA). The Government generally issues an RFP using the uniform contract format with the intent of awarding a contract to one or more prospective offerors. The RFP can require those interested in making an offer to provide information in the following areas: Schedule (FAR 15.204–2); contract clauses (FAR 15.204–3); list of documents, exhibits and other attachments (FAR 15.204–4) or representations and instructions (15.204–5). Examples of collections under the HSAR include:

3052.209–70 Prohibition on Contracts with Corporate Expatriates

3052.209–72 Organizational Conflict of Interest

3052.209–74 Limitations on Contractors Acting as Lead System Integrators

3052.209–76 Prohibition on Federal Protective Service Guard Services Contracts with Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony

3052.219–72 Evaluation of Prime Contractor Participation in the DHS Mentor-Protégé Program

3052.247–70 F.o.b. Origin Information

The DHS Science and Technology (S&T) Directorate issues BAAs soliciting white papers and proposals from the public. DHS S&T evaluates white papers and proposals received from the public in response to a DHS S&T BAA using the evaluation criteria specified in the BAA through a peer or scientific review process in accordance with FAR 35.016(d). White paper evaluation determines those research ideas that merit submission of a full proposal and proposal evaluation determines those proposals that merit selection for contract award. Unclassified white papers and proposals are typically collected via the DHS S&T BAA secure Web site, while classified white papers and proposals must be submitted via proper classified courier or proper classified mailing procedures as described in the National Industrial Security Program Operating Manual (NSPOM).

Federal agencies with an annual extramural research and development (R&D) budget exceeding $100 million are required to participate in the SBIR Program. Similarly, Federal agencies with an extramural R&D budget exceeding $1 billion are required to participate in the STTR Program.

Federal agencies who participate in the SBIR and STTR programs must collect information from the public to:

(1) Meet their reporting requirements under 15 U.S.C. 638 (b)(7), (g)(8), (i), (j)(1)(E), (j)(3)(C), (l), (o)(10), and (v);

(2) Meet the requirement to maintain both a publicly accessible database of SBIR/STTR award information and a government database of SBIR/STTR award information for SBIR and STTR program evaluation under 15 U.S.C. 638 g(10, (k), (o)(9), and (o)(15); and

(3) Meet requirements for public outreach under 15 U.S.C. 638 (j)(2)(F), (o)(14), and (s).

The prior information collect request for OMB No. 1600–005 was approved through February 28, 2015 by OMB in a Notice of OMB Action.

The information being collected is used by the Government's contracting officers and other acquisition personnel, including technical and legal staffs to determine adequacy of technical and management approach, experience, responsibility, responsiveness, expertise of the firms submitting offers, identification of members of the public (*i.e.,* small businesses) who qualify for, and are interested in participating in, the DHS SBIR Program, facilitate SBIR outreach to the public, and provide the DHS SBIR Program Office necessary and sufficient information to determine that proposals submitted by the public to the DHS SBIR Program meet criteria for consideration under the program.

Failure to collect this information would adversely affect the quality of products and services DHS receives from contractors. Potentially, contracts would be awarded to firms without sufficient experience and expertise, thereby placing the Department's operations in jeopardy. Defective and inadequate contractor deliverables would adversely affect DHS's fulfillment of the mission requirements in all areas. Additionally, the Department would be unsuccessful in identifying small businesses with research and development (R&D) capabilities, which would adversely affect the mission requirements in this area.

Many sources of the requested information use automated word processing systems, databases, and web portal to facilitate preparation of material to be submitted and to post and collect information. It is common place within many of DHS's Components for submissions to be electronic as a result of implementation of e-Government initiatives.

Information technology (*i.e.,* electronic web portal) is used in the collection of information to reduce the data gathering and records management burden. DHS uses a secure Web site which the public can propose SBIR

research topics and submit proposals in response to SBIR solicitations. In addition, DHS uses a web portal to review RFIs and register to submit a white paper or proposal in response to a specific BAA. The data collection forms standardize the collection of information that is necessary and sufficient for the DHS SBIR Program Office to meet its requirements under 15 U.S.C. 638.

There has been no change in the information being collected. The reduction in the total annual burden is based on agency estimates. First, the estimate is based on the number of expected contract awards requiring the submission of information has been declining in the last three years.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

AGENCY: Office of the Chief Procurement Officer, DHS.

Title: Solicitation of Proposal Information for Award of Public Contracts.

OMB Number: 1600–0005.

Frequency: Annually.

Affected Public: Private Sector.

Number of Respondents: 13,612.

Estimated Time Per Respondent: 7 hours.

Total Burden Hours: 285,852.

Dated: December 4, 2014.

Carlene C. Ileto,

Executive Director, Enterprise Business Management Office.

[FR Doc. 2014–28886 Filed 12–9–14; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–104]

30-Day Notice of Proposed Information Collection: Model Manufactured Home Installation Program Rules and Regulations

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:* January 9, 2015.

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: Model Manufactured Home Installation Program Rules and Regulations.

OMB Approval Number: 2502–0578.

Type of Request: Extension.

Form Number: HUD–305, HUD–306, HUD–308, HUD–309, HUD–312.

Description of the need for the information and proposed use: The Manufactured Housing Installation Program establishes regulations for the administration of an installation program and establishes a new manufactured housing installation program for States that choose not to implement their own programs. HUD uses the information collected for the enforcement of the Model Installation Standards in each State that does not have an installation program established by State law to ensure that the minimum criteria of an installation program are met.

Respondents: Program evaluation.

Estimated Number of Responses: 6,796.

Estimated Number of Responses: 265,761.

Frequency of Response: Annually.

Average Hours per Response: 8.

Total Estimated Burdens: 148, 815.

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: December 5, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–28962 Filed 12–9–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–103]

30-Day Notice of Proposed Information Collection: Housing Choice Voucher Program

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:* January 9, 2015.

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 October 10, 2014.

A. Overview of Information Collection

Title of Information Collection: Housing Choice Voucher Program.

OMB Approval Number: 2577–0169.

Type of Request: Revision of a currently approved collection with change that eliminates financial forms.

Form Number: HUD–52515, HUD–52667, HUD–52580, HUD–52580–A, HUD–52517, HUD–52646, HUD–52665, HUD–52641, HUD–52641–A, HUD 52642, HUD 52649, HUD 52531A and B, HUD 52530A, HUD 52530B, HUD 52530C, HUD 52578B.

Description of the need for the information and proposed use: Public Housing Agencies (PHA) will prepare an application for funding which specifies the number of units requested, as well as the PHA's objectives and plans for administering the HCV program. The application is reviewed by HUD Headquarters and HUD Field Offices and ranked according to the PHA's administrative capability, the need for housing assistance, and other factors specified in a notice of funding availability. The PHAs must establish a utility allowance schedule for all utilities and other services. Units must be inspected using HUD-prescribed forms to determine if the units meet the housing quality standards (HQS) of the HCV program. After the family is issued a HCV to search for a unit, the family must complete and submit to the PHA a Request for Tenancy Approval when it finds a unit which is suitable for its needs. Initial PHAs will use a standardized form to submit portability information to the receiving PHA who will also use the form for monthly portability billing. PHAs and owners will enter into HAP Contracts each providing information on rents, payments, certifications, notifications, and owner agreement in a form acceptable to the PHA. A tenancy addendum is included in the HAP contract as well as incorporated in the lease between the owner and the family. Families that participate in the Homeownership option will execute a statement regarding their responsibilities and execute contracts of sale including an additional contract of sale for new construction units. PHAs participating in the project-based voucher (PBV) program will enter into Agreements with developing owners, HAP contracts with the existing and New Construction/Rehabilitation owners, Statement of Family Responsibility with the family and a lease addendum will be provided for execution between the family and the owner.

Respondents: State and Local Governments, businesses or other non-profits.

Estimated Number of Responses: 2,302 PHAs.

Estimated Number of Responses: 2843,533.

Frequency of Response: Varies by form.

Average Hours per Response: .44 hours.

Total Estimated Burdens: 1,274,089.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
	2,302	Varies	2,843,533	.44	1,274,089	$20	$25,481,780
Total	2,302	Varies	2,843,533	.44	1,274,089	20	25,481,780

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: December 3, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–28965 Filed 12–9–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

[FWS–R8–FAC–2014–N224]

Notice of Intent To Conduct Public Scoping and Prepare an Environmental Impact Statement/Environmental Impact Report Regarding the Delta Research Station—Estuarine Research Station and Fish Technology Center Project

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, and the California Environmental Quality Act (CEQA) and State CEQA Guidelines, the U.S. Fish and Wildlife Service (USFWS) and the California Department of Water Resources (DWR) intend to prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to evaluate impacts regarding construction and operation of the Delta Research Station (DRS) in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta), California. The planned DRS would consist of two facilities, a proposed Estuarine Research Station (ERS) and Fish Technology Center (FTC). The USFWS will be the lead Federal agency responsible for coordinating the environmental analysis for the proposed action under NEPA. DWR will be the lead State agency responsible for coordinating the environmental analysis under CEQA. With this notice, USFWS and DWR are announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping processes for the EIS/EIR. Comments on issues must be submitted in writing and postmarked January 9, 2015. Two scoping meetings will be held during the scoping period, one in Rio Vista and one in Stockton. The dates and locations of these scoping meetings will be announced at least 15 days in advance through the project Web site at *www.deltaresearchstation.com.*

ADDRESSES: Comments and requests for information related to the preparation of the EIS/EIR should be sent to USFWS, Attn: Barbara Beggs, 650 Capitol Mall Suite 8–300, Sacramento, CA 95691; and/or emailed to *barbara_beggs@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Beggs, USFWS, at 916–930–5637.

SUPPLEMENTARY INFORMATION:

Overview of the DRS

USFWS and DWR are currently planning development of the DRS, a science and research center in the Bay-Delta, which would consolidate a number of existing and new activities into the proposed ERS and FTC and bring together Federal and State agency staff working on similar Bay-Delta issues.

Project Purpose

The purpose of the DRS is to enhance interagency coordination and collaboration by developing a shared research facility. The DRS would advance the interests of researchers, local communities, and others that are dependent on the Bay-Delta. The DRS is needed because current Federal and State agency staff working on similar Bay-Delta issues are spread out in different locations, located in areas remote from the Bay-Delta, or have limited resources, inhibiting efficient research and monitoring efforts and collaboration.

The specific objectives of each component of the DRS are as follows:

- ERS—
  - Establish a research station in a central location within the Bay-Delta to facilitate ease of conducting monitoring and research; and
  - Co-locate the research station with a facility capable of studying fish in captivity (*i.e.,* the FTC); and
  - Provide facilities to conduct monitoring and research on the Bay-Delta's aquatic resources.
- FTC—
  - Develop captive propagation technologies for the Bay-Delta's rare fish species;
  - Test and refine the captive propagation techniques;
  - Locate the facility where suitable water quality and quantity are available, and ability to discharge waste water given its various functions and operations is available; and
  - Co-locate the FTC with a facility conducting conservation research on Bay-Delta rare fish species (*i.e.,* the ERS).

Proposed Action and Alternatives

At this time, USFWS and DWR are proposing development of the ERS and FTC, as these facilities would be co-located with one another and potentially built at the same time. Collectively, these facilities are referred as the proposed action. Currently, three potential alternatives plus the no action/no project alternative are being considered for the proposed ERS and FTC. The first two potential alternatives involve locating the facilities at the Rio Vista Army Base in the City of Rio Vista, with each alternative representing a different site configuration within the base. The third alternative is to locate the facilities in the City of Stockton, California. All alternatives would be evaluated at an equal level of detail in the EIS/EIR. Below is a description of the two proposed facilities.

Proposed Facilities

The ERS would be a center for research and study of the Bay-Delta ecosystem. The ERS would provide improved and additional facilities for science and research activities and would consolidate over 160 State and Federal employees from the Interagency Ecological Program (IEP). The IEP is a multi-agency cooperative effort to provide ecological information to support management of the Bay-Delta. The IEP monitors, researches, models, and synthesizes critical information in the Bay-Delta to support water management and planning and protection of fish and aquatic ecosystems. ERS facilities would include office and workspace, wet and dry laboratory facilities, warehouse and boat storage space, a marina, and a vehicle and boat repair shop. Laboratory facilities would include optical equipment (*e.g.,* microscopes), fume hoods, computer stations, and water tanks of various sizes for processing of field samples and experimental studies of fish and ecology. The ERS would also include a dry electrical lab to house electronic sensing, monitoring, and telecommunications equipment used to monitor tagged fish and the estuarine environment. The ERS would be managed by DWR.

The FTC would be a center for propagation, research, conservation, and study of rare Bay-Delta fishes. The FTC is also intended to house and maintain a refugial population of rare fish species (*i.e.,* captively raised fish). The FTC would include research and study facilities, an office and administration building, a shop and vehicle storage building, a water treatment facility for surface water, and an effluent treatment facility. The FTC would include separate aquaculture and research components for individual study species and a laboratory space to support water quality, genetic, and fish health analysis. The FTC would be managed by USFWS and would be sited immediately adjacent to the ERS.

Statutory Authority

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their

proposed actions to determine if the actions may significantly affect the human environment. Under NEPA and its implementing regulations (40 CFR 1500 *et seq.*), a reasonable range of alternatives to the proposed action is developed and considered in the EIS/EIR. In addition, the EIS/EIR will identify potentially significant direct, indirect, and cumulative effects, and possible mitigation for those significant effects on environmental issues that could occur with implementation of the proposed action.

Identification of Environmental Issues

The EIS/EIR will evaluate potential environmental impacts from the ERS and FTC. This notice is intended to inform agencies and the public of the potential environmental impacts of the facilities, and to solicit comments and suggestions for consideration in the preparation of the EIS/EIR. To help the public frame its comments, the following is a list of several potential environmental issues that USFWS and DWR have identified for analysis:

1. Aesthetics
2. Air Quality and Greenhouse Gas Emissions
3. Biological Resources—Terrestrial
4. Biological Resources—Fisheries
5. Cultural Resources
6. Geology and Soils
7. Hazards and Hazardous Materials
8. Hydrology and Water Quality
9. Land Use and Planning
10. Noise
11. Population and Housing
12. Public Services, Utilities, and Energy
13. Socioeconomics and Environmental Justice
14. Traffic and Transportation

Request for Comments

Environmental review of the EIS/EIR will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and the USFWS' procedures for compliance with those regulations; and according to the requirements of CEQA (PRC Section 21000 *et seq.*) and State CEQA Guidelines (California Code of Regulations Title 14 Section 15000 *et seq.*). This notice is being furnished in accordance with 40 CFR 1501.7 and 1508.22 to obtain suggestions and information from interested agencies, organizations, Native American Tribes, and members of the public on the scope of issues and alternatives that will be addressed in the EIS/EIR. The primary purpose of the scoping process is to identify important issues raised by the public related to development of the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the development of the proposed action is identified. Comments during this stage of the scoping process will only be accepted in written form. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

After this scoping process, USFWS and DWR will review public comments and then prepare and make publicly available a draft EIS/EIR for comment.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, Fish and Wildlife Service.

[FR Doc. 2014–28891 Filed 12–9–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection; Request Comments for 1029–0083

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing that the information collection request related to the certification of blasters in Federal program states and on Indian lands, and Form OSMRE–74, has been forwarded to the Office of Management and Budget (OMB) for review and reauthorization. The information collection package was previously approved and assigned clearance number 1029–0083. This notice describes the nature of the information collection activity and the expected burdens and costs.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by January 9, 2015, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395–5806 or via email to *OIRA_Submission@omb.eop.gov*. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203–SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov*. You may also review this collection request by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSMRE has submitted a request to OMB to renew its approval for the collection of information for 30 CFR part 955 and the Form OSMRE–74, Certification of Blasters in Federal program states and on Indian lands. OSMRE is requesting a 3-year term of approval for these information collection activities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is listed in 30 CFR 955.10 and on the Form OSMRE–74, which is 1029–0083.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on September 4, 2014 (79 FR 52749). No comments were received from that

notice. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR 955—Certification of Blasters in Federal Program States and on Indian Lands.

OMB Control Number: 1029–0083.

Summary: This information is being collected to ensure that the applicants for blaster certification are qualified. This information, with blasting tests, will be used to determine the eligibility of the applicant. The affected public will be blasters who want to be certified by the Office of Surface Mining Reclamation and Enforcement to conduct blasting on Indian lands or in Federal program states.

Bureau Form Number: OSMRE–74.

Frequency of Collection: On occasion.

Description of Respondents: Individuals intent on being certified as blasters in Federal program states and on Indian lands.

Total Annual Responses: 19 blasters.

Total Annual Burden Hours: 19 hours.

Total Annual Non-Wage Burden Cost: $1,525.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the addresses listed under **ADDRESSES**. Please refer to OMB control number 1029–0083 in your correspondence.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 3, 2014.

Harry J. Payne,

Chief, Division of Regulatory Support.

[FR Doc. 2014–28884 Filed 12–9–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection; Request Comments for 1029–0039

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing that the information collection request for Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost. This information collection activity was previously approved by OMB and assigned control number 1029–0039.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by January 9, 2015, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395–5806 or via email to *OIRA_Submission@omb.eop.gov.* Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203–SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please refer to OMB Control Number 1029–0039 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.* You may also review this information collection request by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSMRE has submitted a request to OMB to renew its approval of the collection of information contained in 30 CFR part 784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan. OSMRE is requesting a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0039, and is displayed in 30 CFR 784.10.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on September 4, 2014 (79 FR 52750). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR 784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

OMB Control Number: 1029–0039.

Summary: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: 45 underground coal mining permit applicants and 24 state regulatory authorities.

Total Annual Burden Hours: 14,906.

Total Annual Non-Wage Cost Burden: $439,110.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to

minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the addresses listed under **ADDRESSES**. Please refer to the appropriate OMB control number in all correspondence.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 3, 2014.

Harry J. Payne,

Chief, Division of Regulatory Support.

[FR Doc. 2014–28883 Filed 12–9–14; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–897]

Certain Optical Disc Drives, Components Thereof, and Products Containing the Same; Commission Determination To Review an Initial Determination Terminating the Investigation Based on Complainant's Lack of Standing and on Review To Modify-in-Part, Vacate-in-Part, and Remand the Investigation in Part to the Presiding Administrative Law Judge for Further Proceedings

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 113) granting respondents' motion to terminate the above-referenced investigation based on the lack of standing of complainant Optical Devices, LLC of Peterborough, New Hampshire (''Optical''). The Commission modifies-in-part and vacates-in-part the subject ID and remands the investigation to the presiding ALJ for further proceedings consistent with its concurrently issued opinion and remand order.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be 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., Washington, DC 20436, telephone (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.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 25, 2013, based on a Complaint filed by Optical, as supplemented. 78 FR 64009 (Oct. 25, 2013). The Complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain optical disc drives, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 6,904,007 (''the '007 patent''); 7,196,979 (''the '979 patent''); 8,416,651 (''the '651 patent''); RE40,927 (''the '927 patent''); RE42,913 (''the '913 patent''); and RE43,681 the ('681 patent''). The Complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named as respondents Lenovo Group Ltd. of Quarry Bay, Hong Kong and Lenovo (United States) Inc., of Morrisville, North Carolina; LG Electronics, Inc. of Seoul, Republic of Korea and LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; Panasonic Corp. of Osaka, Japan and Panasonic Corporation of North America of Secaucus, New Jersey; Samsung Electronics Co., Ltd. of Seoul, Republic of Korea and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively ''Samsung''); and Toshiba Corporation of Tokyo, Japan and Toshiba America Information Systems, Inc. of Irvine, California (collectively ''Respondents''). The Office of Unfair Import Investigations was not named as a party to the investigation.

The Commission later terminated the investigation as to the application of numerous claims of the asserted patents to various named respondents. *See* Notice of Commission Determination Not to Review an Initial Determination Granting Complainant's Motions to Partially Terminate the Investigation as to Certain Patents (Aug. 8, 2014). The Commission also later terminated the investigation with respect to Samsung based on a settlement agreement. *See* Notice of Commission Determination to Grant a Joint Motion to Terminate the Investigation as to Respondents [Samsung] on the Basis of a Settlement Agreement (Sept. 2, 2014).

On May 6, 2014, Respondents, including Samsung, filed a motion to terminate the investigation for good cause based on Optical Devices' lack of prudential standing to bring an infringement action with respect to the asserted patents. On May 16, 2014, Optical Devices filed a response in opposition. On June 3, 2014, Respondents, pursuant to Order No. 83, filed a reply in support of their motion. On June 10, 2014, Optical Devices filed a motion for leave to file a surreply in opposition to Respondent's reply. On June 11, 2014, Respondents filed an opposition to Optical Devices' motion for leave to file a surreply.

On October 20, 2014, the ALJ issued the subject ID, granting pursuant to section 210.21(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(a)) Respondents' motion to terminate the investigation based on Optical Devices' lack of prudential standing. Specifically, the ALJ found that Optical Devices does not hold all substantial rights to the subject patents and, therefore, lacks prudential standing to maintain an action for infringement without joinder of other necessary parties. The ALJ also granted Optical Devices' motion for leave to file a surreply.

Having examined the record of this investigation, including the subject ID, the petitions for review, and the responses thereto, the Commission has determined to review the subject ID. On review, the Commission vacates the ALJ's finding that Optical Devices lacks standing with respect to the '007, '979, and '651 patents (collectively, ''the Kadlec Patents'') and remands the investigation for further proceedings consistent with the Commission's concurrently issued opinion and remand order. Further on review, the Commission finds based on modified reasoning that Optical Devices lacks standing with respect to the '927, '913, and '681 patents (collectively, ''the Wild Patents'') and it would prejudice Respondents to allow Optical Devices to join other necessary parties to remedy its lack of standing at this time. The

investigation is, hereby, terminated with respect to the Wild Patents.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Dated: December 4, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–28871 Filed 12–9–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–903]

Certain Antivenom Compositions and Products Containing the Same Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 62) issued by the presiding administrative law judge (''ALJ'') on November 13, 2014, terminating the investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be 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., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*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.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 11, 2013, based on a complaint filed by BTG International Inc. (''BTG'') of West Conshohocken, Pennsylvania. 78 FR 75372–73. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain antivenom compositions and products containing the same through the infringement of certain claims of U.S. Patent No. 8,048,414. *Id.* at 75373. The Commission's notice of investigation named as respondents Veteria Laboratories of Mexico and BioVeteria Life Sciences, LLC of Prescott, Arizona (together, ''Veteria''); Instituto Bioclon S.A. de C.V. of Mexico, Laboratorios Silanes S.A. de C.V. of Mexico, and Rare Disease Therapeutics, Inc., of Franklin, Tennessee (collectively, ''Respondents''); and the Silanes Group of Mexico. *Id.* The Commission previously terminated the investigation with respect to Veteria based on a partial withdrawal of the complaint. Order No. 14 (Mar. 11, 2014), *not reviewed* Apr. 1, 2014. The Office of Unfair Import Investigations was also named as a party to the investigation. 78 FR 75373.

On October 10, 2014, BTG and Respondents filed a joint motion to terminate the investigation in its entirety based on a settlement agreement. The motion attached confidential and public versions of the settlement agreement and stated that there were no other agreements, written or oral, express or implied, between BTG and Respondents. The motion also stated that terminating the investigation would not adversely affect the public interest.

On October 23, 2014, the Commission Investigative Attorney (''IA'') filed a response in support of the parties' motion. The IA stated that the termination of the investigation was in the public interest. On October 30, 2014, the parties filed a modified public version of the settlement agreement with fewer redactions.

On November 13, 2014, the ALJ issued the subject ID, granting the parties' motion and terminating the investigation in its entirety. The ALJ found that the motion complied with the Commission rules and does not impose any undue burden on the public interest.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: December 5, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–28901 Filed 12–9–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–938]

Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same 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 November 5, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of PPC Broadband, Inc. of East Syracuse, New York. Supplements to the complaint were filed on November 17 and 20, 2014. The complaint, as supplemented, 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 coaxial cable connectors and components thereof and products containing same by reason of infringement of certain claims of U.S. Patent No. 8,801,448 (''the '448 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist order.

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 December 4, 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 coaxial cable connectors and components thereof and products containing same by reason of infringement of one or more of claims 5, 25, 27, 29, 32, 40, 42, 44, 51, 54, 65, 67, 69, 87, 89, 95, 111, 113, 115, 118, and 121 of the '448 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 complainant is:

PPC Broadband, Inc.,
6176 East Molloy Road,
East Syracuse, NY 13057.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Corning Optical Communications RF, LLC,
5310 West Camelback Road,
Glendale, AZ 85301.

(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 respondent 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 the 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: December 5, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–28910 Filed 12–9–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–041]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 15, 2014 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–512 and 731–TA–1248 (Final) (Carbon and Certain Alloy Steel Wire Rod from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission on December 26, 2014.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: December 5, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–29040 Filed 12–8–14; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–042]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 17, 2014 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–451 and 731–TA–1126–1127 (Review) (Lightweight Thermal Paper from China and Germany). The Commission is currently scheduled to complete and file its determinations and views of the Commission on January 16, 2015.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: December 5, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–29039 Filed 12–8–14; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–043]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 19, 2014 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–1131, 1132, and 1134 (Review) (Polyethylene Terephthalate Film, Sheet, and Strip (''PET Film'') from Brazil, China, and the United Arab Emirates). The Commission is currently scheduled to complete and file its determinations and views of the Commission on January 8, 2015.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: December 5, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–29038 Filed 12–8–14; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 22, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 22, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of November 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[10 TAA petitions instituted between 11/10/14 and 11/14/14]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85636	Flextronics (Workers)	Austin, TX	11/10/14	11/09/14
85637	Cincinnati Bell Telephone (State/One-Stop)	Norwood, OH	11/10/14	11/07/14
85638	Cardinal Health (Workers)	Albuquerque, NM	11/10/14	10/31/14
85639	Robertshaw (Company)	West Plains, MO	11/12/14	11/11/14
85640	Covidien LP (Company)	Mansfield, MA	11/12/14	11/10/14
85641	Regal Beloit (Company)	Springfield, MO	11/12/14	11/10/14
85642	MetLife (Workers)	Clarks Summit, PA	11/13/14	11/12/14
85643	Oak-Mitsui Technologies, LLC (State/One-Stop)	Hoosick Falls, NY	11/13/14	11/12/14
85644	Nokia Solutions and Networks (State/One-Stop)	Arlington Heights, IL	11/13/14	11/12/14
85645	Cardinal Health (State/One-Stop)	McDonough, GA	11/14/14	11/12/14

[FR Doc. 2014–28837 Filed 12–9–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *November 10, 2014 through November 14, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially

separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,460, Nevamar Company, LLC., Hampton, South Carolina. August 4, 2013

85,572, Newport Corporation, Stratford, Connecticut. September 30, 2013.

85,574, Verso Paper corporation, Bucksport, Maine. January 7, 2014.

85,591, Global Tungsten & Powders Corporation, Towanda, Pennsylvania. October 13, 2013.

85,593, The NutraSweet Company, Augusta, Georgia. October 13, 2013.

85,353, Rain CII Carbon LLC., Moundsville, West Virginia. May 27, 2013.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,543, Momentive Performance Materials Quartz, Inc., Hebron, Ohio.

85,585, Keystone Weaving Mills, Inc., Lebanon, Pennsylvania

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,497, Invista S.A.R.L, Waynesboro, Virginia.

85,540, Quantum Spatial, Inc., Sheboygan, Wisconsin.

85,573, MotivePower, Inc., Boise, Idaho.

85,579, Keystone Weaving Mills, Inc., Lebanon, Pennsylvania.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,602, Green Wood, Inc., Augusta, Georgia.

I hereby certify that the aforementioned determinations were issued during the period of *November 10, 2014 through November 14, 2014.* These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 21st day of November 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–28838 Filed 12–9–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Coal Mine Workers' Compensation; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Request to be Selected as Payee (CM–910). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before February 9, 2015.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. *Background:* The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. 901, provides for the payment of benefits by the Department of Labor (DOL) to miners who are totally disabled due to pneumoconiosis and to certain survivors of the miner. If a beneficiary is incapable of handling his or her affairs, the person or institution responsible for their care is required to apply to receive the benefit payments on the beneficiary's behalf. The CM–910 is the form completed by the representative payee applicants. The payee applicant completes the form and mails it for evaluation to the district office that has jurisdiction over the beneficiary's claim file. Regulations 20 CFR 725.505–513 require the collection of this information. This information collection is currently approved for use through May 31, 2015.

II. *Review Focus:* The Department of Labor 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:* The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to carry out its responsibility to evaluate an applicant ability to be a representative payee. If the Program were not able to screen representative payee applicants the beneficiary's best interest would not be served.

Agency: Office of Workers' Compensation Programs.

Type of Review: Extension.

Title: Request to be Selected as Payee.

OMB Number: 1240–0010.

Agency Number: CM–910.

Affected Public: Individuals or households; Business or other for profit; Not-for-profit institutions.

Total Respondents: 2,300.

Total Annual Responses: 2,300.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 575.

Frequency: On occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $1,196.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 4, 2014.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2014–28835 Filed 12–9–14; 8:45 am]

BILLING CODE 4510–CK–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meeting

The National Science Board's Audit & Oversight Committee, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a meeting for the transaction of National Science Board business, as follows:

DATE AND TIME: Friday, December 12, 2014.

SUBJECT MATTER: Discussion of commissioning a review by an external organization of management and audit considerations pertaining to cooperative agreements.

STATUS: Closed.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201Wilson Blvd., Arlington, VA 22230.

Please refer to the National Science Board Web site (*www.nsf.gov/nsb*) for information or schedule updates, or contact: Ann Bushmiller, National Science Foundation, 4201Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Bushmiller,

NSB Senior Legal Counsel.

[FR Doc. 2014–28980 Filed 12–8–14; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–024; NRC–2008–0233]

Entergy Operations, Inc.; Combined License Application for Grand Gulf, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a July 18, 2014, request from Entergy Operations, Inc. (EOI) which requested an

exemption from Final Safety Analysis Report (FSAR) updates included in their Combined License (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, with the stipulation that the updates to the FSAR must be submitted the earlier of the resumption of the COL application review or December 31, 2015.

DATES: December 10, 2014.

ADDRESSES: Please refer to Docket ID NRC–2008–0233 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0233. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that the document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Lynnea Wilkins, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1377; email: *Lynnea.Wilkins@nrc.gov*.

SUPPLEMENTARY INFORMATION: The following sections include the text of the exemption in its entirety as issued to EOI.

1.0 Background

On February 27, 2008, EOI submitted to the NRC a COL application for one Economic Simplified Boiling-Water Reactor to be constructed and operated at the Grand Gulf Nuclear Station (GGNS) site in Claiborne County, Mississippi. On April 17, 2008, the NRC accepted for docketing the Grand Gulf Nuclear Station, Unit 3 (GGNS3) COL application (ADAMS Accession No. ML081050460, Docket No. 52–024). On January 9, 2009, EOI requested that the NRC temporarily suspend review of the application and the NRC granted EOI's request (ADAMS Accession No. ML090080523) while the application remained docketed. On December 3, 2012 (ADAMS Accession No. ML12342A231), EOI submitted updates to the Final Safety Analysis Report (FSAR), per Title 10 of the *Code of Federal Regulations* (10 CFR) Subsection 50.71(e)(3)(iii). On September 30, 2013 (ADAMS Accession No. ML13275A065), EOI requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit COL FSAR updates which was granted on December 4, 2013 (ADAMS Accession No. ML13298A075). On July 18, 2014 (ADAMS Accession No. ML14202A338), EOI requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit COL FSAR updates.

2.0 Request/Action

Section 50.71(e)(3)(iii) requires that an applicant for a COL under Subpart C of 10 CFR part 52, must update their FSAR annually during the period from docketing the application to the Commission making its 10 CFR 52.103(g) finding.

Pursuant to 10 CFR 50.71(e)(3)(iii) the next scheduled update of the FSAR included in the GGNS3 COL application would be due in December 2014, based on the granted exemption on December 4, 2013 (ADAMS Accession No. ML13298A075). By letter dated January 9, 2009, (ADAMS Accession No. ML090080523) EOI requested that the NRC suspend review of the GGNS3 COL. The NRC granted EOI's request for suspension and all review activities related to the GGNS3 COL application were suspended while the application remained docketed. In a letter dated July 18, 2014 (ADAMS Accession No. ML14202A338), EOI requested that the GGNS3 COL application be exempt from the 10 CFR 50.71(e)(3)(iii) requirements the earlier of the resumption of the GGNS3 COL application review or December 31, 2015.

EOI's requested exemption is interpreted as a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow EOI to submit the next FSAR update the earlier of the resumption of the EOI application review or December 31, 2015. The current FSAR update schedule could not be changed, absent the exemption.

3.0 Discussion

Pursuant to 10 CFR 50.12 the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR 50.71(e)(3)(iii) when: (1) The exemption(s) are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: ''application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)) and if ''the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation'' (10 CFR 50.12(a)(2)(v)).

The purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up to date information regarding the COL application, in order to perform an efficient and effective review. The rule targeted those applications that are being actively reviewed by the NRC. Because EOI requested the NRC to suspend its review of the GGNS3 COL application, compelling EOI to submit its FSAR on an annual basis is not necessary as the FSAR will not be changed or updated until the review is restarted. Requiring the updates would result in undue hardship on EOI, and the purpose of 10 CFR 50.71(e)(3)(iii) would still be achieved if the update is submitted the earlier of the resumption of EOI's application review or December 31, 2015.

The requested exemption to defer submittal of the next update to the FSAR included in the GGNS3 COL application would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii). As evidenced by the proper submittal of annual updates on January 9, 2009 (ADAMS Accession No. ML090130174), December 6, 2010 (ADAMS Accession No. ML103440074), December 7, 2011 (ADAMS Accession No. ML11343A568), and December 3, 2012 (ADAMS Accession No. ML12342A231), EOI has made good faith efforts to comply with 10 CFR 50.71(e)(3)(iii) prior to requesting suspension of the review. EOI's exemption request asks the NRC to grant exemption from 10 CFR 50.71(e)(3)(iii) to December 31, 2015 or coincident with

resuming the review of the GGNS3 COL application, whichever occurs first.

For the reasons stated above, the application of 10 CFR 50.71(e)(3)(iii) in this particular circumstance can be deemed unnecessary and the granting of the exemption would allow only temporary relief from a rule that the applicant had made good faith efforts to comply with, therefore special circumstances are present.

Authorized by Law

The exemption is a schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow EOI to submit the next GGNS3 FSAR update the earlier of the resumption of EOI's application or December 31, 2015, in lieu of the required scheduled submittal in December 2014. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 . The NRC staff has determined that granting EOI the requested exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR 50.71(e)(3)(iii), is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR part 52, for which a license has not been granted. In addition, since the review of the application has been suspended, any update to the application submitted by EOI will not be reviewed by the NRC at this time. Based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption thus, neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety. Plant construction cannot proceed until the NRC review of the application is completed, a mandatory hearing is completed and a license decision is made, the probability of postulated accidents is not increased. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption as described above, no new accident precursors are created by the exemption, thus neither the probability nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow EOI to submit the next GGNS3 FSAR update the earlier of the resumption of EOI's application review or December 31, 2015. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii) are present ''application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)). The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up to date information in order to perform its review of a COL application efficiently and effectively. Because the requirements to annually update the FSAR was intended for active reviews and the GGNS3 COL application is now suspended, the application of this regulation in this particular circumstances is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption, and EOI were then required to update the FSAR the earlier of the resumption of EOI's application review or December 31, 2015 or coincident with any request to restart their review, the purpose of the rule would still be achieved.

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(v) are present whenever the exemption would provide only temporary relief from the regulation and the applicant has made good faith efforts to comply with this regulation. Because of the assumed and imposed new deadline (the earlier of the resumption of EOI's application review or December 31, 2015), EOI's exemption request seeks only temporary relief from the requirement that it file an update to the FSAR included in the GGNS3 COL application. Therefore, since the relief from the requirements of 10 CFR 50.71(e)(3)(iii) would be temporary and the applicant has made good faith efforts to comply with the rule, and the underlying purpose of the rule is not served by application of the rule in this circumstance, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

Eligibility for Categorical Exclusion From Environmental Review:

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) and justified by the NRC staff as follows:

(c) The following categories of actions are categorical exclusions:

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. Therefore, there is no significant hazards considerations because granting the proposed exemption 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.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application review is suspended until further notice, and there is no consideration of any construction at this time, and hence

the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated FSAR by EOI and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) and (2), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances are present. Therefore, the Commission hereby grants EOI the exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the GGNS3 COL application to allow submittal of the next FSAR update the earlier of the resumption of the COL application review or December 31, 2015.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of December 2014.

For the Nuclear Regulatory Commission.

Ronaldo Jenkins,

Chief, Licensing Branch 3, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2014–29000 Filed 12–9–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416; NRC–2011–0262]

License Renewal Application for Grand Gulf Nuclear Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplemental environmental impact statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is making available a final plant-specific supplement, Supplement 50, to NUREG–1437, ''*Generic Environmental Impact Statement for License Renewal of Nuclear Plants''* (GEIS), regarding the renewal of Entergy Operations, Inc. (Entergy) operating license NPF–29 for an additional 20 years of operation for Grand Gulf Nuclear Station, Unit 1 (GGNS).

DATES: The final Supplement 50 to the GEIS is available as of December 10, 2014.

ADDRESSES: Please refer to Docket ID NRC–2011–0262 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0262. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may 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 final Supplement 50 to the GEIS is in ADAMS under Accession No. ML14328A171.

• 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.

• Harriette Person Memorial Library: The final Supplement 50 to the GEIS is available for public inspection at 606 Main Street, Port Gibson, MS, 39150.

FOR FURTHER INFORMATION CONTACT: David Drucker, Office of Nuclear Reactor Regulation, telephone: 1–800–368–5692, ext. 6223, email: *David.Drucker@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with § 51.118 of Title 10 of the *Code of Federal Regulations,* the NRC is making available final Supplement 50 to the GEIS regarding the renewal of Entergy operating license NPF–29 for an additional 20 years of operation for GGNS. Draft Supplement 50 to the GEIS was noticed by the NRC in the **Federal Register** on December 12, 2013 (78 FR 75579), and noticed by the Environmental Protection Agency on December 20, 2013 (78 FR 77121). The public comment period on draft Supplement 50 to the GEIS ended on February 11, 2014, and the comments received are addressed in final Supplement 50 to the GEIS.

II. Discussion

As discussed in Section 9.4 of the final Supplement 50 to the GEIS, the NRC staff determined that the adverse environmental impacts of license renewal for GGNS are not so great that preserving the option of license renewal for energy-planning decisionmakers would be unreasonable. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report and other documents submitted by Entergy; (3) consultation with Federal, State, local, and Tribal agencies; (4) the NRC staff's independent environmental review; and (5) consideration of public comments received during the scoping process and on the Draft Supplemental Environmental Impact Statement.

Dated at Rockville, Maryland, this 3rd day of December, 2014.

For the Nuclear Regulatory Commission.

Brian D. Wittick,

Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–28998 Filed 12–9–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. No. 50–134; NRC–2010–0053]

Worcester Polytechnic Institute's Leslie C. Wilbur Nuclear Reactor Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: License termination; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is noticing the termination of Facility Operating License No. R–61 for the Leslie C.

Wilbur Nuclear Reactor Facility (LCWNRF). The NRC has terminated the license of the decommissioned LCWNRF at the Worcester Polytechnic Institute (WPI or the licensee) in Worcester, Massachusetts, and has released the site for unrestricted use.

DATES: Notice of termination of Facility Operating License No. R–61 given on December 10, 2014.

ADDRESSES: Please refer to Docket ID NRC–2010–0053 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2010–0053. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

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

FOR FURTHER INFORMATION CONTACT: Theodore Smith, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6721; email: *Theodore.Smith@nrc.gov.*

SUPPLEMENTARY INFORMATION: The LCWNRF provided graduate and undergraduate students with reactor operating experience and experimental practice in the fields of nuclear engineering, metallurgy, chemistry, and physics, as well as irradiation services for other teaching, medical, and industrial institutions. The licensee ceased operation of the facility on June 30, 2007. The reactor fuel was removed in July 2011, with the fuel being delivered to the University of Massachusetts Lowell. The LCWNRF underwent decommissioning activities in late 2012, followed by Final Status Surveys (FSS) in the fall of 2013 to assess the final radiological status of the facility.

The licensee submitted a Decommissioning Plan (DP) dated March 31, 2009 (ADAMS Accession No. ML090960651), for NRC approval. The NRC requested additional information for its review of the DP by letter dated June 23, 2009 (ADAMS Package Accession No. ML091730007), and the licensee responded to that request with a revised DP on September 30, 2009 (ADAMS Accession No. ML092880231). The NRC approved the revised WPI DP by Amendment No. 12 to License R–61, dated March 29, 2011 (ADAMS Package Accession No. ML103120030).

As required by the WPI DP, the WPI submitted a Final Status Survey Plan (FSSP), dated January 31, 2013 (ADAMS Package Accession No. ML130460119), as a supplement to the DP. By letter dated June 11, 2013 (ADAMS Accession No. ML13156A041), the NRC reviewed the survey plan and determined that it was consistent with the guidance in NUREG–1757, ''Consolidated Decommissioning Guidance'' (ADAMS Accession No. ML063000243), and NUREG–1575, ''Multi-Agency Radiation Survey and Site Investigation Manual'' (ADAMS Accession No. ML082470583).

On March 5, 2014, the WPI submitted its Final Status Survey Report (FSSR) (ADAMS Package Accession No. ML14080A176) and requested termination of the LCWNRF license. The report demonstrates that the criteria for termination set forth in WPI's license (R–61), and as established in its DP and FSSP, have been satisfied. The FSSP indicates that all individual radiological measurement determinations made throughout the facility for surface contamination (both total and removable) were found to be less than the criteria established in the DP. Similarly, sample results from concrete, metallic liners, soil, and sediments were found to be less than the volumetric radionuclide concentration criteria established in the DP. Additionally, all the radioactive wastes have been removed from the facility, and documentation regarding its removal disposition is provided in the FSSR. As such, the NRC staff has determined that the survey results in the report comply with the criteria in the NRC approved DP and the release criteria in subpart E of part 20 of Title 10 of the *Code of Federal Regulations* (10 CFR).

On July 11–12, 2012, May 2–3, 2013 (ADAMS Accession No. ML13161A084), and August 22, 2013 (ADAMS Package Accession No. ML14024A421), Region 1 of the NRC conducted safety inspections at the LCWNRF. The inspections were an examination of WPI's licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions, including the DP and FSSP. The inspections consisted of observations by the inspectors, interviews with personnel, and a review of procedures and records and acquisition of split samples. No health and safety concerns were identified during these inspections. The samples, consisting of concrete cores and sediments collected during the inspections, were sent to Oak Ridge Associated Universities (ORAU) for analysis. The ORAU provided the results of the sample analysis in a report dated October 7, 2013 (ADAMS Accession No. ML13309B020). The ORAU analyzed the samples for Cobalt-60, Europium-152, Europium-154, and Cesium-137. The report showed that results of all samples were found to be less than the volumetric radionuclide concentration criteria established in the DP.

Based on observations during NRC inspections, decommissioning activities have been carried out by the WPI in accordance with the LCWNRF DP. Additionally, NRC staff have evaluated the WPI FSSR and conducted independent confirmatory surveys. All FSSR measurements were found to be less than the DP FSSP criteria, and NRC's analytical results from independent confirmatory surveys were consistent with the WPI FSSR results. Therefore, the NRC staff has concluded that the WPI LCWNRF has completed decommissioning in accordance with the approved DP. Additionally, the NRC staff determined in its March 29, 2011, letter that DP FSS criteria would provide residual radioactivity that will not exceed 25 millirem (0.25 milliSievert) per year, and that doses would be reduced to levels as low as reasonably achievable, consistent with the release criteria in subpart E of 10 CFR part 20. Therefore, NRC evaluation of the WPI LCWNRF FSSR, DP, and associated documentation has determined that the facilities and site are suitable for unrestricted release in accordance with the criteria for license termination in 10 CFR part 20, subpart E.

Therefore, pursuant to 10 CFR 50.82(b)(6), the WPI LCWNRF in Worcester, Massachusetts, has completed decommissioning and

Facility Operating License No. R–61 is terminated.

Dated at Rockville, Maryland, this 25th day of November 2014.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–29001 Filed 12–9–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of modification to existing system of records.

SUMMARY: The United States Postal Service® (Postal Service) is proposing to modify one Customer Privacy Act System of Records. These modifications are being made to support the implementation of a revenue assurance system to ensure the accuracy of postage payment across payment systems.

DATES: These revisions will become effective without further notice on January 9, 2015 unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be mailed or delivered to the Privacy and Records Office, United States Postal Service, 475 L'Enfant Plaza SW., Room 9431, Washington, DC 20260–1101. Copies of all written comments will be available at this address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Matthew J. Connolly, Chief Privacy Officer, Privacy and Records Office, 202–268–8582 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their amended systems of records in the **Federal Register** when there is a revision, change, or addition. The Postal Service™ has reviewed this system of records and has determined that this Customer Privacy Act System of Records should be revised to modify the following entries: System name, system location, categories of records in the system, authority for maintenance of the system, routine uses of records in the system, including categories of users and the purpose of such uses, and retention and disposal.

I. Background

The Postal Service currently sells postage through multiple payment systems, including postage meters and online through third party software providers (''PC Postage''). Frequently, the Postal Service identifies disparities in mailpiece characteristics or instances of duplicate label use, which result in mailers paying incorrect postage. The Postal Service will be implementing a new revenue assurance system involving enhanced capabilities to identify these disparities and recover incorrect postage revenue for mailing and shipping services. This new system will rely on third party software providers to assist with remediation and recovery of incorrect postage payments.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is implementing a revenue assurance system to ensure accuracy of postage payment, primarily focused on its PC Postage and meter payment systems. However, certain planned enhancements will be leveraged across the complete range of Postal Service payment systems, including Postage Validation Imprinter (PVI) and the Electronic Verification System (eVS). The primary purpose of the planned system is to support recovery of postage discrepancies in an automated fashion, limiting manual work to maximize financial return. Accordingly, automated approaches will be deployed as much as possible across the end-to-end process. Therefore, detection of incorrectly paid postage will occur primarily based on piece characteristics captured in-line via the existing (or future equivalent) in-line sortation equipment. Manual approaches will be utilized strategically as warranted by balancing the expense of the manual activity with the incremental revenue recovery enabled.

This revenue assurance system compares data collected from within the postal network and derived from postal operations such as the in-line sortation equipment with data in the National Meter Account Tracking System (NMATS) database, Electronic Verification System (eVS) (for those customers using the Shortpaid model), Program Registration, and Product Tracking and Reporting (PTR) to determine whether accurate postage has been paid on mailpieces and packages.

These data will be summarized in a report intended to be shared with customers through third party software providers so that each provider can see which of its postage accounts the Postal Service has identified to have paid incorrect postage on mailpieces and packages entered into the Postal Service system. In instances where no third party software vendor is employed, data will be shared directly with the end customer (eVS).

The Postal Service intends to automate recovery and tracking through a new system. This new application will receive data on piece characteristics from other postal systems, assess postage for each piece, create and monitor customer account profiles, and provide a file to the provider or customer to permit financial recovery.

In the case of PC Postage and Meters, the provider would be responsible for facilitating an adjustment transaction on behalf of the customer so that an adjustment can be made to the customer's virtual meter balance.

For eVS, customer accounts will be assessed based on existing methodologies, which include a sampling-based approach using a Postage Adjustment Factor (PAF) and an alternative Shortpaid recovery methodology similar to that used for PC Postage. The new system infrastructure will be employed by eVS to streamline sampling and assessment processes. The primary benefits of the program are anticipated to be recovery of revenue shortfall and reduced future instances of incorrect postage payment due to disparities in piece characteristics or duplicate label use, leveraging enhanced capabilities to identify these instances and a new process for revenue recovery.

The initial phase will focus on shipping services and is anticipated to be implemented prior to the end of Fiscal Year 2015.

III. Description of Changes to Systems of Records

The Postal Service is modifying one system of records listed below. Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed modifications has been sent to Congress and to the Office of Management and Budget for their evaluation. The Postal Service does not expect this amended notice to have any adverse effect on individual privacy rights. The affected systems are as follows:

USPS 870.200

SYSTEM NAME:

Postage Meter and PC Postage Customer Data and Transaction Records

Accordingly, for the reasons stated, the Postal Service proposes changes in the existing systems of records as follows:

USPS 870.200

SYSTEM NAME:

[CHANGE TO READ]

Postage Validation Imprint (PVI), Electronic Verification System (eVS), Postage Meter, and PC Postage Customer Data and Transaction Records

SYSTEM LOCATION:

[CHANGE TO READ]

USPS Headquarters, USPS facilities, Integrated Business Solutions Services Centers, and partner locations.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

[CHANGE TO READ]

1. *Customer information:* Contact name, address, and telephone number; registration identifiers; company name; and change of address information.

2. *Identification information:* Customer/system ID(s), IP address(es), date of device installation, device ID number, device model number, and certificate serial number.

3. *Mailing and transaction information:* Tracking ID, package identification code (PIC), customer provided package/transaction attribute data, postage paid, contract pricing, package attribute data, USPS collection and source system identifiers, mail piece images, and package destination and origin.

AUTHORITY FOR MAINENANCE OF THE SYSTEM:

[CHANGE TO READ]

39 U.S.C. 401, 403, and 404; 39 CFR part 501.

* * * * *

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

[ADD TEXT]

b. Customer-specific records and related sampling systems in this system may be disclosed to relevant eVS customers, indicia providers, and PC Postage providers, including approved shippers, for revenue assurance to ensure accuracy of postage payment across payment systems, and to otherwise enable responsible administration of postage evidencing system activities.

* * * * *

RETENTION AND DISPOSAL:

[CHANGE TO READ]

* * * * *

2. Other records in this system are retained up to 7 years after a customer ceases using a postage evidencing system.

* * * * *

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–28882 Filed 12–9–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31365; 812–14283]

Dreyfus ETF Trust, et al.; Notice of Application

December 3, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for 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 (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.

Applicants: Dreyfus ETF Trust (''Trust''), The Dreyfus Corporation (''Dreyfus''), and Mellon Capital Management Corporation (''Mellon Capital'').

Summary of Application: Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES:

Filing Dates: The application was filed on February 24, 2014, and amended on July 18, 2014, and October 22, 2014.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 29, 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.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: c/o Jeff Prusnofsky, The Dreyfus Corporation, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION: Courtney S. Thornton, Senior Counsel, at (202) 551–6812 or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Massachusetts business trust and will register with the Commission as an open-end management investment company. The Trust will be organized as a series fund with multiple series, but will initially be comprised of a single series (the ''Initial Fund''). Subject to market conditions, applicants expect that the investment objective of the Initial Fund will be to seek capital growth. The Initial Fund will seek to achieve its investment objective by investing primarily in a diversified portfolio of equity and fixed-income securities, other debt instruments and certain derivative instruments.

2. Dreyfus, a New York corporation registered with the Commission as an investment adviser under the Investment Adviser Act of 1940 (''Advisers Act''), will be the investment adviser to the Initial Fund. The Adviser (as defined below) may enter into sub-advisory agreements with one or more

investment advisers, each of which will act as sub-adviser to a Fund (as defined below) (each a ''Sub-Adviser''). Mellon Capital, a Delaware corporation registered with the Commission as an investment adviser under the Advisers Act, will serve as Sub-Adviser to the Initial Fund. Applicants state that each Sub-Adviser will be registered, or not subject to registration, under the Advisers Act.

3. A registered broker-dealer (''Broker'') under the Securities Exchange Act of 1934 (the ''Exchange Act''), will be selected and approved by the Board (as defined below) to act as the distributor and principal underwriter of the Funds (the ''Initial Distributor''). The Distributor of any Fund may be an ''affiliated person'' or an affiliated person of an affiliated person of that Fund's Adviser and/or Sub-Advisers. No Distributor, Adviser, Sub-Adviser, Trust, or Fund is, or will be, affiliated with any national securities exchange, as defined in section 2(a)(26) of the Act (''Stock Exchange'').

4. Applicants request that the order apply to the Initial Fund and any future series of the Trust or of any other open-end management companies that may utilize active management investment strategies (collectively, ''Future Funds''). Any Future Fund will (a) be advised by Dreyfus or an entity controlling, controlled by, or under common control with Dreyfus (Dreyfus and each such other entity and any successor thereto included in the term ''Adviser''),[1] and (b) comply with the terms and conditions of the application.[2] The Initial Fund and Future Funds together are the ''Funds''.[3] Each Fund will consist of a portfolio of securities (including fixed income securities and/or equity securities), currencies traded in the U.S. and/or non-U.S. markets, and derivatives, other assets, and other investment positions (''Portfolio Instruments'').[4] Funds may invest in ''Depositary Receipts.'' [5] Each Fund will operate as an actively managed exchange-traded fund (''ETF'').

5. Applicants request that any exemption under section 12(d)(1)(J) apply to: (1) With respect to section 12(d)(1)(B), any Fund that is currently or subsequently part of the same ''group of investment companies'' as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act as well as any principal underwriter for the Fund and any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (2) with respect to section 12(d)(1)(A), each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds, and that enters into a FOF Participation Agreement (as defined below) to acquire Shares of a Fund (such management investment companies, ''Investing Management Companies,'' such unit investment trusts, ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together, ''Investing Funds''). Investing Funds do not include the Funds.[6]

6. Applicants anticipate that a Creation Unit will consist of a fixed number of Shares (*e.g.,* at least 25,000). Applicants anticipate that the trading price of a Share will range from $10 to $100. All orders to purchase Creation Units must be placed with a Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund (''Authorized Participant'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant, in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (b) a participant in the DTC (''DTC Participant'').

7. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[7] On any given Business Day,[8] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[9] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [10] or (c) TBA Transactions,[11] short positions and other positions that cannot be transferred in kind [12] will be excluded

[1] For the purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Adviser to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] Applicants further request that the order apply to any future Distributor of the Funds, which would be a Broker and would comply with the terms and conditions of the application. The Distributor of any Fund may be an affiliated person of the Adviser and/or Sub-Advisers.

[4] If a Fund invests in derivatives, then (a) the board of trustees or directors (''Board'') of the Fund will periodically review and approve the Fund's use of derivatives and how the Adviser assesses and manages risk with respect to the Fund's use of derivatives and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] Depositary Receipts are typically issued by a financial institution, a ''depository,'' and evidence ownership in a security or pool of securities that have been deposited with the depository. A Fund will not invest in any Depositary Receipts that the Adviser or Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants, any Future Fund, any Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[6] An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

[7] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[8] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

[9] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's net asset value (''NAV'') for that Business Day.

[10] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[11] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[12] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

from the Creation Basket.[13] If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

8. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding non-U.S. investment (''Global Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[14]

9. Each Business Day, before the open of trading on a Stock Exchange on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Stock Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Stock Exchange.

10. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (''Transaction Fee''). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Adviser to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.[15] All orders to purchase Creation Units will be placed with a Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus (''Prospectus'') to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

11. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists or market makers (''Market Makers'') will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

12. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists or Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[16] Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[17] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

13. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

14. Neither the Trust nor any Fund will be marketed or otherwise held out as a ''mutual fund.'' Instead, each Fund will be marketed as an ''actively managed exchange-traded fund''. In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described, there will be an appropriate statement to the effect that Shares are not individually redeemable.

15. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the

[13] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (defined below).

[14] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[15] In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[16] If Shares are listed on The NASDAQ Stock Market LLC (''Nasdaq'') or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[17] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

identities and quantities of the Portfolio Instruments held by the Fund (including any short positions held in securities (''Short Positions'')) that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[18]

Applicants' Legal Analysis

1. Applicants request 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 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.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 2(a)(32) and 5(a)(1) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 14 calendar days. Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Instruments of each Global Fund customarily clear and settle, but in all cases no later than 14 calendar days following the tender of a Creation Unit.[19]

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the

[18] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

[19] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

spirit and intent of section 22(e). Applicants state each Global Fund's statement of additional information (''SAI'') will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not affect redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company (''Investing Fund Adviser''), sponsor of an Investing Trust (''Sponsor''), any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Adviser, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor (''Investing Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company (''Investing Fund Sub-Adviser''), any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Adviser or any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser (''Investing Fund's Sub-Advisory Group'').

12. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate [20] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''independent directors or trustees''), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[21]

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

15. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in a Fund and not in any other investment company.

Sections 17(a)(1) and (2) of the Act

16. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship

[20] An ''Investing Fund Affiliate'' is any Investing Fund Adviser, Investing Fund Sub-Adviser, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

[21] Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser (an ''Affiliated Fund'').

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[22] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.[23]

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond *pro rata* to the Fund's Portfolio Instruments. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner and on the same terms for all, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[24] The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. Neither the Adviser nor any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms

[22] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

[23] Applicants expect most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to an Investing Fund and redemptions of those Shares. The requested relief is intended to also cover the in-kind transactions that may accompany such sales and redemptions.

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of

the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28880 Filed 12–9–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73738; File No. SR–MIAX–2014–61]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 510 To Extend the Penny Pilot Program

December 4, 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 November 25, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies (the ''Penny Pilot Program'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX'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, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). Specifically, the Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007 and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on December 31, 2014. The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through June 30, 2015.

In addition to the extension of the Penny Pilot Program through June 30, 2015, the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program. The replacement issues will be selected based on trading activity in the previous six months and will be added to the Penny Pilot Program on the second trading day following January 1, 2015. Please note, the month immediately preceding a replacement class's addition to the Pilot program (*i.e.,* June) will not be used for purposes of the six-month analysis. Thus, a replacement added on the second trading day following January 1, 2015 will be identified based on trading activity from June 1, 2014 through November 30, 2014. Rule 510 has been updated to reflect the new date replacement issues will be added to the Penny Pilot Program.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) [3] of the Act in general, and furthers the objectives of Section 6(b)(5) [4] 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. In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

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[5] and Rule 19b–4(f)(6)[6] 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, 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–2014–61 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–MIAX–2014–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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–2014–61 and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28876 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73736; File No. SR–ISE–2014–24]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Modify the Opening Process

December 4, 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 November 19, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules in order to modify the manner in which the Exchange's trading system opens trading at the beginning of the day and after trading halts and to codify certain existing functionality within the trading system regarding opening and reopening of options classes traded on the Exchange. The text of the proposed rule change is available on the Exchange's Web site *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 ISE rules in order to modify the manner in which the Exchange's trading system opens trading at the beginning of the day and after trading halts and to codify certain existing functionality within the trading system regarding opening and reopening of option classes traded on the Exchange. Specifically, the Exchange proposes to amend Rule 701 to modify the opening process by providing away market protection at the open and making system changes to limit instances where an options class goes into an imbalance state which prevents the Exchange from determining the opening price in a timely manner for that options class. The Exchange also

proposes to amend parts of Rule 701 to more clearly describe the manner in which the trading system functions with regards to the rotation process for regular orders.

Currently, for each class of options that has been approved for trading, the opening rotation is conducted by the Primary Market Maker (''PMM'') appointed to such class of options. The Exchange may direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market. For each rotation so employed, except as the Exchange may direct, rotations are conducted in the order and manner the PMM determines to be appropriate under the circumstances. The PMM has the authority to determine the rotation order and manner and may also employ multiple trading rotations simultaneously.[3]

Trading rotations are employed at the opening of the Exchange each business day and during the reopening of the market after a trading halt. The opening rotation in each class of options is held promptly following the opening of the market for the underlying security.[4] The opening rotation for options contracts in an underlying security is delayed until the market for such underlying security has opened unless the Exchange determines that the interests of a fair and orderly market are best served by opening trading in the options contracts.

Currently, the rotation process can be initiated in one of two ways. A PMM can initiate the rotation process by either sending a rotation request through the trading system or by selecting an auto-open setting in the trading system for each class in which it serves as a PMM.

Once the security underlying an options class has opened, the trading system checks to see whether the PMM assigned to that options class has selected to auto-open the options class. If the PMM has not selected to auto-open the options class, the trading system waits for the PMM to send a rotation request to start the rotation process. The PMM can initiate the rotation process by submitting a quote. To initiate the rotation process, a PMM quote must be present. If the PMM quote is not present, the rotation process for that class will not start.

There may be instances where the PMM is unable to initiate the rotation process because, for instance, the PMM is experiencing technical difficulties in sending the rotation request to the Exchange, or the PMM has not set the auto-open setting or because the PMM has not submitted any quotes for an options class. In such instances, the Exchange will initiate the rotation process by using the rapid opening mechanism within a configurable time period[5] after the underlying security has opened. In order for the Exchange to use the rapid opening mechanism in instances where the Primary Market Maker has not initiated the rotation process, the following conditions must be met: (i) At least one market maker quote must be present; (ii) if there are more than one market maker quotes present, the best quoted market maker bid must not be greater than a configurable number of ticks than the best quoted market maker offer;[6] (iii) if a class is traded on an another exchange, at least one other exchange must have opened that class and a NBBO has been published; and (iv) the best quoted market maker bid and best quoted market maker offer must not cross the NBBO by a certain margin. The margin is calculated as a percentage of the mid-point of the NBBO with up to a maximum and a minimum range.[7] In the event any of the conditions described above are not met, the trading system will repeat the process after a configurable time period until all the conditions are met[8] thus allowing the Exchange to use the rapid opening mechanism to initiate the opening rotation process.

After a rotation process has been performed and the option class cannot be opened due to an imbalance condition, an imbalance broadcast is sent to members. The PMM can then re-initiate the rotation process again. If the PMM does not re-initiate the rotation process within a configurable time period,[9] the Exchange will re-initiate the rotation process as described above. The rotation process will repeat until the class is opened. The Exchange may delay the commencement of the opening rotation in any class of options in the interests of a fair and orderly market.

The trading system currently uses quotes provided by the PMM for the series in question to set a range within which to open the options series (''Boundary Prices''). The Boundary Prices ensure the opening price is close to the reasonable price range for the options class. If the PMM for an options class is not present on the bid or the offer for that options class then the best quote from the Competitive Market Makers (''CMMs'') for that options class is used.

To determine the opening price, the accumulated quantity for each price level is calculated for the buy and sell sides. Only quotes, market orders and displayed quantities of limit orders are used to calculate the accumulated quantity. The opening price is calculated as the price level where a maximum quantity can be traded. If there is no overlap between buy and sell prices the opening price cannot be calculated and the options class is opened without a trade. If there are only market orders on both sides of the quote, an opening price cannot be calculated and the options class goes into an imbalance state, in which case, the options class does not open until the imbalance condition is resolved, as described above. If the calculated opening price is outside the Boundary Prices, the options class goes into an imbalance state and the options class again does not open until the imbalance condition is resolved. If the calculated opening price is at or inside the Boundary Prices then that price is the opening price.

Once the opening price for an options class has been determined, order and quotes on the order book in that options class are matched to trade in the following order: (1) Market orders trade first, and can match with other market orders, quotes and limit orders. As noted above, if market orders on either or both sides cannot be traded entirely the options class goes into an imbalance state; (2) bid quotes and bid limit orders priced higher than the opening price and ask quotes and ask limit orders priced lower than the opening price trade next; (3) Priority Customer[10]

[3] *See* ISE Rule 701(a)(1)–(4). The Exchange proposes to delete amend [sic] certain parts of Rule 701 and add language to the current rule to describe in greater detail how the PMM initiates the rotation process, and in the absence of a PMM, how the trading system initiates the rotation process.

[4] The ''market for the underlying security'' is either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis. *See* ISE Rule 701(b)(2).

[5] The time period is currently set to five seconds. Members are advised when there is a change to this configurable time period through the issuance of information circular.

[6] The number of ticks is currently set to five. Members are advised when there is a change to the number of ticks through the issuance of information circular.

[7] The margin is currently calculated as 10% of mid-point of the NBBO with up to a maximum of $5.00 and a minimum of $0.10.

[8] This process is currently repeated every two seconds.

[9] The time period is currently set to one second.

[10] Pursuant to ISE Rules 100(a)(37A) and 100(a)(37B), a Priority Customer Order is an order for the account of a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day

Continued

orders with a limit price equal to the opening price trade next in time priority; and (4) any remaining quantity of quotes and limit orders at the opening price trade pro rata. Only the displayed quantity of orders and quotes participate in the opening process.

There are a number of issues with the current opening which has resulted in fewer pre-open orders being sent to ISE by order flow providers. First, while trading through a better away price on the open is permitted under the Options Order Protection and Locked/Crossed Market Plan (the ''Linkage Plan'') and ISE Rules,[11] several other exchanges provide away market price protection at the opening [12] resulting in order flow being sent to those exchanges and not to ISE due to the lack of such price protection on ISE. Second, the opening of options series can be delayed by imbalances that prevent ISE from determining an opening price in a timely manner. Such delays exacerbate the problem of not providing price protection at the opening.

The Exchange therefore proposes to modify the opening process by providing away market price protection at the opening by including the away best bid and offer (''ABBO'') when calculating the Boundary Prices. The Exchange also proposes to modify the opening process by moving from a single price opening, which will reduce the imbalance conditions that the opening process currently faces.

As is the case today, the PMM or the Exchange will continue to initiate a rotation in an options class. Once the PMM or the Exchange initiates a rotation, the trading system will automatically process quotes and orders in each series. When there is no executable interest in a particular series, *i.e.,* there are no quotes or orders that lock or cross each other, the trading system will open that series by disseminating the Exchange's best bid and offer among quotes and orders. Any Public Customer Orders [13] that would lock or cross a bid or offer from another exchange are not included in the Exchange's disseminated best bid and offer and are simultaneously processed in accordance with Supplementary Material .02 to Rule 1901.[14] If there are any Non-Customer Orders [15] that would lock or cross a bid or an offer from another exchange by more than two ticks, such orders are canceled.

If there are non-customer orders that would lock or cross a bid or offer from another exchange by two ticks or less they will be included in the Exchange's disseminated best bid and offer. Any quotes that would lock or cross a bid or an offer from another exchange, will also be included in the Exchange's disseminated best bid and offer.

The proposed opening process is an iterative process. In the first iteration, the trading system attempts to derive the opening price to be at or better than the ISE market maker quotes and ABBO prices. When there is executable interest, *i.e.,* there are quotes or orders on the Exchange that lock or cross each other, the trading system will first calculate the Boundary Prices. As is the case today, the trading system will use quotes provided by the PMM for the series in question to set the Boundary Prices. If the PMM is not present on either side of the market then the best quotes from the CMMs are used on the corresponding side. ISE Market Maker quotes therefore are the PMM's best bid and offer, or in the absence of a PMM quote, best bid and offer of CMMs. If there are no PMM or CMM quotes on the bid side, the lowest minimum trading increment for the option class is used on the bid side. If there are no PMM or CMM quotes on the offer side, the options class will not open because in the absence of an offer there is no limit as to the price at which an opening trade can occur. If the options class is open on another exchange, the Boundary Prices are determined to be the higher of the ISE Market Maker's bid in that options class and the national best bid, and the lower of the ISE Market Maker's offer in that options class and the national best offer.

Once the trading system has determined the Boundary Prices, it then determines the price at which the maximum number of contracts can trade at or within the Boundary Prices (the ''execution price''). Once the trading system determines the execution price, orders and quotes are processed as follows. At the execution price, market orders will be given priority before limit orders and quotes, and limit orders and quotes will be given priority by price. For limit orders and quotes with the same price, priority will be accorded first to Priority Customer Orders over Professional Orders [16] and quotes. Priority Customer Orders with the same limit price will be executed in random [17] order while Professional Orders and quotes with the same limit price will be executed pro-rata based on size. If the Boundary Prices are calculated using the national best bid and/or offer, any remaining Public Customer Orders after this iteration that would lock or cross a bid or offer from another exchange are processed in accordance with Supplementary Material .02 to Rule 1901. Any remaining Non-Customer Orders that would lock or cross a bid or offer from another exchange may trade outside the Boundary Prices by up to two trading increments as further described under the third iteration below.

Example 1

Suppose the following market in option class A:

Away Market BBO: 10 @1.00 x 10 @1.05
ISE PMM Quote: 10 @1.01 x 10 @1.04
ISE CMM Quote: 10 @0.90 x 50 @1.03

Suppose further the following buy and sell orders in option class A:

Priority Customer 1: Buy 10 @1.00
Non-Customer 1: Buy 10 @0.99
Non-Customer 2: Buy 5 @0.95
Priority Customer 2: Sell 50 @0.96
Non-Customer 3: Sell 50 @0.95
Non-Customer 4: Sell 50 @0.95

In example 1 above, since the ISE PMM quote is better than the away market quote, the Boundary Prices are calculated using the ISE PMM quote, or 1.01×1.04. The highest bid at ISE is 1.01 and lowest offer is 0.95. To keep the trade within the Boundary Prices,

on average during a calendar month for its own beneficial account(s).

[11] *See* ISE Rule 1901(b).

[12] *See* NASDAQ OMX PHLX (''PHLX'') Rule 1017(l); Chicago Board Options Exchange (''CBOE'') Rule 6.2B, Interpretation .03.

[13] Pursuant to ISE Rules 100(a)(38) and 100(a)(39), a Public Customer means a person or entity that is not a broker or dealer in securities and a Public Customer Order means an order for the account of a Public Customer.

[14] Under the Options Order Protection and Locked/Crossed Market Plan, the Exchange cannot execute orders at a price that is inferior to the NBBO, nor can the Exchange place an order on its book that would cause the ISE best bid or offer to lock or cross another exchange's quote. In compliance with this requirement, Non-Customer Orders and Public Customer Orders are exposed to all ISE Members for up to one second to give them an opportunity to execute orders at the NBBO price or better before orders are rejected (in the case of Non-Customer Orders) or routed out to other exchanges (in the case of Public Customer Orders). *See* Supplementary Material .02 to Rule 1901.

[15] Pursuant to ISE Rules 100(a)(27) and (28), a Non-Customer means a person or entity that is a broker or dealer in securities and a Non-Customer Order means an order for the account of a Non-Customer.

[16] Pursuant to ISE Rule 100(a)(37C), a Professional Order is an order that is for the account of a person or entity that is not a Priority Customer.

[17] Priority Customer orders with the same limit price in the regular order book are currently executed in time priority during the opening. The Exchange believes executing these orders on a random basis is a fairer approach because the current time priority is dependent on when such orders are communicated to the Exchange by a Priority Customer's broker before the market, not the time the Priority Customer expressed interest in doing the trade. Executing these orders in random will provide Priority Customer orders an equal opportunity to participate at the open.

the opening trade would be executed at 1.01 as follows:

- ISE PMM buys 10 contracts
- Non-Customer 3 and Non-Customer 4 sell 5 contracts each using the pro-rata allocation method.

If after the first iteration there remain unexecuted orders and quotes that lock or cross each other, the trading system will initiate a second iteration. In the second iteration, the trading system uses either the ISE market maker quotes or the ABBO prices,[18] whichever was not used in the first iteration. For example, if the ISE market maker quotes were used in the first iteration, the second iteration will use ABBO prices, and vice versa. If there were no ABBO prices for consideration for the first iteration, then this second iteration does not occur and the trading system will initiate the third iteration as described below. The second iteration only occurs if there are both ISE market maker quotes and ABBO prices available in the first iteration to determine the opening price.

The trading system then determines the price at which the maximum number of contracts can trade at or within the widened Boundary Prices. Once the trading system determines the execution price following the second iteration, orders and quotes are processed as follows. At the execution price following the second iteration, market orders are given priority before limit orders and quotes, and limit orders and quotes are given priority by price. For limit orders and quotes with the same price, priority is accorded first to Priority Customer Orders over Professional Orders and quotes. Priority Customer Orders with the same limit price are executed in random order while Professional Orders and quotes with the same limit price are executed pro-rata based on size. If the Boundary Prices in the second iteration are calculated using the national best bid and/or offer, any remaining Public Customer Orders after this iteration that would lock or cross a bid or offer from another exchange are processed in accordance with Supplementary Material .02 to Rule 1901. Any remaining Non-Customer Orders that would lock or cross a bid or offer from another exchange may trade outside the Boundary Prices by up to two trading increments as further described under the third iteration below.

In example 1 above, the following orders and quotes remain on the ISE order book following the first iteration:

ISE PMM Quote: 0 @0.00 × 10 @1.04
ISE CMM Quote: 10 @0.90 × 50 @1.03
Priority Customer 1: Buy 10 @1.00
Non-Customer 1: Buy 10 @0.99
Non-Customer 2: Buy 5 @0.95
Priority Customer 2: Sell 50 @0.96
Non-Customer 3: Sell 45 @0.95
Non-Customer 4: Sell 45 @0.95

Since in the first iteration the Boundary Prices were calculated using the ISE PMM Quotes, the second iteration will use away market prices that were not used in the first iteration and the Boundary Prices are calculated to be 1.00 × 1.05. The highest bid at ISE is now 1.00 and lowest offer is 0.95. To keep the trade within the Boundary Prices, the second opening trade will be executed at 1.00 as follows:

- Priority Customer 1 buys 10 contracts
- Non-Customer 3 and Non-Customer 4 sell 5 contracts each using the pro-rata allocation method
- Priority Customer 2 is exposed to all ISE Members to give them an opportunity to execute the order at the NBBO price and is routed out if not completely executed on ISE.

If after the second iteration there remain unexecuted orders and quotes that lock or cross each other, the trading system will initiate a third iteration. In the third iteration, the Boundary Prices, *i.e.,* the prices used in the second iteration, and in the case where the second iteration does not occur, the prices used in the first iteration, are widened by two trading increments. The trading system then determines the price at which the maximum number of contracts can trade at or within the widened Boundary Prices. Once the trading system determines the execution price following the third iteration, orders and quotes are processed as follows. At the execution price following the third iteration, market orders are given priority before limit orders and quotes, and limit orders and quotes are given priority by price. For limit orders and quotes with the same price, priority is accorded first to Priority Customer Orders over Professional Orders and quotes. Priority Customer Orders with the same limit price are executed in random order while Professional Orders and quotes with the same limit price are executed pro-rata based on size. Thereafter, any unexecuted Priority Customer Orders that lock or cross the Boundary Prices are handled by the PMM[19] and any unexecuted Professional Orders and Non-Customer Orders that lock or cross the Boundary Prices are canceled. While Professional Orders and Non-Customer Orders are canceled in these circumstances, the Exchange seeks to provide a higher level of service for Priority Customer orders by having them handled by the PMM, which has an affirmative obligation to provide liquidity and price continuity. The Exchange believes that providing this service for Priority Customer orders is appropriate and consistent with feedback from members that enter Priority Customer orders on the Exchange, who prefer that Priority Customer orders not be canceled in these circumstances.

In example 1 above, the following orders and quotes remain on the ISE order book following the second iteration:

ISE PMM Quote: 0 @0.00 × 10 @1.04
ISE CMM Quote: 10 @.90 × 50 @1.03
Non-Customer 1: Buy 10 @0.99
Non-Customer 2: Buy 5 @.95
Non-Customer 3: Sell 40 @.95
Non-Customer 4: Sell 40 @.95

In the third iteration, the Boundary Prices are widened by two trading increments and are calculated to be 0.98 × 1.07 (best bid of 1.00 widened by two trading increments × best offer of 1.05 widened by two trading increments). The highest bid at ISE is now 0.99 and lowest offer remains at 0.95. To keep the trade within the Boundary Prices, the third opening trade will be executed at 0.98 as follows:

- Non-Customer 1 buys 10 contracts
- Non-Customer 3 and Non-Customer 4 sell 5 contracts each using the pro-rata allocation method.

Since the remaining quantity of Non-Customer 3 and Non-Customer 4 orders are priced more than two trading increments away from the Boundary Prices, these orders are cancelled.

If after the third iteration there remain unexecuted orders and quotes that lock or cross each other, the trading system will initiate a fourth and final iteration. In the fourth iteration, the trading system does not calculate new Boundary Prices. The trading system will simply trade any remaining interest. Thereafter, the trading system opens the options series by disseminating the Exchange's best bid and offer derived from the remaining orders and quotes.

Continuing with example 1 above, following the third iteration, the following orders and quotes remain on the ISE order book:

ISE PMM Quote: 0 @0.00 × 10 @1.04
ISE CMM Quote: 10 @0.90 × 50 @1.03
Non-Customer 2: Buy 5 @0.95

[18] The ABBO prices considered in the first iteration are also used during the second iteration.

[19] The PMM has the obligation under existing Exchange rules to engage in dealings for his own account when, among other things, there is a temporary disparity between the supply of and demand for a particular options contract, and to act with due diligence in handling orders. *See* ISE Rule 803(c).

Since there are no marketable orders or quotes left on the ISE order book, the trading system opens the class and disseminates the Exchange's best bid and offer as 5 @0.95 × 50 @1.03.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular with the requirements of Section 6(b) of the Act.[20] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed opening process for options listed on the Exchange will help ensure that ISE opens trading in options contracts in a fair and orderly manner and in a greater number of options classes. Specifically, the proposed rule change will provide away market protection at the opening which the Exchange believes will encourage market participants to direct their pre-opening order flow to the Exchange and therefore foster greater competition at the open for the benefit of all market participants.

The Exchange believes the proposed rule change is consistent with the Act because it will also facilitate the price formation process by taking into account away market prices when calculating the Boundary Prices which the Exchange believes will limit instances of an options class going into an imbalance state and therefore not opening for trading on the Exchange in a timely fashion. Additionally, the proposal to move away from a single opening price will permit the Exchange to execute a greater number of contracts at the open and therefore remove impediments to a free and open market and foster competition at the open.

The proposed rule change to codify the rapid opening mechanism into the Exchange's rules will benefit investors and promotes an open market by adding detail to the rules regarding how the trading system facilitates the opening of option classes on the Exchange.

The Exchange's proposal to permit the execution of Priority Customer orders with the same limit price in the regular order book on a random basis is a fairer approach because the current time priority is dependent on when such orders are communicated to the Exchange, not the time the order originator expressed an interest in doing the trade. The Exchange believes that in the interest of promoting just and equitable principles of trade, it is appropriate to execute such orders on a random basis to ensure that all orders are afforded the same opportunity for execution. For example, suppose order 1 originating from a retail customer was sent at 11 p.m. to its broker who is a member of the Exchange (member 1) and order 2, also originating from a retail customer, was sent at 8 a.m. the following day to its broker who too is a member of the Exchange (member 2). If member 2 initiates its connection to the Exchange before member 1 does and therefore sends its retail customer order before member 1 sends its retail customer order, member 2's retail customer order will have time priority over member 1's retail customer order even though member 1's customer had expressed an interest in trading earlier than member 2's customer. The Exchange believes it is in the public interest to execute these orders in random as means to provide them an equal opportunity to participate at the open.

As a participant exchange of the Linkage Plan, the Exchange has adopted rules implementing various requirements specified in the Linkage Plan. The Linkage Plan provides a set of rules and procedures designed to avoid trade-throughs and locked markets. Specifically, Section 5(a)—Order Protection—of the Linkage Plan requires that each participant exchange establish written policies and procedures that are reasonably designed to prevent trade-throughs and to conduct surveillance to ascertain the effectiveness of such policies and procedures. Section 5(b) provides a number of exceptions to the order protection requirements. Section 5(b)(ii), in particular, permits trade-throughs to happen during a trading rotation.

The Exchange notes that each iteration of the proposed iterative process complies with Section 5(a) of the Linkage Plan, or qualifies as an exception under Section 5(b)(ii) of the Linkage Plan. For the purposes of the Linkage Plan, each iteration is a trading rotation to determine Boundary Prices at which the most amount of contracts can be traded.

The Exchange represents that the first iteration complies with the order protection requirements of the Linkage Plan if it utilizes ISE PMM quotes to determine the Boundary Prices because the ISE PMM quotes are better than any away market quotes and therefore would not trade-through better prices at away markets. The first iteration also complies with the order protection requirements of the Linkage Plan if it utilizes away market quotes to determine the Boundary Prices in that any Public Customer orders that remain after this iteration that would lock or cross a bid or offer from another exchange would be processed in accordance with the requirements of the Linkage Plan, as provided in Supplementary Material .02 to Rule 1901.

If the first iteration utilized ISE PMM quotes then the second iteration would utilize away market quotes. If there were no away market quotes for consideration for the first iteration then the second iteration would not occur. The Exchange represents that the second iteration complies with the order protection requirements of the Linkage Plan if it utilizes away market quotes to determine the Boundary Prices in that any Public Customer orders that remain after this iteration that would lock or cross a bid or offer from another exchange would be processed in accordance with the requirements of the Linkage Plan, as provided in Supplementary Material .02 to Rule 1901. If the first iteration utilized the away market quotes then the second iteration would utilize ISE PMM quotes. To the extent the second iteration results in any trade-throughs, the Exchange represents that such trade-throughs are permissible under Section 5(b)(ii) of the Linkage Plan, the Trading Rotation exception, which permits a participant exchange to trade through a Protected Quotation disseminated by an Eligible Exchange during a trading rotation.

In the third iteration, the Boundary Prices are widened by two trading increments to determine the price at which the maximum number of contracts can trade at or within the widened Boundary Prices. To the extent the third iteration results in any trade-throughs, the Exchange represents that such trade-throughs are permissible under Section 5(b)(ii) of the Linkage Plan. Section 5(b)(ii) of the Linkage Plan, the Trading Rotation exception, permits a participant exchange to trade through a Protected Quotation disseminated by an Eligible Exchange during a trading rotation.

In the fourth and final iteration, the Boundary Prices are not calculated and any remaining interest is traded. To the extent the fourth iteration results in any trade-throughs, the Exchange represents that such trade-throughs are permissible

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

under Section 5(b)(ii) of the Linkage Plan. Section 5(b)(ii) of the Linkage Plan, the Trading Rotation exception, permits a participant exchange to trade through a Protected Quotation disseminated by an Eligible Exchange during a trading rotation.

The proposed iterative opening process will provide market makers and other market participants greater opportunity to participate at the open and provide option classes with an increased chance to determine an opening price which removes impediments to a free and open market and benefits all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange's inability to provide away market protection limits competition in that other exchanges currently provide such protection and therefore are able to attract pre-opening order flow. Thus, approval of the proposed rule change will promote intermarket competition because it will allow the Exchange to, among other things, provide away market price protection at the open and thus, compete with other exchanges for order flow that market participants do not currently send to the ISE. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition. The Exchange believes the proposed rule change will encourage ISE Members to send their pre-open order flow to the Exchange rather to a competing exchange and will therefore increase competition at the open.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the publication date of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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–2014–24 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–ISE–2014–24. 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 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–2014–24 and should be submitted by December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28874 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73745; File No. SR–BATS–2014–062]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.1 of BATS Exchange, Inc.

December 4, 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 November 28, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.1 to accept orders beginning at 6:00 a.m. Eastern Time.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[22] 17 CFR 200.30–3(a)(12).

[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 Exchange proposes to amend Rule 11.1 to accept orders beginning at 6:00 a.m. Eastern Time. Earlier this year, the Exchange and its affiliate, BATS Y-Exchange, Inc. (''BYX''), received approval to effect a merger (the ''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX Exchange, Inc. (''EDGX''), and EDGA Exchange, Inc. (''EDGA'') (together with BZX, BYX and EDGX, the ''BGM Affiliated Exchanges'').[3] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to add certain system functionality currently offered by EDGA and EDGX in order to provide a consistent technology offering for users of the BGM Affiliated Exchanges.

The Exchange currently accepts orders commencing at the beginning of the Pre-Opening Trading Session, which is defined in Rule 1.5(r) as the time between 8:00 a.m. and 9:30 a.m. Eastern Time. In contrast, EDGA and EDGX begin accepting orders starting at 6:00 a.m. Eastern Time.[4] As proposed, the Exchange will accept orders into the System from 6:00 a.m. until 8:00 p.m. Eastern Time. Orders entered between 6:00 a.m. and 8:00 a.m. Eastern Time will not be eligible for execution until the start of the Pre-Opening Session or Regular Trading Hours, depending on the Time in Force selected by the User. Orders designated for Regular Trading Hours will continue to be queued during the Pre-Opening Session and queued for the Exchange's Opening Auction for Exchange-listed securities or Opening Process for non-Exchange-listed securities.[5]

The Exchange also proposes to specify in Rule 11.1 the order types and order modifiers that the Exchange will not accept before 8:00 a.m. Eastern Time, each of which the Exchange believes is inconsistent with an order that is queued and awaiting placement on an order book as opposed to entered during a trading session where continuous trading is occurring. Specifically, the Exchange will not accept the following orders prior to 8:00 a.m. Eastern Time: BATS Post Only Orders,[6] Partial Post Only at Limit Orders,[7] intermarket sweep orders (''ISOs''),[8] BATS Market Orders[9] with a Time in Force other than Regular Hours Only (''RHO''),[10] Minimum Quantity Orders[11] with a Time in Force of RHO, and all orders with a Time in Force of Immediate or Cancel (''IOC'') or Fill-or-Kill (''FOK'').[12] The Exchange reiterates that it is proposing to reject the order types and modifiers described above between 6:00 a.m. and 8:00 a.m. because each is inconsistent with an order designated to queue for later entry onto the Exchange's order book. For instance, because orders received prior to 8:00 a.m. are not immediately executable, but rather queued for later participation, BATS Post Only Orders, Partial Post Only at Limit Orders, BATS Market Orders that are not designated as RHO (*i.e.,* not designated to queue), IOC and FOK orders do not make sense in the context of the proposed rule change and, thus, the Exchange is proposing to reject them prior to 8:00 a.m. Specifically with respect to BATS Post Only Orders and Partial Post Only at Limit Orders, although the Exchange could accept such orders and place them on the BATS Book at 8:00 a.m. in the order they were received, as described below, the Exchange does not believe such orders are consistent with the purpose of the amendment given that such orders are typically intended to provide liquidity and during the time period they are queued they will not be executable on the BATS Book. Similarly, because an order designated as an ISO implies that there is currently a protected bid or offer and there are no protected bids or offers prior to 9:30 a.m. Eastern Time, the Exchange proposes to reject any ISOs entered prior to 8:00 a.m. Finally, the Exchange proposes to reject Minimum Quantity Orders designated as RHO, which are also rejected pursuant to the Exchange's Opening Process[13] in order to maintain consistency with such process.

At the commencement of the Pre-Opening Session, orders entered between 6:00 a.m. and 8:00 a.m. Eastern Time will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the BATS Book, routed, cancelled, or executed in accordance with the terms of the order. Thus, although orders are queued until 8:00 a.m. Eastern Time, orders will be processed sequentially in exactly the same way they would be if they arrived at the commencement of operations of the Exchange. The Exchange notes that it does not believe that the proposed functionality will be used in order to achieve executions with latency considerations in mind, as Users seeking executions prior to 8:00 a.m. have other options available to them, as there are several trading venues that are fully open for trading prior to 8:00 a.m.[14] Rather, the functionality is available to Users that simply want their orders entered to the BATS book at the start of the trading day or to queue for the Exchange's Opening Auction or Opening Process, as applicable. All orders queued prior to 8:00 a.m. will be processed ahead of orders that are received after the commencement of the Pre-Opening Session.

2. Statutory Basis

The Exchange believes that the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[15] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[16] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for the entry of orders prior to the Pre-Opening Session will allow Users to enter orders in an orderly fashion prior to the commencement of trading on the Exchange, rather than requiring such Users to submit orders when trading commences at 8:00 a.m. Eastern Time. Specifically, the implementation of the proposed rule change will provide Users with greater control and flexibility with respect to

[3] *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059; SR–BYX–2013–039).

[4] *See* EDGX Rule 11.1(a)(1) and EDGA Rule 11.1(a)(1).

[5] The Exchange's Opening Auction for Exchange-listed securities is described in Rule 11.23. The Exchange's Opening Process for non-Exchange-listed securities is described in Rule 11.24.

[6] A BATS Post Only Order is defined in Rule 11.9(c)(6).

[7] A Partial Post Only at Limit Order is defined in Rule 11.9(c)(7).

[8] An ISO is defined in Rule 11.9(d).

[9] A BATS Market Order is defined in Rule 11.9(a)(2).

[10] The Time in Force of Regular Hours Only, or RHO, is defined in Rule 11.9(b)(7).

[11] A Minimum Quantity Order is defined in Rule 11.9(c)(5).

[12] The Time in Force of Immediate or Cancel, or IOC, is defined in Rule 11.9(b)(1) and the Time in Force of Fill-or-Kill, or FOK, is defined in Rule 11.9(b)(6).

[13] See Rule 11.24(a).

[14] *See infra* note 17.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

entering orders, allowing them to enter orders for later participation during the Pre-Opening Session or Regular Trading Hours, rather than waiting for the applicable trading session to begin. This simplifies the order entry process for Users that have orders that they wish to submit to the Exchange prior to 8:00 a.m. by allowing such Users to send rather than hold such orders, which removes impediments to a free and open market and benefits all Users of the Exchange.

The Exchange also believes that rejecting BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, non-RHO BATS Market Orders, Minimum Quantity Orders with a Time in Force of RHO, IOC and FOK orders prior to 8:00 a.m. Eastern Time is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because, as described above, such order types do not make sense in the context of queuing orders (as opposed to continuous book trading).

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. To the contrary, allowing the Exchange to accept orders prior to 8:00 a.m. Eastern Time for participation during the Pre-Opening Session and/or Regular Trading Hours fosters competition in that other exchanges [17] are able to begin accepting orders in such securities, while the Exchange cannot accept such orders. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders prior to the beginning of the Pre-Opening Session for queuing and thus compete more directly with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders for queuing.

[17] Nasdaq, for instance, begins accepting orders at 4:00 a.m. Eastern Time. *See,* Nasdaq Rule 4617. NYSE Arca Equities begins accepting and queues orders beginning at 3:30 a.m. Eastern Time with its first trading session commencing at 4:00 a.m. Eastern Time. *See* ''Holiday Hours—All Markets; NYSE Arca Equities,'' *available at https://www.nyse.com/markets/hours-calendars.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–062 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2014–062. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–062, and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28907 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73740; File Nos. SR–NYSE–2014–53; SR–NYSEMKT–2014–83; SR–NYSEArca–2014–112]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, in Connection With the Proposed Termination of the Amended and Restated Trust Agreement, Dated as of November 13, 2013 and Amended on June 2, 2014 By and Among NYSE Holdings LLC, a Delaware Limited Liability Company, NYSE Group, Inc., a Delaware Corporation, Wilmington Trust Company, as Delaware Trustee, and Each of Jacques de Larosière de Champfeu, Alan Trager and John Shepard Reed, as Trustees

December 4, 2014.

I. Introduction

On October 8, 2014, each of New York Stock Exchange LLC (''Exchange''), NYSE MKT LLC (''NYSE MKT''), and NYSE Arca, Inc. (''NYSE Arca'' and, with the Exchange and NYSE MKT, the ''NYSE Exchanges''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule changes in connection with the proposed termination of the Amended and Restated Trust Agreement, dated as of November 13, 2013 and amended on June 2, 2014 (the ''Trust Agreement''), by and among NYSE Holdings LLC, a Delaware limited liability company (''NYSE Holdings''), NYSE Group, Inc., a Delaware corporation (''NYSE Group''), Wilmington Trust Company, as Delaware Trustee, and each of Jacques de Larosière de Champfeu, Alan Trager and John Shepard Reed, as Trustees. The proposed rule changes were published for comment in the **Federal Register** on October 22, 2014.[3] The Commission did not receive any comment letters on the proposal. On October 21, 2014, the NYSE Exchanges filed Amendment No. 1 to the proposed rule changes.[4] This order approves the proposed rule changes as modified by Amendment No. 1 thereto.

II. Description of the Proposal

The NYSE Exchanges seek approval for their 100% direct parent, NYSE Group, and its 100% indirect parent, NYSE Holdings, to terminate the Trust Agreement.[5] The NYSE Exchanges believe that the regulatory considerations that led to the implementation of the Trust Agreement in 2007 are now moot as a result of the sale by Intercontinental Exchange, Inc., a Delaware corporation (''ICE''), of Euronext N.V. (''Euronext'') in June 2014 and certain changes in the corporate governance of ICE, ICE Holdings and NYSE Holdings that occurred upon such sale.

In 2007, NYSE Group, which is the 100% owner of the NYSE Exchanges, combined with Euronext (the ''Combination''). The new parent company formed in the Combination, NYSE Euronext, operated several regulated entities in the United States and various jurisdictions in Europe. In the Commission's notice relating to the proposed Combination, the NYSE Exchanges emphasized the importance of continuing to regulate marketplaces locally:

> A core aspect of the structure of the Combination is continued local regulation of the marketplaces. Accordingly, the Combination is premised on the notion that . . . [c]ompanies listing their securities only on markets operated by Euronext and its subsidiaries will not become newly subject to U.S. laws or regulation by the SEC as a result of the Combination, and companies listing their securities only on the Exchange or NYSE Arca, will not become newly subject to European rules or regulation as a result of the Combination.[6]

In connection with obtaining regulatory approval of the Combination, NYSE Euronext implemented certain special arrangements consisting of two standby structures, one involving a Dutch foundation (Stichting) and one involving a Delaware trust. The Dutch foundation was empowered to take actions to mitigate the effects of any material adverse change in U.S. law that had an ''extraterritorial'' impact on non-U.S. issuers listed on Euronext markets, non-U.S. financial services firms that were members of Euronext markets or holders of exchange licenses with respect to the Euronext markets. The Delaware trust was empowered to take actions to mitigate the effects of any material adverse change in European law that had an ''extraterritorial'' impact on the non-European issuers listed on NYSE Group securities exchanges, non-European financial services firms that were members of any NYSE Group securities market or holders of exchange licenses with respect to the NYSE Group securities exchanges.[7]

The Dutch foundation and the Delaware trust remained in effect after the merger of ICE Holdings (then known as IntercontinentalExchange, Inc.) and NYSE Euronext in 2013 under ICE (then known as IntercontinentalExchange Group, Inc.) as a new public holding company. However, in connection with ICE's announced plan to sell the Euronext securities exchanges in an initial public offering, the Dutch Ministry of Finance permitted modifications of the terms of the governing document of the Dutch foundation under which the powers of the Dutch foundation would cease to apply to ICE and its affiliates at such time as ICE ceased to hold a ''controlling interest'' in Euronext, with ''controlling interest'' defined by reference to the definition of ''control'' under Rule 10 of the International Financial Reporting Standards (''IFRS 10'').[8] In June 2014, ICE announced that

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release Nos. 73373 (October 16, 2014), 79 FR 63191 (SR–NYSE–2014–53); 73372 (October 16, 2014), 79 FR 63201 (SR–NYSEMKT–2014–83); 73374 (October 16, 2014), 79 FR 63188 (SR–NYSEArca–2014–112).

[4] In Amendment No. 1, the NYSE Exchanges made a technical and non-material correction to a statement in each filing regarding the ownership of NYSE Amex Options LLC by ICE. The Commission notes that the NYSE Exchanges submitted a comment letter to each filing on October 24, 2014 attaching Amendment No. 1, and, consequently, Amendment No. 1 is available in the public comment files for SR–NYSE–2014–53, SR–NYSEMKT–2014–83, and SR–NYSEArca–2014–112 on the Commission's Web site. Because Amendment No. 1 is technical in nature, the Commission is not required to publish it for public comment.

[5] ICE, a public company listed on the Exchange, owns 100% of Intercontinental Exchange Holdings, Inc., a Delaware corporation (''ICE Holdings''), which in turn owns 100% of NYSE Holdings. Through ICE Holdings, NYSE Holdings and NYSE Group, ICE indirectly owns (1) 100% of the equity interest of three registered national securities exchanges and self-regulatory organizations, the NYSE Exchanges and (2) 100% of the equity interest of NYSE Market (DE), Inc. (''NYSE Market''), NYSE Regulation, Inc. (''NYSE Regulation''), NYSE Arca L.L.C. and NYSE Arca Equities, Inc. ICE also indirectly owns a majority interest in NYSE Amex Options LLC. *See* Exchange Act Release No. 70210 (August 15, 2013), 78 FR 51758 (August 21, 2013) (SR–NYSE–2013–42; SR–NYSEMKT–2013–50; SR–NYSEArca–2013–62) (approving proposed rule change relating to a corporate transaction in which NYSE Euronext will become a wholly owned subsidiary of IntercontinentalExchange Group, Inc.).

[6] *See* Exchange Act Release No. 55026 (Dec. 29, 2006) (SR–NYSE–2006–120), 72 FR 814, 816–17 (January 8, 2007) (the ''NYSE Euronext Notice''). NYSE Euronext acquired NYSE MKT, the third of the NYSE Exchanges, in 2008.

[7] An explanation of the terms of the Dutch foundation and the Delaware trust is included in the NYSE Euronext Notice. Subsequent modifications to the arrangements, to the extent relevant to the proposed rule change, are described in the Notices.

[8] Excerpts from the Further Amended and Restated Governance and Option Agreement, dated March 21, 2014, among the Dutch foundation, Euronext Group N.V. and ICE are attached to the Notices as Exhibit 5C.

it had sold all but approximately 6% of the ownership interest in Euronext in an underwritten public offering outside the United States.[9] As stated in the Notices, upon ICE's application, the Dutch Ministry of Finance confirmed on July 16, 2014 that the conditions to the cessation of the application of the Dutch foundation to ICE had been satisfied or waived.[10] As a result, the NYSE Exchanges represent that ICE and its subsidiaries are no longer subject to the provisions of the Dutch foundation.

In the 2013 merger, NYSE Euronext was succeeded by the entity now known as NYSE Holdings, which is currently a party to the Trust Agreement. At that time, references to the nominating and governance committee of the board of directors of NYSE Euronext, which selected the Trustees of the Delaware trust, were replaced by references to the nominating and governance committee of the board of directors of ICE.[11] Other provisions of the Trust Agreement are substantially unchanged.[12]

In connection with the Combination of NYSE Group and Euronext in 2007 and the establishment of the Dutch foundation and the Delaware trust, the Certificate of Incorporation and Bylaws of NYSE Euronext included several provisions relating to representation of European interests on the board of directors and other provisions requiring the board to give due consideration to European regulatory requirements and the interests of identified categories of European stakeholders. These provisions are summarized in the NYSE Euronext Notice. Each such provision was subject to automatic revocation in the event that NYSE Euronext no longer held a controlling interest in Euronext or certain of its subsidiaries. For this purpose, ''controlling interest'' was defined to mean 50% or more of the outstanding shares of each class of voting securities and of the combined voting power of outstanding voting securities entitled to vote generally in the election of directors. Substantially identical provisions were added to the Certificate of Incorporation and Bylaws of ICE and ICE Holdings, and were retained in the Operating Agreement of NYSE Holdings, when ICE acquired NYSE Euronext in 2013, except that the ''controlling interest'' test was modified to become a ''control'' test under IFRS 10, as described above with respect to the Dutch foundation. As a result of the initial public offering of Euronext, ICE has established that it no longer controls Euronext within the meaning of IFRS 10, and the provisions of the constituent documents of ICE, ICE Holdings and NYSE Holdings have automatically and without further action become void and are of no further force and effect.

Termination of the Delaware trust would be implemented through a unanimous written consent of all parties to, or otherwise bound by, the Trust Agreement.[13] The proposed rule changes and exhibits thereto contain modifications to the corporate governance documents of NYSE Holdings, NYSE Group, the Exchange, NYSE MKT, NYSE Market and NYSE Regulation that delete references to the Delaware trust and make related conforming changes thereto.[14]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of Section 6 of the Act[15] and the rules and regulations thereunder applicable to a national securities exchange.[16] The Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Act,[17] which requires, among other things, that the exchanges' rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The NYSE Exchanges believe that the regulatory considerations that led to the implementation of the Trust Agreement in 2007 have been mooted by the sale of Euronext in June 2014, the automatic revocation of corporate governance provisions applicable to ICE, ICE Holdings and NYSE Holdings that occurred upon such sale, and the NYSE Exchanges' representation that the Dutch foundation which functioned as a European analog to the Delaware trust, ceased to have any authority over ICE and its subsidiaries upon the closing of the sale of Euronext. In addition, the NYSE Exchanges represent that continuance of the Trust Agreement imposes administrative burdens and costs upon the exchanges and their affiliates that create impediments to a free and open market, and may cause investor uncertainty. In particular, according to the NYSE Exchanges, the Trust Agreement imposes administrative burdens on ICE and the nominating and governance committee of its board of directors, such as the need to periodically consider and vote on trustees; the need to consider whether any proposed action requires approval under the Trust Agreement and, if so, the obligation to prepare materials for consideration and vote by the Trustees; and the need to consider whether any proposed action requires an amendment to the Trust Agreement and, if so, the additional obligation to submit such amendment to the Commission for approval under Rule 19b–4.[18] According to the NYSE Exchanges, the Trust Agreement also results in out-of-pocket costs to the exchanges and their affiliates including the fees of the individual Trustees and the Delaware Trustee as well as fees of counsel incurred in connection with review of proposed amendments and assistance with the Commission approval process.

The Commission believes that the NYSE Exchanges' proposal to terminate the Trust Agreement is consistent with the requirements of Section 6(b)(5) of the Act[19] because the proposed rule changes would be consistent with and facilitate a corporate governance

[9] ICE's press release dated June 24, 2014 is available at the following link: *http://ir.theice.com/investors-and-media/press/press-releases/press-release-details/2014/Intercontinental-Exchange-Announces-Closing-of-Euronext-Initial-Public-Offering/default.aspx.*

[10] An English translation provided by the NYSE Exchanges of the Dutch Ministry of Finance's letter is attached to the Notices as Exhibit 5D.

[11] *See* Exchange Act Release No. 70210 (August 15, 2013), 78 FR 51758 (August 21, 2013) (SR–NYSE–2013–42; SR–NYSEMKT–2013–50; SR–NYSEArca–2013–62).

[12] *See* Exchange Act Release No. 72158 (May 13, 2014) (SR–NYSE–2014–23), 79 FR 28784 (May 19, 2014) (notice of filing and immediate effectiveness of proposed rule change relating to name changes of the Exchange's ultimate parent and revising Trust Agreement to reflect name changes of ICE and ICE Holdings).

[13] A form of unanimous written consent of all parties to, or otherwise bound by, the Trust Agreement resolving that the Delaware trust be terminated is attached to the Notices as Exhibit 5B.

[14] In particular, the NYSE Exchanges propose to amend: (1) The Fifth Amended and Restated Limited Liability Company Agreement of NYSE Holdings to eliminate the definition of the term ''Trust'' in Section 1.1 and the references to the Delaware trust in Section 7.2; (2) the Third Amended and Restated Certificate of Incorporation of NYSE Group to eliminate references to the Delaware trust in Article IV, Section 4(a) and (b); (3) the Sixth Amended and Restated Operating Agreement of the Exchange to eliminate references to the Delaware trust in Section 3.03; (4) the Fifth Amended and Restated Operating Agreement of NYSE MKT to eliminate references to the Delaware trust in Section 3.03; (5) the Second Amended and Restated Certificate of Incorporation of NYSE Market to eliminate references to the Delaware trust in Article IV, Section 2; and (6) the Restated Certificate of Incorporation of NYSE Regulation to eliminate references to the Delaware trust in Article V.

[15] 15 U.S.C. 78f.

[16] Additionally, in approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 240.19b–4.

[19] 15 U.S.C. 78f(b)(5).

structure for the NYSE Exchanges that is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Furthermore, the termination of the Delaware trust may remove impediments to the operation of the NYSE exchanges by eliminating certain expenses and administrative burdens as well as the potential for uncertainty among analysts and investors as to the practical implications of the Delaware trust on the exchanges.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule changes (SR–NYSE–2014–53; SR–NYSEMKT–2014–83; SR–NYSEArca–2014–112), as modified by Amendment No. 1, be, and hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28878 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73735; File No. SR–FICC–2014–07]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Clearing Rules of the Mortgage-Backed Securities Division To Establish a Membership Category and Minimum Financial Requirements for Insured Credit Unions

December 4, 2014.

I. Introduction

On October 15, 2014, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2014–07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on October 24, 2014.[3] The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

Pursuant to this filing, FICC proposed to amend the clearing rules of the Mortgage-Backed Securities Division (''MBSD'') of FICC in order to establish a membership category and minimum financial requirements for ''insured credit unions,'' as such term is defined in the Federal Credit Union Act (''FCUA'').[4] Specifically, FICC proposed to revise MBSD Rule 2A, Section 1, to create a membership category for insured credit unions that are in good standing with their primary regulators (''Insured Credit Union Clearing Member''). For loss allocation purposes, Insured Credit Union Clearing Members would be designated as ''Tier One Clearing Members'' in accordance with MBSD Rule 4, Section 7. In addition, FICC has proposed to add a provision to MBSD Rule 2A, Section 2, which would require an applicant applying to become an Insured Credit Union Clearing Member to have a level of equity capital as of the end of the month prior to the effective date of their membership of at least $100 million and achieve the ''well capitalized'' statutory net worth category classification defined by the National Credit Union Administration (''NCUA'') under 12 CFR part 702.

Insured credit unions applying for membership under this new category would be required to meet all other applicable financial, credit, and operational membership qualifications and standards for clearing members that are contained in MBSD Rule 2A, Section 2. In particular, such applicants would have to demonstrate an established profitable business history of a minimum of 6 months or personnel with sufficient operational background and business experience for the firm to conduct its business and to be a member (as is required of all other membership categories). Insured credit unions seeking membership would have to demonstrate an ability to communicate with FICC, fulfill anticipated commitments to and meet the operational requirements of FICC with necessary promptness and accuracy, and conform to any condition and requirement that FICC reasonably deems necessary for its protection or that of its Members.

FICC believes the participation of insured credit unions as guaranteed service members will contribute to the safety, efficiency, and transparency of the market by allowing FICC to capture a greater part of the activity of its existing members and by introducing activity of current non-members to FICC. FICC also believes that insured credit unions will benefit from the MBSD clearing service and the associated operational efficiencies of a central counterparty service.

III. Discussion

Section 19(b)(2)(C) of the Act[5] directs the Commission to approve a self-regulatory organization's proposed rule change if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions.

The Commission finds that, as proposed, FICC's rule change to establish a membership category and minimum financial, credit, and operational requirements and standards for insured credit unions, as defined in FICC's proposal, is consistent with Section 17A(b)(3)(F) of the Act.[7] The Commissions believes that the proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions, because by allowing insured credit unions to participate as MBSD members, these firms will be able to avail themselves of the benefits of central counterparty service including, among other things, trade comparison, to-be-announced netting, electronic pool notification allocation, pool comparison, pool netting, settlement, and risk management for eligible securities. Furthermore, the rule change will also allow existing FICC members to submit eligible trading activity with qualified insured credit unions directly to the MBSD of FICC, thereby also extending

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[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 73391 (October 20, 2014), 79 FR 63657 (October 24, 2014) (SR–FICC–2014–07).

[4] The FCUA defines ''Insured credit unions'' as ''any credit union the member accounts of which are insured in accordance with the provisions of Title II of [FCUA] . . .'' According to FICC, the term ''insured credit union'' includes all credit unions chartered by the National Credit Union Administration (''NCUA''), the independent federal agency that regulates charters and supervises federal credit unions, because Title II of the FCUA requires all credit unions that are chartered by the NCUA to have insured accounts. Furthermore, FICC has stated that the term ''insured credit unions'' also includes both federally-insured state credit unions and federally-insured credit unions operating under the jurisdiction of the Department of Defense because Title II of the FCUA permits the NCUA Board to insure those types of credit unions.

[5] 15 U.S.C. 78s(b)(2)(C).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1(b)(3)(F).

the benefits of the central counterparty services to such trading activity.

IV. Conclusion

On the basis of the foregoing, the Commission concludes that the proposal is consistent with the requirements of the Act, particularly the requirements of Section 17A of the Act,[8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–FICC–2014–07) be and hereby is *approved.*[10]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28873 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73742; File No. SR–BYX–2014–035]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 14.1(c)(5) of BATS Y-Exchange, Inc., To Remove the Restriction Prohibiting Market Makers in UTP Derivative Securities From Acting or Registering as a Market Maker in Any Reference Asset of That UTP Derivative Security or Any Derivative Instrument Based on Such Reference Asset

December 4, 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 November 21, 2014, BATS Y-Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 14.1(c)(5) to harmonize its restrictions on Market Makers[5] in UTP Derivative Securities[6] with NYSE Arca, Inc. (''NYSE Arca'') Rule 5.1(a)(2)(v)[7] and the Nasdaq Stock Market LLC (''Nasdaq'') Rule 4630(e).[8]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 14.1(c)(5) to harmonize its restrictions on Market Makers in UTP Derivative Securities with NYSE Arca Rule 5.1(a)(2)(v)[9] and Nasdaq Rule 4630(e).[10] The purpose of the proposed rule change is to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset[11] that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules.

Exchange Rule 14.1(c)(5) prohibits a Market Maker in a UTP Derivative Security from acting or registering as a market maker on another exchange in any Reference Asset of that UTP Derivative Security, or any derivative instrument based on a Reference Asset of that UTP Derivative Security. NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e) recently amended their respective rules to permit market makers to trade in securities underlying the derivative security so long as that market maker discloses to NYSE Arca or Nasdaq all accounts within which it trades the underlying securities.[12] As amended, Exchange Rule 14.1(c)(5), would similarly remove this prohibition, which states that a Market Maker in a UTP Derivative Security is prohibited from acting or registering as a market maker on another exchange in any Related Instruments.

Similar to NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e), amended Rule 14.1(c)(5) would require a Member acting as a registered Market Maker in a UTP Derivative Security to file with the Exchange, in a manner prescribed by the Exchange, and to keep a current list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives (collectively with Reference Assets, ''Related Instruments''), which the Member acting as registered Market Maker may have or over which it may exercise investment discretion. Rule 14.1(c)(5) would also prohibit a Member

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The term ''Market Maker'' is defined as ''a Member that acts as a Market Maker pursuant to Chapter XI.'' *See* Exchange Rule 1.5(l).

[6] The term ''UTP Derivative Security'' is defined as ''[a]ny UTP Security that is a 'new derivative securities product' as defined in Rule 19b–4(e) under the Exchange Act . . . and traded pursuant to Rule 19b–4(e) under the Exchange Act.'' *See* Exchange Rule 14.1(c).

[7] *See* Securities Exchange Act Release No. 67066 (May 29, 2012), 77 FR 33010 (June 4, 2012) (SR–NYSEArca–2012–46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extension of Unlisted Trading Privileges to New Derivative Securities Products That Are Listed on Another Exchange and to Make Other Conforming and Technical Amendments). The Commission also waived the 30-day operative delay for SR–NYSEArca–2012–46 under Rule 19b–4(f)(6) of the Act. *Id.*

[8] *See* Securities Exchange Act Release No. 69858 (June 25, 2013), 78 FR 39432 (July 1, 2013) (SR–Nasdaq–2013–085) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change [sic] Rule 4630 to Remove a Restriction on a Member Acting as a Registered Market Maker in a Commodity-Related Security).

[9] *See supra* note 7.

[10] *See supra* note 8.

[11] A ''Reference Asset'' is defined as one or more currencies, or commodities, or derivatives based on one or more currencies, or commodities, or is based on a basket or index comprised of currencies or commodities that a UTP Derivative Security derives its value from. *See* Exchange Rule 14.1(c)(5).

[12] *See supra* notes 7 and 8.

from acting as registered Market Maker in the UTP Derivative Security from trading in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which a Member acting as a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, that has not been reported to the Exchange.

Exchange Rules [13] ensure that Market Makers in UTP Derivative Securities would continue to have in place reasonably designed policies and procedures to prevent the misuse of material non-public information with regard to also acting as a Market Maker in any Related Instruments.[14] In the context of approving a more flexible, principled-based approach to information barriers by NYSE Arca, the Commission stated that, ''while information barriers are not specifically required under the proposal, a [firm's] business model or business activities may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.'' [15] Rule 14.1(c)(5)(D) will continue to prohibit Market Makers from using material non-public information in connection with trading a Related Instrument. Rule 14.1(c)(5)(C) will also continue to require that, in addition to the existing obligations under Exchange rules regarding the production of books and records, a Market Maker shall, upon request by the Exchange, make available to the Exchange any books, records or other information pertaining to any Related Instrument trading account or to the account of any registered or non-registered employee affiliated with the Market Maker for which Related Instruments are traded. Lastly, under Exchange Rule 14.1(c)(6) the Exchange will enter into comprehensive surveillance sharing agreement with other markets that offer trading in Related Instruments to the same extent as the listing exchange's rules require the listing exchange to enter into a comprehensive surveillance sharing agreement with such markets. This amendment does not lessen the protection of Members from the risks associated with integrated market making and any possible misuse of non-public information.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [16] and furthers the objectives of Section 6(b)(5) of the Act,[17] in that it is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).[18] In addition, the Exchange believes that amending Exchange Rule 14.1(c)(5) to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules will remove impediments to and perfect the mechanism of a free and open market by providing the same flexibility to the Exchange that is already available to NYSE Arca and Nasdaq regarding the market maker activities for derivative-related Securities. Additionally, Exchange Rule 14.1(c)(5), as amended, would continue to serve to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest from concerns that may be associated with integrated market making and any possible misuse of non-public information.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. On the contrary, the Exchange believes that the proposal will promote competition because it is a competitive response to recently amended NYSE Arca and Nasdaq rules which permit market makers to trade in the reference assets or components underlying the derivative security on the same terms as that proposed by the Exchange.[19] Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6)(iii) thereunder.[21]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. The Commission notes that the proposal would allow Market Makers in a UTP Derivative Security on the Exchange to act or register as a Market Maker in any Related Instruments. The Commission believes that proposal could allow the Exchange to attract more Market Makers to the Exchange, thereby potentially increasing liquidity in UTP Derivative Securities, provide more price competition, and enhance the markets for those securities. The Commission further notes that the proposal is similar to the rules of other national securities exchanges.[22] Therefore, the Commission designates the proposed rule change to be operative upon filing.[23]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may

[13] *See* Exchange Rules 5.5 and 14.1(c)(5)(D).

[14] 15 U.S.C. 78*o*(g).

[15] *See* Securities Exchange Act Release No. 60604 (September 1, 2009), 74 FR 46272 (September 8, 2009) (SR–NYSEArca–2009–78).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* notes 7 and 8.

[19] *See supra* notes 7 and 8.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[22] *See* NYSE Arca Equities Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).

[23] 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).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BYX–2014–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2014–035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also 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–BYX–2014–035 and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28904 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73743; File No. SR–BATS–2014–057]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 14.11(j)(5) of BATS Exchange, Inc., To Remove the Restriction Prohibiting Market Makers in UTP Derivative Securities From Acting or Registering as a Market Maker in Any Reference Asset of That UTP Derivative Security or Any Derivative Instrument Based on Such Reference Asset

December 4, 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 November 21, 2014, BATS Exchange, Inc. (''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 14.11(j)(5) to harmonize its restrictions on Market Makers [5] in UTP Derivative Securities [6] with NYSE Arca, Inc. (''NYSE Arca'') Rule 5.1(a)(2)(v) [7] and the Nasdaq Stock Market LLC (''Nasdaq'') Rule 4630(e).[8]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 14.11(j)(5) to harmonize its restrictions on Market Makers in UTP Derivative Securities with NYSE Arca Rule 5.1(a)(2)(v) [9] and Nasdaq Rule 4630(e).[10] The purpose of the proposed rule change is to remove the restriction that a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange will not act or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The term ''Market Maker'' is defined as ''a Member that acts as a Market Maker pursuant to Chapter XI.'' *See* Exchange Rule 1.5(l).

[6] The term ''UTP Derivative Security'' is defined as ''[a]ny UTP Security that is a 'new derivative securities product' as defined in Rule 19b–4(e) under the Exchange Act . . . and traded pursuant to Rule 19b–4(e) under the Exchange Act.'' *See* Exchange Rule 14.11(j).

[7] *See* Securities Exchange Act Release No. 67066 (May 29, 2012), 77 FR 33010 (June 4, 2012) (SR–NYSEArca–2012–46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extension of Unlisted Trading Privileges to New Derivative Securities Products That Are Listed on Another Exchange and to Make Other Conforming and Technical Amendments). The Commission also waived the 30-day operative delay for SR–NYSEArca–2012–46 under Rule 19b–4(f)(6) of the Act. *Id.*

[8] *See* Securities Exchange Act Release No. 69858 (June 25, 2013), 78 FR 39432 (July 1, 2013) (SR–Nasdaq–2013–085) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change [sic] Rule 4630 to Remove a Restriction on a Member Acting as a Registered Market Maker in a Commodity-Related Security).

[9] *See supra* note 7.

[10] *See supra* note 8.

register as a market maker in any Reference Asset [11] that a UTP Derivative Security derives its value from. The Exchange also proposes to amend a related cross-reference contained in Exchange Rule 3.21.

Exchange Rule 14.11(j)(5) prohibits a Market Maker in a UTP Derivative Security from acting or registering as a market maker on another exchange in any Reference Asset of that UTP Derivative Security, or any derivative instrument based on a Reference Asset of that UTP Derivative Security (collectively, with Reference Assets, ''Related Instruments''). NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e) recently amended their respective rules to permit market makers to trade in securities underlying the derivative security so long as that market maker discloses to NYSE Arca or Nasdaq all accounts within which it trades the underlying securities.[12] As amended, Exchange Rule 14.11(j)(5), would similarly remove this prohibition, which states that a Market Maker in a UTP Derivative Security is prohibited from acting or registering as a market maker on another exchange in any Related Instruments.

Similar to NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e), amended Rule 14.11(j)(5) would require a Member acting as a registered Market Maker in a UTP Derivative Security to file with the Exchange, in a manner prescribed by the Exchange, and to keep a current list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the Member acting as registered Market Maker may have or over which it may exercise investment discretion. Rule 14.11(j)(5) would also prohibit a Member from acting as registered Market Maker in the UTP Derivative Security from trading in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives in an account in which a Member acting as a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, that has not been reported to the Exchange.

Exchange Rules [13] ensure that Market Makers in UTP Derivative Securities would continue to have in place reasonably designed policies and procedures to prevent the misuse of material non-public information with regard to also acting as a Market Maker in any Related Instruments.[14] In the context of approving a more flexible, principled-based approach to information barriers by NYSE Arca, the Commission stated that, ''while information barriers are not specifically required under the proposal, a [firm's] business model or business activities may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.'' [15] Rule 14.11(j)(5)(B) will continue to prohibit Market Makers from using material non-public information in connection with trading a Related Instrument. Rule 14.11(j)(5)(B) will also continue to require that, in addition to the existing obligations under Exchange rules regarding the production of books and records, a Market Maker shall, upon request by the Exchange, make available to the Exchange any books, records or other information pertaining to any Related Instrument trading account or to the account of any registered or non-registered employee affiliated with the Market Maker for which Related Instruments are traded. Lastly, under Exchange Rule 14.11(j)(6) the Exchange will enter into comprehensive surveillance sharing agreement with other markets that offer trading in Related Instruments to the same extent as the listing exchange's rules require the listing exchange to enter into a comprehensive surveillance sharing agreement with such markets. This amendment does not lessen the protection of Members from the risks associated with integrated market making and any possible misuse of non-public information.

In addition to the proposal set forth above, the Exchange also proposes to amend a related cross-reference contained in Exchange Rule 3.21. Specifically, Rule 3.21 currently refers to Rule 14.1(c) as the source of the definition for UTP Derivative Securities but that definition is, in fact, contained in Rule 14.11(j).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [16] and furthers the objectives of Section 6(b)(5) of the Act,[17] in that it is designed promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).[18] In addition, the Exchange believes that amending Exchange Rule 14.11(j)(5) to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules will remove impediments to and perfect the mechanism of a free and open market by providing the same flexibility to the Exchange that is already available to NYSE Arca and Nasdaq regarding the market maker activities for derivative-related Securities. Additionally, Exchange Rule 14.11(j)(5), as amended, would continue to serve to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest from concerns that may be associated with integrated market making and any possible misuse of non-public information. Finally, the Exchange believes that the correction to the cross-reference contained in Rule 3.21 is consistent with the Act in that it will protect investors and the public interest by avoiding potential confusion with respect to Exchange Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. On the contrary, the Exchange believes that the proposal will promote competition because it is a competitive response to recently amended NYSE Arca and Nasdaq rules which permit market makers to trade in the reference assets or components underlying the derivative security on the same terms as that proposed by the Exchange.[19] Thus, the Exchange believes this proposed rule change is necessary to permit fair

[11] A ''Reference Asset'' is defined as one or more currencies, or commodities, or derivatives based on one or more currencies, or commodities, or is based on a basket or index comprised of currencies or commodities that a UTP Derivative Security derives its value from. *See* Exchange Rule 14.11(j)(5).

[12] *See supra* notes 7 and 8.

[13] *See* Exchange Rules 5.5 and 14.1(j)(5)(B).

[14] 15 U.S.C. 78*o*(g).

[15] *See* Securities Exchange Act Release No. 60604 (September 1, 2009), 74 FR 46272 (September 8, 2009) (SR–NYSEArca–2009–78).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* notes 7 and 8.

[19] *See supra* notes 7 and 8.

competition among national securities exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6)(iii) thereunder.[21]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. The Commission notes that the proposal would allow Market Makers in a UTP Derivative Security on the Exchange to act or register as a Market Maker in any Related Instruments. The Commission believes that proposal could allow the Exchange to attract more Market Makers to the Exchange, thereby potentially increasing liquidity in UTP Derivative Securities, provide more price competition, and enhance the markets for those securities. The Commission further notes that the proposal is similar to the rules of other national securities exchanges.[22] Therefore, the Commission designates the proposed rule change to be operative upon filing.[23]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2014–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–057 and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28905 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[22] *See* NYSE Arca Equities Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).

[23] 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).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73744; File No. SR–BYX–2014–036]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.1 of BATS Y-Exchange, Inc.

December 4, 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 November 28, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.1 to accept orders beginning at 6:00 a.m. Eastern Time.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.1 to accept orders beginning at 6:00 a.m. Eastern Time. Earlier this year, the Exchange and its affiliate, BATS Exchange, Inc. (''BZX''), received approval to effect a merger (the ''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX Exchange, Inc. (''EDGX''), and EDGA Exchange, Inc. (''EDGA'') (together with BZX, BYX and EDGX, the ''BGM Affiliated Exchanges'').[3] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to add certain system functionality currently offered by EDGA and EDGX in order to provide a consistent technology offering for users of the BGM Affiliated Exchanges.

The Exchange currently accepts orders commencing at the beginning of the Pre-Opening Trading Session, which is defined in Rule 1.5(r) as the time between 8:00 a.m. and 9:30 a.m. Eastern Time. In contrast, EDGA and EDGX begin accepting orders starting at 6:00 a.m. Eastern Time.[4] As proposed, the Exchange will accept orders into the System from 6:00 a.m. until 8:00 p.m. Eastern Time. Orders entered between 6:00 a.m. and 8:00 a.m. Eastern Time will not be eligible for execution until the start of the Pre-Opening Session or Regular Trading Hours, depending on the Time in Force selected by the User. Orders designated for Regular Trading Hours will continue to be queued during the Pre-Opening Session and queued for the Exchange's Opening Process.[5]

The Exchange also proposes to specify in Rule 11.1 the order types and order modifiers that the Exchange will not accept before 8:00 a.m. Eastern Time, each of which the Exchange believes is inconsistent with an order that is queued and awaiting placement on an order book as opposed to entered during a trading session where continuous trading is occurring. Specifically, the Exchange will not accept the following orders prior to 8:00 a.m. Eastern Time: BATS Post Only Orders,[6] Partial Post Only at Limit Orders,[7] intermarket sweep orders (''ISOs''),[8] BATS Market Orders[9] with a Time in Force other than Regular Hours Only (''RHO''),[10] Minimum Quantity Orders[11] with a Time in Force of RHO, RPI Orders,[12] and all orders with a Time in Force of Immediate or Cancel (''IOC'') or Fill-or-Kill (''FOK'').[13] The Exchange reiterates that it is proposing to reject the order types and modifiers described above between 6:00 a.m. and 8:00 a.m. because each is inconsistent with an order designated to queue for later entry onto the Exchange's order book. For instance, because orders received prior to 8:00 a.m. are not immediately executable, but rather queued for later participation, BATS Post Only Orders, Partial Post Only at Limit Orders, BATS Market Orders that are not designated as RHO (*i.e.,* not designated to queue), IOC and FOK orders do not make sense in the context of the proposed rule change and, thus, the Exchange is proposing to reject them prior to 8:00 a.m. Specifically with respect to BATS Post Only Orders and Partial Post Only at Limit Orders, although the Exchange could accept such orders and place them on the BATS Book at 8:00 a.m. in the order they were received, as described below, the Exchange does not believe such orders are consistent with the purpose of the amendment given that such orders are typically intended to provide liquidity and during the time period they are queued they will not be executable on the BATS Book. Similarly, because an order designated as an ISO implies that there is currently a protected bid or offer and there are no protected bids or offers prior to 9:30 a.m. Eastern Time, the Exchange proposes to reject any ISOs entered prior to 8:00 a.m. In addition, the Exchange proposes to reject RPI Orders, which are orders are intended to provide liquidity to contra-side Retail Orders pursuant to the Exchange's Retail Price Improvement Program. Retail Orders are, in turn, IOC orders and thus, the Exchange will not accept such orders prior to 8:00 a.m. and does not believe that RPI Orders should be accepted and queued either. Finally, the Exchange proposes to reject Minimum Quantity Orders designated as RHO, which are also rejected pursuant to the Exchange's Opening Process[14] in order to maintain consistency with such process.

At the commencement of the Pre-Opening Session, orders entered between 6:00 a.m. and 8:00 a.m. Eastern Time will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the BATS Book, routed, cancelled, or executed in accordance with the terms of the order. Thus, although orders are queued until 8:00 a.m. Eastern Time, orders will be processed sequentially in exactly the same way they would be if they arrived at the commencement of operations of the Exchange. The Exchange notes that it does not believe that the proposed functionality will be used in order to achieve executions with latency considerations in mind, as Users seeking executions prior to 8:00 a.m. have other options available to them, as there are several trading venues that are fully open for trading prior to 8:00 a.m.[15] Rather, the functionality is available to Users that simply want their orders entered to the BATS book at the start of the trading day or to queue for the Exchange's Opening Process. All orders queued prior to 8:00 a.m. will be processed ahead of orders that are received after the commencement of the Pre-Opening Session.

2. Statutory Basis

The Exchange believes that the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[16] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[17] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the

[3] *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059; SR–BYX–2013–039).

[4] *See* EDGX Rule 11.1(a)(1) and EDGA Rule 11.1(a)(1).

[5] The Exchange's Opening Process is described in Rule 11.23.

[6] A BATS Post Only Order is defined in Rule 11.9(c)(6).

[7] A Partial Post Only at Limit Order is defined in Rule 11.9(c)(7).

[8] An ISO is defined in Rule 11.9(d).

[9] A BATS Market Order is defined in Rule 11.9(a)(2).

[10] The Time in Force of Regular Hours Only, or RHO, is defined in Rule 11.9(b)(7).

[11] A Minimum Quantity Order is defined in Rule 11.9(c)(5).

[12] An RPI Order is defined in Rule 11.24(a)(3).

[13] The Time in Force of Immediate or Cancel, or IOC, is defined in Rule 11.9(b)(1) and the Time in Force of Fill-or-Kill, or FOK, is defined in Rule 11.9(b)(6).

[14] *See* Rule 11.23(a).

[15] *See infra* note 18.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for the entry of orders prior to the Pre-Opening Session will allow Users to enter orders in an orderly fashion prior to the commencement of trading on the Exchange, rather than requiring such Users to submit orders when trading commences at 8:00 a.m. Eastern Time. Specifically, the implementation of the proposed rule change will provide Users with greater control and flexibility with respect to entering orders, allowing them to enter orders for later participation during the Pre-Opening Session or Regular Trading Hours, rather than waiting for the applicable trading session to begin. This simplifies the order entry process for Users that have orders that they wish to submit to the Exchange prior to 8:00 a.m. by allowing such Users to send rather than hold such orders, which removes impediments to a free and open market and benefits all Users of the Exchange.

The Exchange also believes that rejecting BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, non-RHO BATS Market Orders, Minimum Quantity Orders with a Time in Force of RHO, RPI Orders, and IOC and FOK orders prior to 8:00 a.m. Eastern Time is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because, as described above, such order types do not make sense in the context of queuing orders (as opposed to continuous book trading).

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. To the contrary, allowing the Exchange to accept orders prior to 8:00 a.m. Eastern Time for participation during the Pre-Opening Session and/or Regular Trading Hours fosters competition in that other exchanges [18] are able to begin accepting orders in such securities, while the Exchange cannot accept such orders. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders prior to the beginning of the Pre-Opening Session for queuing and thus compete more directly with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders for queuing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2014–036 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–BYX–2014–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2014–036, and should be submitted on or before December 31, 2014.

[18] Nasdaq, for instance, begins accepting orders at 4:00 a.m. Eastern Time. *See,* Nasdaq Rule 4617. NYSE Arca Equities begins accepting and queues orders beginning at 3:30 a.m. Eastern Time with its first trading session commencing at 4:00 a.m. Eastern Time. *See* ''Holiday Hours—All Markets; NYSE Arca Equities,'' *available at https://www.nyse.com/markets/hours-calendars.*

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[22] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28906 Filed 12–9–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73737; File No. SR–ICEEU–2014–18]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change To Provide for the Clearance of Additional Sovereign Contracts

December 4, 2014.

I. Introduction

On October 20, 2014, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICEEU–2014–19 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 4, 2014.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe proposes to clear additional CDS contracts that are Western European sovereign CDS contracts referencing the Kingdom of Belgium and the Republic of Austria (the ''Additional WE Sovereign Contracts''). ICE Clear Europe currently clears CDS contracts referencing four other Western European sovereigns: Ireland, the Republic of Italy, the Portuguese Republic and the Kingdom of Spain.[4] ICE Clear Europe believes clearance of the Additional WE Sovereign Contracts will benefit the markets for credit default swaps on Western European sovereigns by offering to market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to ICE Clear Europe's rules.

ICE Clear Europe represents that the Additional WE Sovereign Contracts will constitute ''Non-STEC Single Name Contracts'' for purposes of the CDS Procedures and accordingly will be governed by Paragraph 10 of the CDS Procedures, consistent with treatment of the Western European sovereign CDS contracts currently cleared by ICE Clear Europe. Moreover, ICE Clear Europe states that clearing of the Additional WE Sovereign Contracts will not require any changes to ICE Clear Europe's existing Clearing Rules and Procedures, risk management framework (including relevant policies) or margin model.[5]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[6] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[7] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that clearing of the proposed Additional WE Sovereign Contracts is consistent with the requirements of Section 17A of the Act[8] and regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[9] Specifically, the Commission believes that the proposal to clear the Additional WE Sovereign Contracts in the same manner as other Western European sovereign CDS contracts, consistent with ICE Clear Europe's existing clearing arrangements and related financial safeguards, protections, risk management policies and procedures and margin methodology, is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[10]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[11] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–ICEEU–2014–18) be, and hereby is, approved.[13]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28875 Filed 12–9–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73746; File No. SR–EDGA–2014–28]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 14.1(c)(5) of EDGA Exchange, Inc. To Harmonize Its Restrictions on Market Makers in UTP Derivative Securities With NYSE Arca, Inc. and Nasdaq Stock Market LLC

December 4, 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 November 21, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–73459 (Oct. 29, 2014), 79 FR 65443 (Nov. 4, 2014) (SR–ICEEU–2014–18).

[4] *See* Exchange Act Release No. 34–71920 (Apr. 9, 2014) 79 FR 21331 (Apr. 15, 2015) (SR–ICEEU–2014–04); (order approving rule change to clear other Western European sovereign CDS contracts) (the ''Prior WE Sovereigns Order'').

[5] For a description of previously approved changes to ICE Clear Europe's risk management framework to accommodate clearing of Western European sovereign CDS contracts, see the Prior WE Sovereigns Order. ICE Clear Europe represents that it has performed a variety of empirical analyses related to clearing of the Additional WE Sovereign Contracts under its margin methodology, including back tests and stress tests.

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 17 CFR 240.17Ad–22.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1.

[12] 15 U.S.C. 78s(b)(2).

[13] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 14.1(c)(5) to harmonize its restrictions on Market Makers [5] in UTP Derivative Securities [6] with NYSE Arca, Inc. (''NYSE Arca'') Rule 5.1(a)(2)(v) [7] and the Nasdaq Stock Market LLC (''Nasdaq'') Rule 4630(e).[8]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The term ''Market Maker'' is defined as ''a Member that acts as a Market Maker pursuant to Chapter XI.'' *See* Exchange Rule 1.5(l).

[6] The term ''UTP Derivative Security'' is defined as ''[a]ny UTP Security that is a 'new derivative securities product' as defined in Rule 19b–4(e) under the Exchange Act . . . and traded pursuant to Rule 19b–4(e) under the Exchange Act.'' *See* Exchange Rule 14.1(c).

[7] *See* Securities Exchange Act Release No. 67066 (May 29, 2012), 77 FR 33010 (June 4, 2012) (SR–NYSEArca–2012–46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extension of Unlisted Trading Privileges to New Derivative Securities Products That Are Listed on Another Exchange and to Make Other Conforming and Technical Amendments). The Commission also waived the 30-day operative delay for SR–NYSEArca–2012–46 under Rule 19b–4(f)(6) of the Act. *Id.*

[8] *See* Securities Exchange Act Release No. 69858 (June 25, 2013), 78 FR 39432 (July 1, 2013) (SR–Nasdaq–2013–085) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change [sic] Rule 4630 to Remove a Restriction on a Member Acting as a Registered Market Maker in a Commodity-Related Security).

(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 Rule 14.1(c)(5) to harmonize its restrictions on Market Makers in UTP Derivative Securities with NYSE Arca Rule 5.1(a)(2)(v) [9] and Nasdaq Rule 4630(e).[10] The purpose of the proposed rule change is to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset [11] that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules.

Exchange Rule 14.1(c)(5) prohibits a Market Maker in a UTP Derivative Security from acting or registering as a market maker on another exchange in any Reference Asset of that UTP Derivative Security, or any derivative instrument based on a Reference Asset of that UTP Derivative Security. NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e) recently amended their respective rules to permit market makers to trade in securities underlying the derivative security so long as that market maker discloses to NYSE Arca or Nasdaq all accounts within which it trades the underlying securities.[12] As amended, Exchange Rule 14.1(c)(5), would similarly remove this prohibition, which states that a Market Maker in a UTP Derivative Security is prohibited from acting or registering as a market maker on another exchange in any Related Instruments.

Similar to NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e), amended Rule 14.1(c)(5) would require a Member acting as a registered Market Maker in a UTP Derivative Security to file with the Exchange, in a manner prescribed by the Exchange, and to keep a current list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives (collectively with Reference Assets, ''Related Instruments''), which the Member acting as registered Market Maker may have or over which it may exercise investment discretion. Rule 14.1(c)(5) would also prohibit a Member from acting as registered Market Maker in the UTP Derivative Security from trading in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which a Member acting as a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, that has not been reported to the Exchange.

Exchange Rules [13] ensure that Market Makers in UTP Derivative Securities would continue to have in place reasonably designed policies and procedures to prevent the misuse of material non-public information with regard to also acting as a Market Maker in any Related Instruments.[14] In the context of approving a more flexible, principled-based approach to information barriers by NYSE Arca, the Commission stated that, ''while information barriers are not specifically required under the proposal, a [firm's] business model or business activities may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.'' [15] Rule 14.1(c)(5)(D) will continue to prohibit Market Makers from using material non-public information in connection with trading a Related Instrument. Rule 14.1(c)(5)(C) will also continue to require that, in addition to the existing obligations under Exchange rules regarding the production of books and records, a Market Maker shall, upon request by the Exchange, make available to the Exchange any books, records or other information pertaining to any Related Instrument trading account or to the account of any registered or non-registered employee affiliated with the Market Maker for which Related Instruments are traded. Lastly, under Exchange Rule 14.1(c)(6) the Exchange will enter into comprehensive surveillance sharing agreement with other markets that offer trading in Related Instruments to the same extent as the listing exchange's rules require the listing exchange to enter into a comprehensive surveillance sharing agreement with such markets. This amendment does not lessen the protection of Members from the risks associated with integrated market

[9] *See supra* note 7.

[10] *See supra* note 8.

[11] A ''Reference Asset'' is defined as one or more currencies, or commodities, or derivatives based on one or more currencies, or commodities, or is based on a basket or index comprised of currencies or commodities that a UTP Derivative Security derives its value from. *See* Exchange Rule 14.1(c)(5).

[12] *See supra* notes 7 and 8.

[13] *See* Exchange Rules 5.5 and 14.1(c)(5)(D).

[14] 15 U.S.C. 78*o*(g).

[15] *See* Securities Exchange Act Release No. 60604 (September 1, 2009), 74 FR 46272 (September 8, 2009) (SR–NYSEArca–2009–78).

making and any possible misuse of non-public information.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [16] and furthers the objectives of Section 6(b)(5) of the Act,[17] in that it is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).[18] In addition, the Exchange believes that amending Exchange Rule 14.1(c)(5) to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset [19] that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules will remove impediments to and perfect the mechanism of a free and open market by providing the same flexibility to the Exchange that is already available to NYSE Arca and Nasdaq regarding the market maker activities for derivative-related Securities. Additionally, Exchange Rule 14.1(c)(5), as amended, would continue to serve to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest from concerns that may be associated with integrated market making and any possible misuse of non-public information.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. On the contrary, the Exchange believes that the proposal will promote competition because it is a competitive response to recently amended NYSE Arca and Nasdaq rules which permit market makers to trade in the reference assets or components underlying the derivative security on the same terms as that proposed by the Exchange.[20] Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and Rule 19b–4(f)(6)(iii) thereunder.[22]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. The Commission notes that the proposal would allow Market Makers in a UTP Derivative Security on the Exchange to act or register as a Market Maker in any Related Instruments. The Commission believes that proposal could allow the Exchange to attract more Market Makers to the Exchange, thereby potentially increasing liquidity in UTP Derivative Securities, provide more price competition, and enhance the markets for those securities. The Commission further notes that the proposal is similar to the rules of other national securities exchanges.[23] Therefore, the Commission designates the proposed rule change to be operative upon filing.[24]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [25] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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–EDGA–2014–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–EDGA–2014–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* notes 7 and 8.

[19] A ''Reference Asset'' is defined as one or more currencies, or commodities, or derivatives based on one or more currencies, or commodities, or is based on a basket or index comprised of currencies or commodities that a UTP Derivative Security derives its value from. *See* Exchange Rule 14.1(c)(5).

[20] *See supra* notes 7 and 8.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[23] *See* NYSE Arca Equities Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).

[24] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78s(b)(2)(B).

filing will also 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 No. SR–EDGA–2014–28 and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28908 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73747; File No. SR–EDGX–2014–27]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 14.1(c)(5) of EDGX Exchange, Inc. To Harmonize Its Restrictions on Market Makers in UTP Derivative Securities With NYSE Arca, Inc. and Nasdaq Stock Market LLC

December 4, 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 November 21, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 14.1(c)(5) to harmonize its restrictions on Market Makers[5] in UTP Derivative Securities[6] with NYSE Arca, Inc. (''NYSE Arca'') Rule 5.1(a)(2)(v)[7] and the Nasdaq Stock Market LLC (''Nasdaq'') Rule 4630(e).[8]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 14.1(c)(5) to harmonize its restrictions on Market Makers in UTP Derivative Securities with NYSE Arca Rule 5.1(a)(2)(v)[9] and Nasdaq Rule 4630(e).[10] The purpose of the proposed rule change is to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset[11] that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules.

Exchange Rule 14.1(c)(5) prohibits a Market Maker in a UTP Derivative Security from acting or registering as a market maker on another exchange in any Reference Asset of that UTP Derivative Security, or any derivative instrument based on a Reference Asset of that UTP Derivative Security. NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e) recently amended their respective rules to permit market makers to trade in securities underlying the derivative security so long as that market maker discloses to NYSE Arca or Nasdaq all accounts within which it trades the underlying securities.[12] As amended, Exchange Rule 14.1(c)(5), would similarly remove this prohibition, which states that a Market Maker in a UTP Derivative Security is prohibited from acting or registering as a market maker on another exchange in any Related Instruments.

Similar to NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e), amended Rule 14.1(c)(5) would require a Member acting as a registered Market Maker in a UTP Derivative Security to file with the Exchange, in a manner prescribed by the Exchange, and to keep a current list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives (collectively with Reference Assets, ''Related Instruments''), which the Member acting as registered Market Maker may have or over which it may exercise investment discretion. Rule 14.1(c)(5) would also prohibit a Member from acting as registered Market Maker in the UTP Derivative Security from trading in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which a Member acting as a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, that has not been reported to the Exchange.

Exchange Rules[13] ensure that Market Makers in UTP Derivative Securities would continue to have in place reasonably designed policies and procedures to prevent the misuse of material non-public information with

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The term ''Market Maker'' is defined as ''a Member that acts as a Market Maker pursuant to Chapter XI.'' *See* Exchange Rule 1.5(l).

[6] The term ''UTP Derivative Security'' is defined as ''[a]ny UTP Security that is a 'new derivative securities product' as defined in Rule 19b–4(e) under the Exchange Act . . . and traded pursuant to Rule 19b–4(e) under the Exchange Act.'' *See* Exchange Rule 14.1(c).

[7] *See* Securities Exchange Act Release No. 67066 (May 29, 2012), 77 FR 33010 (June 4, 2012) (SR–NYSEArca–2012–46) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Extension of Unlisted Trading Privileges to New Derivative Securities Products That Are Listed on Another Exchange and to Make Other Conforming and Technical Amendments). The Commission also waived the 30-day operative delay for SR–NYSEArca–2012–46 under Rule 19b–4(f)(6) of the Act. *Id.*

[8] *See* Securities Exchange Act Release No. 69858 (June 25, 2013), 78 FR 39432 (July 1, 2013) (SR-Nasdaq-2013–085) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change [sic] Rule 4630 to Remove a Restriction on a Member Acting as a Registered Market Maker in a Commodity-Related Security).

[9] *See supra* note 7.

[10] *See supra* note 8.

[11] A ''Reference Asset'' is defined as one or more currencies, or commodities, or derivatives based on one or more currencies, or commodities, or is based on a basket or index comprised of currencies or commodities that a UTP Derivative Security derives its value from. *See* Exchange Rule 14.1(c)(5).

[12] *See supra* notes 7 and 8.

[13] *See* Exchange Rules 5.5 and 14.1(c)(5)(D).

regard to also acting as a Market Maker in any Related Instruments.[14] In the context of approving a more flexible, principled-based approach to information barriers by NYSE Arca, the Commission stated that, ''while information barriers are not specifically required under the proposal, a [firm's] business model or business activities may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations, and with applicable Exchange rules.'' [15] Rule 14.1(c)(5)(D) will continue to prohibit Market Makers from using material non-public information in connection with trading a Related Instrument. Rule 14.1(c)(5)(C) will also continue to require that, in addition to the existing obligations under Exchange rules regarding the production of books and records, a Market Maker shall, upon request by the Exchange, make available to the Exchange any books, records or other information pertaining to any Related Instrument trading account or to the account of any registered or non-registered employee affiliated with the Market Maker for which Related Instruments are traded. Lastly, under Exchange Rule 14.1(c)(6) the Exchange will enter into comprehensive surveillance sharing agreement with other markets that offer trading in Related Instruments to the same extent as the listing exchange's rules require the listing exchange to enter into a comprehensive surveillance sharing agreement with such markets. This amendment does not lessen the protection of Members from the risks associated with integrated market making and any possible misuse of non-public information.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [16] and furthers the objectives of Section 6(b)(5) of the Act,[17] in that it is designed promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing NYSE Arca Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).[18] In addition, the Exchange believes that amending Exchange Rule 14.1(c)(5) to permit a Member acting as a registered Market Maker in a UTP Derivative Security on the Exchange the flexibility to act or register as a market maker in any Reference Asset that a UTP Derivative Security derives its value from consistent with Commission and Exchange Rules will remove impediments to and perfect the mechanism of a free and open market by providing the same flexibility to the Exchange that is already available to NYSE Arca and Nasdaq regarding the market maker activities for derivative-related Securities. Additionally, Exchange Rule 14.1(c)(5), as amended, would continue to serve to prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest from concerns that may be associated with integrated market making and any possible misuse of non-public information.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. On the contrary, the Exchange believes that the proposal will promote competition because it is a competitive response to recently amended NYSE Arca and Nasdaq rules which permit market makers to trade in the reference assets or components underlying the derivative security on the same terms as that proposed by the Exchange.[19] Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6)(iii) thereunder.[21]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. The Commission notes that the proposal would allow Market Makers in a UTP Derivative Security on the Exchange to act or register as a Market Maker in any Related Instruments. The Commission believes that proposal could allow the Exchange to attract more Market Makers to the Exchange, thereby potentially increasing liquidity in UTP Derivative Securities, provide more price competition, and enhance the markets for those securities. The Commission further notes that the proposal is similar to the rules of other national securities exchanges.[22] Therefore, the Commission designates the proposed rule change to be operative upon filing.[23]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is

[14] 15 U.S.C. 78*o*(g).

[15] *See* Securities Exchange Act Release No. 60604 (September 1, 2009), 74 FR 46272 (September 8, 2009) (SR–NYSEArca–2009–78).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* notes 7 and 8.

[19] *See supra* notes 7 and 8.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[22] *See* NYSE Arca Equities Rule 5.1(a)(2)(v) and Nasdaq Rule 4630(e).

[23] 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).

[24] 15 U.S.C. 78s(b)(2)(B).

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–EDGX–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 No. SR–EDGX–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 will also 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 No. SR–EDGX–2014–27 and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28909 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73741; File No. SR–NYSEArca–2014–30]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of Hull Tactical US ETF Under NYSE Arca Equities Rule 8.600

December 4, 2014.

I. Introduction

On March 24, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of Hull Tactical US ETF (''Fund'') under NYSE Arca Equities Rule 8.600. The proposed rule change was published for comment in the **Federal Register** on April 11, 2014.[3] On May 21, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On July 9, 2014, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] The Commission received one comment letter.[7] On October 8, 2014, the Commission designated a longer period of time for Commission action on the proposed rule change.[8] On October 23, 2014, the Exchange filed Amendment No. 1 to the proposal.[9] This order grants approval of the proposed rule change, as modified by Amendment No. 1.

II. Description of Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Exchange Traded Concepts Trust (''Trust''), a Delaware statutory trust. The Trust is registered with the Commission as an investment company.[10] Exchange Traded Concepts, LLC will be the investment adviser (''Adviser'') to the Fund. HTAA, LLC will be the sub-adviser to the Fund (''Sub-Adviser'').[11] SEI Investments Co. will serve as the administrator of the Fund (''Administrator''). JP Morgan Chase Bank N.A. will serve as the custodian, transfer agent and dividend disbursing agent of the Fund. SEI Investments Distribution Co. will serve as the distributor for the Trust.

The Exchange has made the following representations and statements in describing the Fund and its investment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71894 (Apr. 7, 2014), 79 FR 20273 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 72214 (May 21, 2014), 79 FR 30672 (May 28, 2014). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it would have sufficient time to consider the proposed rule change. Accordingly, the Commission designated July 10, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] Securities Exchange Act Release No. 72571 (July 9, 2014), 79 FR 41330 (July 15, 2014).

[7] *See* Letter from Christopher S. Jones, Associate Professor, University of Southern California to Elizabeth M. Murphy, Secretary, Commission (Sept. 16, 2014) (''Jones Letter'').

[8] *See* Securities Exchange Act Release No. 73320, 79 FR 61911 (Oct. 15, 2014) (designating December 5, 2014 as the date by which the Commission must either approve or disapprove the proposed rule change).

[9] In Amendment No. 1, the Exchange clarified that the Sub-Adviser will utilize more than one proprietary, analytical investment model to make investment decisions for the Fund, that the Sub-Adviser's determination whether to take certain long or short positions in S&P 500-related ETFs and S&P 500-related futures will depend on the investment signals delivered by the models and on the judgment of the Sub-Advisor, and that the Sub-Adviser may adjust the Fund's long and short positions when necessary to take into account new market conditions as well as data from the models. Because Amendment No. 1 provides clarification to the proposed rule change and does not materially affect the substance of the proposed rule change or raise any unique or novel regulatory issues, Amendment No. 1 does not require notice and comment.

[10] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). The Exchange states that on July 26, 2013, the Trust filed with the Commission a post-effective amendment to its registration statement on Form N–1A relating to the Fund (File Nos. 333–156529 and 811–22263) (''Registration Statement''). In addition, the Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No.30445 (Apr. 2, 2013) (File No. 812–13969) (''Exemptive Order'').

[11] The Exchange states that neither the Adviser nor the Sub-Adviser is, or is affiliated with, a broker-dealer. The Exchange states that, in the event (a) the Adviser or Sub-Adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new manager, adviser or sub-adviser is, or becomes affiliated with, a broker-dealer, the adviser or sub-adviser will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio, and that adviser or sub-adviser will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

strategies, including portfolio holdings and investment restrictions.[12]

General

The investment objective of the Fund will be to seek long-term capital appreciation. The Fund will be actively managed.

Under normal market conditions,[13] the Fund will seek to achieve its investment objective by taking long and short positions [14] in one or more exchange traded funds (''ETFs'') [15] that seek to track the performance of the S&P 500 Index (each, an ''S&P 500-related ETF''). The ETFs the Fund invests in all will be listed and traded in the U.S. on registered exchanges. Under normal market conditions, substantially all of the Fund's assets will be invested in one or more S&P 500-related ETFs; ETFs that provide leveraged or inverse exposure to the S&P 500 Index; and, to seek the desired exposure to the S&P 500 Index, futures contracts. The Fund may also, as described below, invest in cash instruments.

The Sub-Adviser will utilize a proprietary, analytical investment model that examines current and historical market data to attempt to predict the performance of the S&P 500 Index. The model will deliver investment signals that the Sub-Adviser will use to make investment decisions for the Fund. Depending on the investment signal delivered by the model, the Sub-Adviser will take certain long or short positions in one or more S&P 500-related ETFs: (1) If the model indicates bull-market conditions, the Sub-Adviser will take long positions; or (2) if the model indicates bear-market conditions, the Sub-Adviser will take short positions. When the Fund takes long positions, it may maintain long exposure of up to 200% of net assets; exposure to short positions will be limited to no more than 100% of net assets. The Sub-Adviser will adjust the Fund's long and short positions when necessary to take into account new data from the model that reflects changing market conditions. Positions may be adjusted as the model predictions fluctuate.

The Fund will enter into futures contracts to seek the desired exposure to the S&P 500 Index.[16] The Fund will limit its investment in futures contracts such that either (1) the aggregate net notional value of its futures investments will not exceed the value of the Fund's net assets, after taking into account unrealized profits and unrealized losses on the futures positions it has entered into; or (2) the aggregate initial margin and premiums required to establish positions in its futures investments will not exceed 5% of the Fund's net assets, after taking into account unrealized profits and unrealized losses on any such positions. The Fund will only enter into futures contracts traded on a national futures exchange regulated by the CFTC. The Fund will trade futures when the Sub-Adviser determines that doing so may provide an efficient means of seeking exposure to the S&P 500 Index that is complimentary to its investment in shares of one or more S&P 500-related ETFs.

In addition to investments in the S&P 500-related ETFs and futures contracts, the Fund may invest up to 10% of its total assets in leveraged ETFs or inverse ETFs that seek to deliver multiples, or the inverse, of the performance of the S&P 500 Index, respectively (collectively with S&P 500-related ETFs, ''Underlying ETFs''). Such investments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies, and they will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or 3X) of any securities market index. The inverse and leveraged ETFs held by the Fund may utilize leverage (*i.e.,* borrowing) to acquire their underlying portfolio investments.[17]

The Fund may invest in Underlying ETFs that are primarily index-based ETFs that hold substantially all of their assets in securities representing a specific index. The Fund also may invest in Underlying ETFs that are actively managed. The Underlying ETFs in which the Fund may invest may invest in equity securities. Equity securities consist of common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock,[18] investments in master limited partnerships (''MLPs'') [19] and rights.[20]

The Underlying ETFs in which the Fund may invest may engage in futures and options transactions. The Fund will only invest in Underlying ETFs that engage in futures contracts if such futures contracts are traded on a national futures exchange regulated by the CFTC. Underlying ETFs in which the Fund may invest may use futures contracts and related options for bona fide hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index, or instrument; or other risk management purposes. When an Underlying ETF purchases or sells a futures contract, or sells an option thereon, it is required to cover its position in order to limit leveraging and related risks.

[12] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, net asset value (''NAV'') calculation, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. *See* Notice and Registration Statement, *supra* notes 3 and 10, respectively.

[13] The term ''under normal market conditions'' includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; and force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[14] Short sales are transactions in which the Fund sells a security it does not own. To complete the transaction, the Fund must borrow or otherwise obtain the security to make delivery to the buyer. The Fund is then obligated to replace the security borrowed by purchasing the security at the market price at the time of replacement. The Fund may use repurchase agreements to satisfy delivery obligations in short sales transactions. The Fund may use up to 100% of its net assets to engage in short sales transactions and collateralize its open short positions.

[15] ETFs are securities registered under the 1940 Act such as those listed and traded on the Exchange under NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units), 8.100 (Portfolio Depositary Receipts) and 8.600 (Managed Fund Shares).

[16] To the extent the Fund enters into futures contracts or invests in underlying ETFs that invest in futures, options on futures or other instruments subject to regulation by the U.S. Commodity Futures Trading Commission (''CFTC''), it will do so in reliance upon and in accordance with CFTC Rule 4.5. The Exchange states that the Trust has filed a notice of eligibility for exclusion from the definition of the term ''commodity pool operator'' in accordance with CFTC Rule 4.5. Therefore, neither the Trust nor any of its series is deemed to be a ''commodity pool'' or ''commodity pool operator'' under the Commodity Exchange Act (''CEA''), and they are not subject to registration or regulation as such under the CEA. In addition, neither the Adviser nor the Sub-Adviser is deemed to be a ''commodity pool operator'' or ''commodity trading adviser'' with respect to the advisory services it provides to the Fund.

[17] The use of leverage may exaggerate changes in an ETF's share price and the return on its investments. Inverse and leveraged ETFs are designed to achieve their objectives for a single day only.

[18] Convertible securities are bonds, debentures, notes, preferred stocks, or other securities that may be converted or exchanged (by the holder or by the issuer) into shares of the underlying common stock (or cash or securities of equivalent value) at a stated exchange ratio.

[19] MLPs are limited partnerships in which the ownership units are publicly traded. MLP units are registered with the Commission and are freely traded on a securities exchange or in the over-the-counter market.

[20] A right is a privilege granted to existing shareholders of a corporation to subscribe to shares of a new issue of common stock before it is issued. Rights normally have a short life of usually two to four weeks.

The Underlying ETFs in which the Fund may invest may buy and sell index futures contracts with respect to any index that is traded on a recognized exchange or board of trade.

The Underlying ETFs in which the Fund may invest may purchase and write (sell) put and call options on indices and enter into related closing transactions.[21] All such options written on indices or securities must be covered by the Underlying ETF.

An Underlying ETF in which the Fund may invest may trade put and call options on securities, securities indices, and currencies, as the Underlying ETF's investment adviser determines is appropriate in seeking the ETF's investment objective, and except as restricted by the Underlying ETF's investment limitations. An Underlying ETF may purchase put and call options on securities to protect against a decline in the market value of the securities in its portfolio or to anticipate an increase in the market value of securities that the Fund may seek to purchase in the future. An Underlying ETF may write covered call options on securities as a means of increasing the yield on its assets and as a means of providing limited protection against decreases in its market value. An Underlying ETF may purchase and write options on an exchange or over-the-counter.

The Underlying ETFs in which the Fund may invest may enter into swaps, including, but not limited to, total return swaps, index swaps, and interest rate swaps. An Underlying ETF may utilize swaps in an attempt to gain exposure to the securities in a market without actually purchasing those securities, or to hedge a position.[22] The Underlying ETFs in which the Fund may invest may enter into swaps to invest in a market without owning or taking physical custody of the underlying securities in circumstances in which direct investment is restricted for legal reasons or is otherwise impracticable.

During periods when the Fund's assets (or portion thereof) are not fully invested in one or more S&P 500-related ETFs or otherwise exposed to the S&P 500 Index, all or a portion of the Fund may be invested in cash instruments (''Cash Instruments''), which include U.S. Treasury obligations; cash and cash equivalents including commercial paper, certificates of deposit and bankers' acceptances; repurchase agreements;[23] shares of money market mutual funds; and high-quality, short-term debt instruments including, in addition to U.S. Treasury obligations, other U.S. government securities.[24]

Other Investments

In addition to the investments described above, the Fund may invest in other investments, as described below.

In the absence of normal market conditions,[25] the Fund may invest 100% of its assets, without limitation, in Cash Instruments. The Fund may be invested in this manner for extended periods, depending on the Sub-Adviser's assessment of market conditions.

In addition to the Underlying ETFs discussed above, which are primary investments of the Fund, the Fund will invest in money market mutual funds, to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation, or order of the Commission or interpretation thereof.

Restrictions on Investment

The Fund may not purchase or sell commodities or commodity contracts unless acquired as a result of ownership of securities or other instruments issued by persons that purchase or sell commodities or commodities contracts, but this shall not prevent the Fund from entering into futures contracts.

The Fund will not directly enter into swaps or engage in options transactions.

The Fund may not, with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. government, its agencies, or its instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer.

The Fund may not acquire more than 10% of the outstanding voting securities of any one issuer.

The Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or shares of investment companies.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including securities deemed illiquid by the Adviser or Sub-Adviser consistent with Commission guidance[26] and repurchase agreements that do not mature within seven days. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of

[21] A put option on a security gives the purchaser of the option the right to sell, and the writer of the option the obligation to buy, the underlying security. A call option on a security gives the purchaser of the option the right to buy, and the writer of the option the obligation to sell, the underlying security. Put and call options on indices are similar to options on securities except that options on an index give the holder the right to receive, upon exercise of the option, an amount of cash if the closing level of the underlying index is greater than (or less than, in the case of puts) the exercise price of the option.

[22] Forms of swaps include interest rate caps, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates exceed a specified rate, or ''cap''; interest rate floors, under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates fall below a specified level, or ''floor''; and interest rate collars, under which a party sells a cap and purchases a floor or vice versa in an attempt to protect itself against interest rate movements exceeding given minimum or maximum levels.

[23] The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Fund will effect repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Sub-Advisor. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement.

[24] Securities issued or guaranteed by the U.S. government or its agencies or instrumentalities include U.S. Treasury securities, which are backed by the full faith and credit of the U.S. Treasury and which differ only in their interest rates, maturities, and times of issuance. Certain U.S. government securities are issued or guaranteed by agencies or instrumentalities of the U.S. government, including, but not limited to, obligations of U.S. government agencies or instrumentalities such as the Federal National Mortgage Association (''Fannie Mae''), the Federal Home Loan Mortgage Corporation (''Freddie Mac''), the Government National Mortgage Association (''Ginnie Mae''), the Federal Home Loan Banks, and other agencies or instrumentalities. Some obligations issued or guaranteed by U.S. government agencies and instrumentalities, including, for example, Ginnie Mae pass-through certificates, are supported by the full faith and credit of the U.S. Treasury. Other obligations issued by or guaranteed by federal agencies or instrumentalities, such as those securities issued by Fannie Mae, are supported by the discretionary authority of the U.S. government to purchase certain obligations of the federal agency or instrumentality, while other obligations issued by or guaranteed by federal agencies or instrumentalities, such as those of the Federal Home Loan Banks, are supported by the right of the issuer to borrow from the U.S. Treasury. The Fund may invest in U.S. Treasury zero-coupon bonds.

[25] *See* note 13, *supra.*

[26] In reaching liquidity decisions, the Adviser and Sub-Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity, if through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

III. Summary of Comment Letter Received

The Commission received one comment letter supporting the Exchange's proposal.[27] The commenter states that tactical asset allocation strategies are beneficial to investors, may have positive effects on market stability, and should be encouraged both by investment advisors and regulators.[28] The commenter states his belief that there is nothing inherently risky about tactical asset allocation, especially for strategies limited to holding cash and a market index.[29] Furthermore, the commenter states that the managers of the Fund have allowed him to see the equity exposures that have arisen from their model since 2001, and based on this the commenter believes the Fund should be ''noticeably less risky than a standard equity index fund.'' [30]

IV. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [31] and the rules and regulations thereunder applicable to a national securities exchange.[32] In particular, the Commission finds that the proposal, as modified by Amendment No. 1., is consistent with Section 6(b)(5) of the Act,[33] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[34] which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities.

The Commission notes that the Exchange has represented that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Commission also notes that, in support of this proposal, the Exchange has made the following representations:

(1) The Shares will be subject to Rule 8.600, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and underlying equity securities (including, without limitation, ETFs) and futures contracts with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'') and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying equity securities (including, without limitation, ETFs) and futures contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying equity securities (including, without limitation, ETFs) and futures contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

(4) The ETFs the Fund invests in all will be listed and traded in the U.S. on registered exchanges. The Fund will only enter into futures contracts traded on a national futures exchange regulated by the CFTC.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act,[35] as provided by NYSE Arca Equities Rule 5.3.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including securities deemed illiquid by the Adviser or Sub-Adviser, consistent with Commission guidance.

(8) Under normal market conditions, substantially all of the Fund's assets will be invested in one or more S&P 500-related ETFs; ETFs that provide leveraged or inverse exposure to the S&P 500 Index; and, to seek the desired exposure to the S&P 500 Index, futures contracts. The Fund may also invest in Cash Instruments.

(9) The Fund will limit its investment in futures contracts such that either (1) the aggregate net notional value of its futures investments will not exceed the value of the Fund's net assets, after taking into account unrealized profits and unrealized losses on the futures positions it has entered into; or (2) the aggregate initial margin and premiums

[27] *See* Jones Letter, *supra* note 7.

[28] *Id.* at 2. The commenter states that maintaining constant exposures to different asset classes is suboptimal, that investors can reap greater long-term rewards without increasing risk by increasing exposure to an asset class when its future returns are predicted to be above average and by trimming or shorting an asset class when its future returns are predicted to be poor, and that there is strong evidence from the finance literature that these tactical asset allocation strategies have significant value to investors who use them. *Id.* at 1.

[29] *Id.* at 2.

[30] *Id.*

[31] 15 U.S.C. 78f.

[32] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 15 U.S.C. 78f(b)(5).

[34] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[35] 17 CFR 240.10A–3.

required to establish positions in its futures investments will not exceed 5% of the Fund's net assets, after taking into account unrealized profits and unrealized losses on any such positions.

(10) The Fund may invest up to 10% of its total assets in leveraged ETFs or inverse ETFs that seek to deliver multiples, or the inverse, of the performance of the S&P 500 Index, respectively. Such investments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies, and they will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or 3X) of any securities market index.

(11) The Fund will not directly enter into swaps or engage in options transactions.

(12) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value [36] as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[37] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[38] The Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., E.T.), the list of the names and the required number of shares of each security, and amount of cash, to be delivered in exchange for a creation unit of the Fund. The NAV of the Fund will be calculated once each business day as of the regularly scheduled close of normal trading on the Exchange (normally, 4:00 p.m., Eastern Time).[39] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The intra-day, closing, and settlement prices of the Fund investments will be readily available from the exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Quotation and last sale information for underlying U.S. exchange-traded equities, including the Underlying ETFs, will be available via the CTA high-speed line and from the national securities exchange on which they are listed. Quotations and last sale information for the Fund's futures investments will be available from the futures exchange on which the futures are listed. Quotation information from brokers and dealers or pricing services will be available for Cash Instruments and non-exchange traded securities of money market mutual funds held by the Fund. Pricing information regarding each asset class in which the Fund will invest is generally available through nationally recognized data service providers through subscription arrangements. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[40] and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth additional circumstances under which trading in the Shares of a Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Reporting Authority must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the Fund's portfolio. In addition, the Exchange states that neither the Adviser nor the Sub-Adviser is or is affiliated with a broker-dealer.[41]

[36] According to the Exchange, the Portfolio Indicative Value will be calculated using the estimates of the value of the Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The Portfolio Indicative Value will be based upon the current value for the components of the Disclosed Portfolio. The Portfolio Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Portfolio Indicative Value and the market price may occur. The Portfolio Indicative Value should not be viewed as a ''real-time'' update of the NAV per Share of the Fund, which is calculated once per day. All asset classes in which the Fund will invest will be included in the calculation of the Portfolio Indicative Value.

[37] According to the Exchange, several major market data vendors display or make widely available Portfolio Indicative Values published on CTA or other data feeds.

[38] The Disclosed Portfolio will include each portfolio security and other financial instruments of the Fund with the following information on the Fund's Web site: Ticker symbol (if applicable), name of security and financial instrument, number of shares (if applicable) and dollar value of securities and financial instruments held in the Fund, and percentage weighting of the security and financial instrument in the Fund. The Web site information will be publicly available at no charge.

[39] The Fund will calculate NAV by: (i) Taking the current market value of its total assets; (ii) subtracting any liabilities; and (iii) dividing that amount by the total number of Shares owned by shareholders.

[40] These reasons may include: (1) The extent to which trading is not occurring in the securities or financial instruments composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.

[41] *See supra* note 11. The Exchange states that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and the Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for

Continued

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[42] The Exchange further represents that these procedures are adequate to properly monitor Exchange-trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Moreover, prior to the commencement of trading, the Exchange states that it will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[43] Section 11A(a)(1)(C)(iii) of the Act,[44] and the rules and regulations thereunder applicable to a national securities exchange.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[45] that the proposed rule change (SR–NYSEArca–2014–30), as modified by Amendment No. 1, be, and it hereby is, approved.[46]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Kevin M. O'Neill,

Deputy Secretary.

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administering the policies and procedures adopted under subparagraph (i) above.

[42] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[45] 15 U.S.C. 78s(b)(2).

[46] This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73739; File No. SR–NASDAQ–2014–116)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Proposed Rule Change Relating to the NASDAQ Opening and Halt Cross

December 4, 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 November 21, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes to modify and reorganize Chapter VI (Trading Systems), Section 8 (NASDAQ Opening and Halt Cross) of the NASDAQ Options Market, LLC (''NOM''). The proposal would update or add Section 1 and Section 8 definitions in respect of the NASDAQ Opening and Halt Cross. The proposal would also make changes regarding: The criteria for opening of trading or resumption of trading after a halt; NASDAQ posting on its Web site any changes to the dissemination interval or prior Order Imbalance Indicator; the procedure if more than one price exists; the procedure if there are unexecuted contracts; and the ability of firms to elect that orders be returned in symbols that were not opened on NOM before the conclusion of the Opening Order Cancel Timer.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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 modify NOM Chapter VI, Section 1 and Section 8 to update or add definitions, which include Current Reference Price, NASDAQ Opening Cross, Eligible Interest, Valid Width National Best Bid or Offer (''Valid Width NBBO''), Away Best Bid or Offer (''ABBO''), and On the Open Order (''OPG''). The purpose is to also make changes regarding: The criteria for opening of trading or resumption of trading after a halt; NASDAQ posting on its Web site any changes to the dissemination interval or prior Order Imbalance Indicator; the procedure if more than one price exists; the procedure if there are unexecuted contracts; and the ability of firms to elect that orders be returned in symbols that were not opened on NOM before the conclusion of the Opening Order Cancel Timer.[3]

Section 8 of Chapter VI describes the NASDAQ opening and halt cross and opening imbalance process (''Opening Cross'').[4] Section 8(a) currently contains definitions that are applicable to Section 8. Section 8(b) currently states that for the opening of trading of System Securities,[5] the Opening Cross shall occur at or after 9:30 a.m. Eastern Time [6] if any of the following ''conditions'' occur: (1) There is no Imbalance; [7] (2) the dissemination of a regular market hours quote or trade (as determined by the Exchange on a class-by-class basis) by the Market for the Underlying Security [8] has occurred (or, in the case

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange will explain the proposed change to its participants via an Options Trader Alert.

[4] *See* Securities Exchange Act Release No. 64463 (May 11, 2011), 76 FR 28257 (May 16, 2011)(SR–NASDAQ–2011–037)(approval order regarding updates to Opening Cross).

[5] ''System Securities'' means all options that are currently trading on NOM pursuant to Chapter IV. All other options shall be ''Non System Securities.'' Chapter VI, Section 1(b).

[6] In this proposal, all time is Eastern Time unless otherwise noted.

[7] ''Imbalance'' means the number of contracts of Eligible Interest that may not be equal. Chapter VI, Section 8(a)(1). ''Eligible Interest'' means any quotation or any order that may be entered into the system and designated with a time-in-force of IOC, DAY, GTC. Chapter VI, Section 8(a)(4). The Exchange is deleting the reference to Imbalance from Section 8(b) because, as discussed, the occurrence of the Opening Cross depends on the parameters proposed in Section 8(b) rather than on whether there is an imbalance.

[8] ''Market for the Underlying Security'' means either the primary listing market, the primary

of index options, the Exchange has received the opening price of the underlying index); or (3) in the case of a trading halt, when trading resumes pursuant to Chapter V, Section 4, and a certain number (as the Exchange may determine from time to time) of other options exchanges have disseminated a firm quote on the Options Price Reporting Authority (''OPRA'').[9] Market hours trading on NOM in specific options commences, or in the case of specific halted options resumes, when the NASDAQ Opening Cross concludes. Section 8(c) currently describes the procedure if firm quotes are not disseminated for an option by the predetermined number of options exchanges by a specific time during the day that is determined by the Exchange; [10] provided that dissemination of a regular market hours quote or trade by the Market for the Underlying Security has occurred (or, in the case of index options, the Exchange has received the opening price of the underlying index). This filing proposes several changes to enhance the usability and effectiveness of Section 8 regarding the opening and halt cross and imbalance process.

First, the Exchange proposes to update or add new Section 8 definitions.

The Exchange proposes a change to the definition of ''Current Reference Price''. Current Section 8(a)(2)(A) defines the ''Current Reference Price'' to mean: (i) The single price at which the maximum number of contracts of Eligible Interest can be paired at or within the NBBO; (ii) If more than one price exists under subparagraph (i), the Current reference Price shall mean the entered price at which contracts will remain unexecuted in the cross; (iii) If more than one price exists under subparagraph (ii), the Current Reference Price shall mean the price that is closest to the midpoint of the (1) National Best Bid or the last offer on NOM against which contracts will be traded whichever is higher, and (2) National Best Offer or the last bid on NOM against which contracts will be traded whichever is lower. Proposed Section 8(a)(2)(A) seeks to simplify the definition of the ''Current Reference Price'' to state that ''Current Reference Price'' shall mean an indication of what the Opening Cross price would be at a particular point in time. The ''Current Reference Price'' determination will be substantively similar to what is currently described in Section 8(a)(2)(A), with the criteria for the Opening Cross price, as discussed below, set forth elsewhere in Section 8,[11] according to various parameters (*e.g.* existence of opening interest, existence of Valid Width NBBO, whether the issue is open elsewhere).[12] The Exchange believes that this construction makes the rule easier to follow. In addition, this construction also makes the language contained in current Section 8(a)(2)(E) no longer necessary as it is replaced with the new definition proposed for ''Current Reference Price'' in Section 8(a)(2)(A) and proposed criteria for the Opening Cross price set forth in Section 8(b). Thus, the Exchange proposes to delete current Section 8(a)(2)(E).

The Exchange proposes a change to the definition of ''NASDAQ Opening Cross''. Specifically, in proposed Section 8(a)(3) the Exchange introduces a clarifying change that references opening or resuming trading, and states that ''NASDAQ Opening Cross'' shall mean the process for opening or resuming trading pursuant to this rule and shall include the process for determining the price at which Eligible Interest, as discussed below, shall be executed at the open of trading for the day, or the open of trading for a halted option, and the process for executing that Eligible Interest.

The Exchange proposes to define a new order type in Section 1(e)(7), ''On the Open Order'', which is an order with a designated time-in-force of OPG.[13] An On the Open Order will be executable only during the Opening Cross. If such order is not executed in its entirety during the Opening Cross, the order, or any unexecuted portion of such order, will be cancelled back to the entering participant.

The Exchange proposes a change to the definition of ''Eligible Interest'' contained in current Section 8(a)(4). Specifically, in Section 8(a)(4) the Exchange proposes a change to reflect the addition of a new order type, On the Open Order, with a time-in force of OPG, so that ''Eligible Interest'' shall mean any quotation or any order that may be entered into the system and designated with a time-in-force of IOC (immediate-or-cancel), DAY (day order), GTC (good-till-cancelled), and OPG.[14] The Exchange also proposes new language to indicate how certain time-in-force orders will be handled, to state that orders received via FIX protocol prior to the NASDAQ Opening Cross designated with a time-in-force of IOC will be rejected and shall not be considered Eligible Interest. Orders received via OTTO and SQF prior to the NASDAQ Opening Cross designated with a time-in-force of IOC will remain in-force through the opening and shall be cancelled immediately after the opening. The Exchange notes that FIX protocol users generally prefer a cancel if an order is not executed immediately in order that these users have an a opportunity to access other markets; while OTTO and SQF users are liquidity providers who prefer that the order lives throughout the entire opening process, until it is clear their liquidity was not utilized in the opening. Also, for purposes of consistency the time-in-force designation is hyphenated throughout Section 8. The Exchange believes that these changes help to clarify how eligible quotations and orders are handled in the opening process.

The Exchange proposes to add the concept of a Valid Width NBBO and ABBO with respect to away and on-Exchange interest. Specifically, in proposed Section 8(a)(6) the Exchange defines ''Valid Width NBBO'' as the combination of all away market quotes and any combination of NOM-registered Market Maker (''Market Maker'') orders and quotes received over the OTTO or SQF Protocols within a specified bid/ask differential as established and published by the Exchange. The Valid Width NBBO will be configurable by underlying, and a table with valid width differentials will be posted by NASDAQ

volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis and announced to the membership on the Exchange's Web site. Chapter VI, Section 8(a)(5).

[9] For better readability, this part of Section 8(b) is proposed to be broken into two sentences and the phrase ''the Opening Cross shall occur'' inserted. Reference to firm quote on OPRA is proposed to be deleted from this part of Section 8(b) and is, as discussed, put into proposed Section 8(b)(2)(B).

[10] The specific time of day, currently 9:45 a.m., is disseminated at *http://www.nasdaqtrader.com/content/technicalsupport/NOM_SystemSettings.pdf.*

[11] *See* proposed Section 8(b).

[12] Simultaneously, the price parameters are deleted from current Section 8(a)(2)(A). In a similar vein, current Section 8(a)(2)(E) indicative prices are deleted. The Exchange is re-organizing Section 8 and thereby deleting the noted price parameters and indicative prices in order to offer an integrated description of the opening process in proposed Section 8(b).

[13] The term ''On the Open Order'' (OPG) is also proposed to be added as a Time in Force to Chapter VI, Sec 1(g), and is added as an Order Type to Chapter VI, Sec 8(a)(4).

[14] The Exchange notes that EXPR (wait or expire time) was deleted in a prior filing, *see* Securities Exchange Act Release No. 64311 (April 20, 2011), 76 FR 23349 (April 26, 2011) (NASDAQ–2011–022) (notice of filing and immediate effectiveness), but inadvertently was left in the rule text where ''and OPG'' is proposed to be added. EXPR is, therefore, not shown in the proposed rule text.

on its Web site. Away markets that are crossed (*e.g.* AMEX crosses AMEX, AMEX crosses CBOE) will void all Valid Width NBBO calculations. If any Market Maker orders or quotes on NOM are crossed internally, then all such orders and quotes will be excluded from the Valid Width NBBO calculation. In addition, in proposed Section 8(a)(7), the Exchange defines ''ABBO'' as the displayed National Best Bid or Offer not including the Exchange's Best Bid or Offer.

The Exchange is making these proposals to ensure that all away market quotes and any combination of Market Maker orders and quotes [15], whether they include the Exchange's Best Bid or Offer or not, are represented. The Exchange believes that including (or adding) the proposed Valid Width NBBO and ABBO within the opening rule should be beneficial to market participants by offering a more robust Opening Cross process. The proposed change will significantly enhance the price discovery mechanism in the opening process to include not only Market Maker orders and quotes but also away market interest.[16]

Following are examples to illustrate, among other things, the calculation of the Valid Width NBBO as proposed in Section 8(a)(6) and the definition of the ABBO as proposed in Section 8(a)(7).

Example 1 (normal market conditions). Assume that the Valid Width NBBO bid/ask differential is set by the Exchange at .10. MM1 is quoting on the Exchange .90–1.15 and MM2 is quoting on the Exchange .80–.95, thus making the NOM BBO .90–.95. Assume the ABBO is .85–1.00. The Exchange considers all bid and all offers to determine the bid/ask differential; in this example, the best bid/ask is .90–.95 which satisfies the required .10 bid/ask differential and is considered a Valid Width NBBO. Pursuant to the rule proposed in Section 8(b)(2)(A), NOM will open with no trade and BBO disseminated as .90–.95.

Example 2 (away markets are crossed). Assume the Valid Width NBBO bid/ask differential is set by the Exchange at .10. MM1 is quoting on the Exchange 1.05–1.15 and MM2 is quoting on the Exchange 1.00–1.10, thus making the NOM BBO 1.05–.1.10. Assume Exchange 2 is quoting .90–1.10 and Exchange 3 is quoting .70–.85. Since the ABBO is crossed (.90–.85), Valid Width NBBO calculations are not taken into account until the away markets are no longer crossed. Once the away markets are no longer crossed, the Exchange will determine if a Valid Width NBBO can be calculated. Assume the ABBO uncrosses because Exchange 3 updates their quote to .90–1.15, the NOM BBO of 1.05–1.10 is considered a Valid Width NBBO. Pursuant to the rule proposed in Section 8(b)(2)(A), NOM will open with no trade and BBO disseminated as 1.05–1.10.

Example 3 (NOM orders/quotes are crossed, ABBO is Valid Width NBBO). Assume that the Valid Width NBBO bid/ask differential is set by the Exchange at .10. MM1 is quoting on the Exchange 1.05–1.15 (10×10 contracts) and MM2 is quoting on the Exchange .90–.95 (10×10 contracts), thus making the NOM BBO crossed, 1.05–.95, while another MM3 is quoting on the Exchange at .90–1.15 (10x10 contracts). Since the NOM BBO is crossed, the crossing quotes are excluded from the Valid Width NBBO calculation. However, assume Exchange 2 is quoting .95–1.10 and Exchange 3 is quoting .95–1.05, resulting in an uncrossed ABBO of .95–1.05. The ABBO of .95–1.05 meets the required .10 bid/ask differential and is considered a Valid Width NBBO. The Opening Cross will follow the rules set forth in proposed Section 8(b)(4)(B) because MM1 and MM2 have 10 contracts each which cross and there is more than one price at which those contracts could execute. Thus, the Opening Cross will occur with 10 contracts executing at 1.00, which is the mid-point of the National Best Bid and the National Best Offer. At the end of the opening process, only the quote from MM3 remains so the NOM disseminated quote at the end of opening process will be .90–1.15 (10×10 contracts).

Second, in current Section 8(b) the Exchange proposes to remove language that ''there is no Imbalance'' and language regarding ''on a class-by-class basis'', and proposes to add additional clarifying language pertaining to an Opening Cross after a trading halt. The Imbalance language is being removed from the introductory sentence of current Section 8(b) to make the language of the Processing of the Opening Cross apply more generally. The details surrounding the Opening Cross as it relates specifically to an Imbalance is currently provided for in Section 8(b)(5) and is being added in new proposed Section 8(b)(4)(C). The Exchange proposes to remove the ''on a class-by-class basis'' language because the Exchange will use a regular market hours quote or trade (as determined by the Exchange) for all classes on the Exchange for the Opening Cross, without distinguishing among different classes. Additionally, the Exchange proposes to add language to current Section 8(b) to make it clear that an Opening Cross shall occur after a trading halt when trading resumes pursuant to Chapter V, Section 4.[17]

Third, the Exchange proposes to add certain criteria to current Section 8(b), in order to describe how the opening process will differ depending on whether a trade is possible or not on NOM. Provided that the ABBO is not crossed these criteria necessitate, per proposed new Section 8(b)(1), that a Valid Width NBBO will always be required to open a series when there is tradable interest on NOM; and require, per proposed new Section 8(b)(2), that in cases where there is no tradable interest, any one of three conditions could trigger a series on NOM to open. Those conditions are listed in proposed new (b)(2) as: (A) A Valid Width NBBO is present, (B) a certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA, or (C) a certain period of time (as determined by the Exchange) has elapsed.[18] The Exchange believes that listing these criteria will, similarly to other proposed changes, organize and clarify the opening process and make it more robust and protective for market participants. The requirement of a Valid Width NBBO being present will help to ensure that opening execution prices are rational based on what is present in the broader marketplace during the opening process.

Fourth, the Exchange proposes changes to provide additional information during the opening process. Current Section 8(b)(1) indicates that NASDAQ shall disseminate an Order Imbalance Indicator every 5 seconds and does not allow for a shorter dissemination interval. New proposed Section 8(b)(3) indicates that NASDAQ shall disseminate by electronic means

[15] In respect of the Valid Width NBBO, the orders and quotes on the Exchange would be received over the OTTO or SQF Protocols.

[16] Current Section 8(b)(2)(B) and (b)(2)(C) discuss the Opening Cross procedure if more than one price exists. As noted below, the Exchange proposes to add language to current Section 8(b)(2)(C) regarding unexecuted contracts. Proposed Section 8(b)(5) and (b)(6) (renumbered from current Section 8(b)(3) and (b)(4), respectively) discuss how Eligible Interest would be handled vis a vis the Opening Cross; proposed (b)(5) states that if the NASDAQ Opening Cross price is selected and not all Eligible Interest available in NOM is executed, then all Eligible Interest shall be executed at the NASDAQ Opening Cross price in accordance with the execution algorithm assigned to the associated underlying option. No changes are proposed to Sections 8(b)(6) and 8(b)(7) other than re-numbering. Section 8 (b)(6) (renumbered from current Section 8(b)(4)) states that all Eligible Interest executed in the Nasdaq Opening Cross shall be executed at the Nasdaq Opening Cross price. Proposed Section 8(b)(7) (renumbered from current Section 8(b)(5)) discusses the procedure of disseminating one additional Order Imbalance Indicator, if the conditions specified in proposed Section 8(b) have occurred, but there is an imbalance containing marketable routable interest; any remaining Imbalance will be canceled, posted, or routed as per the directions on the customer's order.

[17] Chapter V, Section 4 states that trading in an option that has been the subject of a halt under Section 3 of Chapter V shall be resumed upon the determination by NASDAQ Regulation, that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Trading shall resume according to the process set forth in proposed Chapter VI, Section 8 of the rules.

[18] In the case of a crossed ABBO, the conditions set forth in new proposed Section (8)(b)(1) and (b)(2) will become operative when the ABBO becomes uncrossed.

an Order Imbalance Indicator [19] every 5 seconds beginning between 9:20 a.m. and 9:28 a.m., or a shorter dissemination interval as established by NASDAQ, with the default being set at 9:25 a.m. The start of dissemination, dissemination interval, and changes to prior Order Imbalance Indicators, if any, shall be posted on the Exchange Web site. To further enhance price discovery and disclosure regarding the Opening Cross process, the Exchange proposes to add the ability for it to disseminate imbalances more frequently, which the rule currently does not allow for. The Exchange will indicate start of dissemination and the dissemination interval on its Web site. The Exchange believes that, like the other proposed changes, this proposed enhancement regarding additional information disclosure should prove to be very helpful to market participants, particularly those that are involved in adding liquidity during the Opening Cross process.

Fifth, the Exchange proposes to add language regarding how the Opening Cross will occur in relation to the Valid Width NBBO, and further what would happen if more than one price exists under certain circumstances. With this proposal, current Section 8(b)(2)(B) will be deleted and the determination of the Opening Cross price will be more fully described under proposed new Section 8(b)(4)(A)–(C). The new language added to current subparagraph (A) stipulates that the Opening Cross shall occur at the price that maximizes the number of contracts of Eligible Interest in NOM to be executed at or within the ABBO and within a defined range, as established and published by the Exchange, of the Valid Width NBBO. Current subparagraph (A) simply states the Opening Cross shall occur at the price that maximizes the number of contracts of Eligible Interest in NOM to be executed at or within the NBBO. The new proposed language being added to (A) will require that the Opening Cross price not only be at a price at or within the ABBO but also be within a defined range of the Valid Width NBBO. This addition will ensure that the Exchange does not open at a price too far away from the best interest available in the marketplace as a whole.

The new proposed Section 8(b)(4)(B) and (C) describe in detail at what price the Opening Cross will occur if there exists more than one price under Section 8(b)(4)(A) at which the maximum number of contracts could be executed at or within the ABBO and equal to or within a defined range of the Valid Width NBBO. Current Section 8(b)(2)(C) (renumbered as proposed to (b)(4)(B)) states that if more than one price exists under subparagraph (B),[20] the NASDAQ Opening Cross shall occur at the price that is closest to the midpoint price of (1) the National Best Bid or the last offer on NOM against which contracts will be traded whichever is higher, and (2) the National Best Offer or the last bid on NOM against which contracts will be traded whichever is lower. In an effort to make the rule language more precise and to signify that to the extent possible the Opening Cross will occur at the midpoint price, the Exchange proposes to delete the language ''the price that is closest to''. New subparagraph (B), as proposed, will read that if more than one price exists under subparagraph (A) [21] and there are no contracts that would remain unexecuted in the cross, the Nasdaq Opening Cross shall occur at the midpoint price, rounded to the penny closest to the price of the last execution in that series and in the absence of a previous execution price, the price will round up, if necessary.[22] The price is determined using the midpoint of (1) the National Best Bid or the last offer on NOM against which contracts will be traded whichever is higher, and (2) National Best Offer or the last bid on NOM against which contracts will be traded whichever is lower. The Exchange believes the proposed language more fully describes how rounding is applied to determine the opening execution price in place of a general statement of ''the price that is closest to the midpoint price''. In addition, the Exchange proposes new subparagraph (C) to describe the price at which the Opening Cross will occur when more than one price exists under subparagraph (A) and there are contracts which would remain unexecuted in the cross which was previously described in Section 8(b)(2)(B) with less granularity and without consideration of the new Valid Width NBBO. New proposed subparagraph (C) will state if more than one price exists under subparagraph (A), and contracts would remain unexecuted in the cross, then the opening price will be the highest/lowest price, in the case of a buy/sell imbalance, at which the maximum number of contracts can trade which is equal to or within a defined range as established and published by the Exchange,[23] of the Valid Width NBBO on the contra side of the imbalance that would not trade through the ABBO. Where there is more than one price and there is an imbalance, in Section 8(b)(4)(C) the Exchange is proposing that the Opening Cross price also be within a defined range of the Valid Width NBBO on the contra side of the imbalance, to help ensure that the opening price does not stray too far from the best prices available and that the opening price is rational. In addition, the Opening Cross price will be the highest price, in the case of a buy imbalance, where the maximum number of contracts can trade which is equal to or within the defined range of the Valid Width NBBO. Similarly, in the case of a sell imbalance, the Opening Cross price will be the lowest price at which the maximum number of contracts can trade which is equal to or within the defined range of the Valid Width NBBO. This serves to provide opening execution price protections as well as an Opening Cross price which will not have residual unexecuted interest reflected in the marketplace, after the Opening Cross execution, at a price which crosses the Opening Cross execution price.

The following examples illustrate, among other things, the determination of the Opening Cross price.

Example 4 (no imbalance and one possible price). Assume a Valid Width NBBO bid/ask differential allowance of .10 and a defined range of .10. Also, assume that the ABBO is 1.00–1.10 (10x10 contracts) and the NOM BBO is .99–1.15 (10x10 contracts) which represents a quote from MM1. Assume that

[19] ''Order Imbalance Indicator'' means a message disseminated by electronic means containing information about Eligible Interest and the price in penny increments at which such interest would execute at the time of dissemination. For the information disseminated by the Order Imbalance Indicator (*e.g.* Current Reference Price, number of paired contracts, size and buy/sell direction of Imbalance, indicative prices), *see* Chapter VI, Section 8(a)(2). The term ''order'' means a firm commitment to buy or sell options contracts. Chapter 1, Section 1(a)(44).

[20] Current Section 8(b)(2)(B) currently states that if more than one price exists under subparagraph (A), the NASDAQ Opening Cross shall occur at the entered price at which contracts will remain unexecuted in the cross. Subparagraph (A) states that the NASDAQ Opening Cross shall occur at the price that maximizes the number of contracts of Eligible Interest in NOM to be executed at or within the National Best Bid and Offer.

[21] The Exchange proposes to change the subparagraph reference from (B) to (A) as current subparagraph (B) is being deleted and expanded upon with new subparagraphs (B) and (C).

[22] The Exchange notes that rounding will be applied, if needed, in the following manner: If the previous closing price is less than the midpoint, then the opening price rounds down; and if the previous closing price is greater than the midpoint, or if there is no closing price, then the opening price rounds up. For example, if there is a midpoint of 1.045, the opening price would be rounded to 1.04 if the previous closing price was 1.00, and would be rounded to 1.05 if the previous closing price was 1.10.

[23] The Exchange notes that the system will also calculate a defined range to limit the range of prices at which an order will be allowed to execute. Chapter VI, Section 10 (7).

a Customer Order 1 comes in to Buy 10 contracts for 1.05 and a Customer Order 2 comes in to Sell 10 contracts at 1.05. Once regular markets hours have begun and the underlying security has opened, the system determines if there is a Valid Width Quote present. While the NOM BBO of .99–1.15 is wider than the allowed bid/ask differential to qualify as a Valid Width NBBO on its own, the ABBO market of 1.00–1.10 does qualify as a Valid Width NBBO. In this scenario, there is not an opening imbalance since there are 10 contracts on both the buy and sell side which could possibly trade. Thus, the Opening Cross will follow the rules set forth in proposed Section 8(b)(4)(A). Under this rule, the Opening Cross will occur at the price which maximizes the number of contracts of Eligible Interest at or within the ABBO and within a defined range of the Valid Width NBBO. In this scenario, the Opening Cross price will be 1.05 with 10 contracts executing and NOM BBO disseminated as .99–1.15.

Example 5 (no imbalance and more than one possible price). Assume a Valid Width NBBO bid/ask differential allowance of .10 and a defined range of .10. Assume the ABBO is 1.00–1.10 (10x10 contracts) and the NOM BBO is .99–1.11 (10x10 contracts) which represents a quote from MM1. Assume that a Customer Order 1 comes in to Buy 10 contracts for 1.08, and a Customer Order 2 comes in to Sell 10 contracts at 1.00. Once regular markets hours have begun and the underlying security has opened, the system determines if there is a Valid Width Quote present. While the NOM BBO of .99–1.11 is wider than the allowed bid/ask differential to qualify as a Valid Width NBBO on its own, the ABBO market of 1.00–1.10 does qualify as a Valid Width NBBO. In this scenario, there is not an imbalance as there are 10 contracts to buy and 10 contracts to sell, however, there exist multiple price points at which those 10 contracts could execute within the ABBO and within a .10 range of the Valid Width NBBO. Thus, the Opening Cross will follow the rules set forth in proposed Section 8(b)(4)(B) and the Opening Cross will occur with 10 contracts executing at 1.04. 1.04 represents the midpoint of 1.00 (the last offer on NOM against which contracts will be traded or the National Best Bid since the two are equal) and 1.08 (the last bid on NOM against which contracts will be traded). If the example is changed slightly such that Order 1 is a market order to Buy 10 contracts, the Opening Cross will occur with 10 contracts executing at 1.05 which represents the midpoint of 1.00 (the last offer on NOM against which contracts will be traded or the National Best Bid since the two are equal) and 1.10 (the National Best Offer against which contracts will be traded). The market order is considered to be a price higher than the National Best Offer and outside of the NBBO therefore, the National Best Offer is used in determining the Opening Cross price. The NOM BBO disseminated after the opening in either case will be .99–1.11.

Example 6 (imbalance and more than one possible price). Assume that the ABBO is 1.05–1.50 (10x10 contracts) and MM1 is quoting on NOM 1.15–1.20 (10x10 contracts) as well as MM2 is quoting on NOM 1.05–1.50 (10x10 contracts). Also assume that the Valid Width NBBO bid/ask differential allowance and defined range are each .10. Also assume a Customer Order 1 is entered to Buy 30 contracts for 1.45. In this example, the Valid Width NBBO is comprised solely of the NOM 1.15–1.20 quote. There is more than one price at which the Exchange can maximize the number of contracts executed, 10 contracts, during the Opening Cross and there exist multiple prices at which 20 contracts will remain unexecuted in the Opening Cross. Thus, the Opening Cross price will be determined under proposed Section 8(b)(4)(C). In this example, the Valid Width NBBO is 1.15–1.20 which is the best bid and best offer of the MM1 quote and the ABBO and is tighter than the allowed differential of .10. With a defined range of .10 of the Valid Width NBBO on the contra side of the imbalance (1.20 + .10), and a buy imbalance, the Opening Cross price will be 1.30 with Order 1 buying 10 contracts from MM1. The Opening Cross price of 1.30 represents the highest price at which the maximum number of contracts, 10 contracts, can trade which is equal to or within the defined range of the Valid Width NBBO on the contra side of the imbalance that would not trade through the ABBO. The remaining unexecuted contracts will be posted on the book and reflected in the NOM quote as a 1.30 bid with NOM BBO disseminated as 1.30–150 [sic] with offer as non-firm, as proposed in Section 8(b)(4)(C)(iii). If this example were changed slightly such that the ABBO was 1.05–1.25, the opening price would be 1.25 since the Opening Cross cannot occur at a price outside of the ABBO.

Because new proposed subsections (b)(1) and (b)(2) are added, current subsections (b)(1) through (b)(5) are re-numbered to (b)(3) through (b)(7), and the reference to (b)(2) in current (b)(7) is re-numbered to (b)(4).

Sixth, the Exchange is proposing new language to indicate the price at which remaining unexecuted contracts will be posted. Specifically, in proposed Section 8(b)(4)(C), formerly covered in (b)(2), the Exchange proposes to state that if more than one price exists under subparagraph (A), and contracts would remain unexecuted in the cross, then the opening price will be the price at which the maximum number of contracts can trade that are equal to or within the defined range of the Valid Width NBBO on the contra side of the imbalance that would not trade through the ABBO. New proposed subsections (i)–(iv) to Section 8(b)(4)(C) indicate the price at which unexecuted contracts will be posted on the book following the Opening Cross and the subsequent handling of the residual unexecuted contracts, as follows: (i) If unexecuted contracts remain with a limit price that is equal to the opening price, then the remaining unexecuted contracts will be posted at the opening price, displayed one minimum price variation (MPV) away if displaying at the opening price would lock or cross the ABBO, with the contra-side NOM BBO reflected as firm; (ii) if unexecuted contracts remain with a limit price that is through the opening price, and there is a contra side ABBO at the opening price, then the remaining unexecuted contracts will be posted at the opening price, displayed one minimum price variation (MPV) away from the ABBO, with the contra side NOM BBO reflected as firm and order handling of any remaining interest will be done in accordance with the routing and time-in-force instructions of such interest and shall follow the Acceptable Trade Range mechanism set forth in Chapter VI, Section 10; (iii) if unexecuted contracts remain with a limit price that is through the opening price, and there is no contra side ABBO at the opening price, then the remaining contracts will be posted at the opening price, with the contra-side NOM BBO reflected as non-firm; and (iv) order handling of any residual unexecuted contracts will be done in accordance with the reference price set forth in Chapter VI, Section 10, with the opening price representing the reference price. This proposed behavior ensures that residual unexecuted contracts from the Opening Cross, regardless of their limit prices, are posted on the book at the opening price before subsequently being routed pursuant to Chapter VI, Section 11 or walked to the next potential execution price(s) under the Acceptable Trade Range set forth in Chapter VI, Section 10(7), with the opening price representing the ''reference price'' of that rule. This enhancement to the NOM Opening Cross ensures that aggressively priced interest does not immediately post at prices which may be considered to be egregious if the interest were to post and execute immediately following the Opening Cross. The 'firm' versus 'non-firm' tagging of contra-side interest when residual Opening Cross interest is posted follows the construct currently in place on the Exchange when aggressive interest is received and triggers an Acceptable Trade Range (ATR) process. Contra-side NOM BBO interest is reflected as non-firm when the Exchange has interest with a limit price (or market order) that is more aggressive than the Opening Cross price. The purpose behind this is to ensure that aggressively priced residual interest maintains priority should other aggressively priced interest be entered before the residual interest is permitted to access the next allowable range of prices.

Following are examples illustrating the proposed rule text regarding the handling of unexecuted contracts.

Example 7 (proposed Section 8(b)(4)(C)(i)). Assume the ABBO is 1.00–1.10 (10x10 contracts), and the NOM BBO is .99–1.11 (10x10 contracts). Assume there is a Customer order to Buy 10 contracts at the market and a Customer order to Sell 50 contracts at 1.00. Further assume the Valid Width NBBO is defined as .10 and the defined range is also .10. The Valid Width NBBO in this example is comprised solely of the ABBO which has a bid/ask differential equal to the allowance of .10. Since there is 1) an imbalance, 2) multiple prices at which the maximum number of contracts (10) can execute equal to or within the ABBO and, 3) multiple prices at which the maximum number of contracts can execute equal to or within a defined range of the Valid Width NBBO on the contra side of the imbalance that would not trade through the ABBO, the Opening Cross will occur at a price determined under Section 8(b)(4)(C). The Opening Cross will result in 10 contracts being executed at 1.00. The 40 remaining unexecuted contracts will be posted as a 40 contract offer at 1.00 and displayed at 1.01 (one MPV away from the away market bid of 1.00) in order to not display at a price which locks the ABBO under proposed Section 8(b)(4)(C)(i). The resulting displayed NOM BBO would be .99–1.01, reflected as firm on both sides of the market, and the remaining interest would be handled in accordance with the routing and time in-force instructions of the residual interest [24]. Since the residual interest is posted at its limit and therefore would not be permitted to execute at more aggressive prices, the contra-side NOM BBO is reflected as firm.

Example 8 (proposed Section 8(b)(4)(C)(ii)). Assume the ABBO is 1.00–1.10 (10x10 contracts), and the NOM BBO is .99–1.11 (10x10 contracts). Assume there is a Customer order to Buy 10 contracts at the market and a Customer order to Sell 50 contracts at .85. Further assume the Valid Width NBBO is defined as .10 and the defined range is also .10. The Valid Width NBBO in this example is comprised solely of the ABBO which has a bid/ask differential equal to the allowance of .10. Since there is an imbalance and multiple prices exist at which the maximum number of contracts (10) can execute equal to or within the ABBO and within a defined range of the Valid Width NBBO without trading through the ABBO, the Opening Cross will occur at a price determined under Section 8(b)(4)(C). The Opening Cross would result in 10 contracts being executed at 1.00. The 40 remaining unexecuted contracts will be posted as a 1.00 offer and be displayed at 1.01 so as not to lock the away market bid under proposed Section 8(b)(4)(C)(ii). Since the residual interest is posted at a price which internally locks the ABBO and therefore would not be permitted to execute at more aggressive prices until the ABBO moves, the contra-side NOM BBO is reflected as firm. The resulting displayed NOM BBO would be .99–1.01, reflected as firm on both sides of the market, and the remaining interest would be handled in accordance with the routing and time-in-force instructions of the residual interest and in accordance with Chapter VI, Section 10 of the NOM rules, and the contra-side BBO will be marked as firm or non-firm in accordance with the same Section 10 rule.

Example 9 (proposed Section 8(b)(4)(C)(iii)). Assume the ABBO is .00–5.00 (0x10 contracts). Also assume the Valid Width NBBO bid/ask differential is defined as 0.10 and the defined range as described in proposed Section 8(b)(4)(C) is .10. Further, assume NOM has received a quote of .99–1.09 (10x10), a Customer order to Buy 10 contracts at the market, a Customer order to Buy 10 contracts for .70, and a Customer order to Sell 50 contracts at .85. There is a Valid Width NBBO present with the NOM quote of .99–1.09, which is equal to the defined bid/ask differential of .10. The Opening Cross has an imbalance on the sell side. Since there is more than one price at which contracts would remain unexecuted in the cross, the Opening Cross price is determined using the logic included in proposed Section 8(b)(4)(C). This will result in an execution of 20 contracts at .89, since the Valid Width NBBO on the bid side (contra to the imbalance side) is .99 less the defined range of .10, with the residual contracts of the .85 Sell Order posted on the book at .89. The resulting NOM BBO would be reflected as .70–.89, reflected as non-firm on the bid, firm on the offer, and the remaining unexecuted interest would be handled in accordance with the routing and time-in-force instructions of the residual interest. The .70 bid is reflected as non-firm to ensure that incoming interest will not be permitted to immediately execute ahead of the more aggressively priced Opening Cross residual interest. The residual interest from the Opening Cross will been handled in accordance with Chapter VI, Section 10 of the NOM rules, and the contra-side BBO will be marked as firm or non-firm in accordance with the same Section 10 rule.

Seventh, the Exchange is proposing new language to indicate the use of execution algorithms assigned to the underlying options. Specifically, in proposed Section 8(b)(5) (formerly (b)(3)), the Exchange proposes to delete price/time priority and add the use of execution algorithms by stating that if the Nasdaq Opening Cross price is selected and fewer than all contracts of Eligible Interest that are available in NOM would be executed, all Eligible Interest shall be executed at the Nasdaq Opening Cross price in accordance with the execution algorithm assigned to the associated underlying option. By substituting language indicating use of execution algorithms rather than price/time priority, the Exchange recognizes that there are now multiple execution allocation models,[25] and these are factored into the Opening Cross.

Lastly, the Exchange proposes to add a provision regarding the return of orders in un-opened symbols in the absence of an Opening Cross. Proposed new Section 8(c) is substituted for current Section 8(c) and provides the procedure if an Opening Cross in a symbol is not initiated before the conclusion of the Opening Order Cancel Timer. Specifically, proposed new Section 8(c) states that if an Opening Cross is not initiated under such circumstances, a firm may elect to have orders returned by providing written notification to the Exchange. These orders include all non GTC orders received over the FIX protocol. The Opening Order Cancel Timer represents a period of time since the underlying market has opened, and shall be established and disseminated by NASDAQ on its Web site. Proposed Section 8(c) will provide participants the ability to have their orders returned to them if NOM is unable to initiate an Opening Cross within a reasonable time of the opening of the underlying market. In addition, proposed Section 8(c) deletes language which is present in current Section 8(c) regarding how the Opening Cross operates in relation to the presence or absence of a regular market hour quote or trade by the Market for the Underlying and the process of the Opening Cross in relation to opening quotes or orders which lock or cross each other. The deleted provisions are now being more thoroughly described in proposed Section 8(b).

The Exchange believes that the proposed changes significantly improve the quality of execution of NOM's opening. The proposed changes give participants more choice about where, and when, they can send orders for the opening that would afford them the best experience. The Exchange believes that this should attract new order flow. The proposed changes should prove to be very helpful to market participants, particularly those that are involved in adding liquidity during the Opening Cross. Absent these proposed enhancements, NOM's opening quality will remain less robust than on other exchanges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [26] in general, and furthers the

[24] As set forth in proposed Section 8(b)(4)(C)(iv), order handling of any residual interest in the Opening Cross will also be done in accordance with the reference price set forth in Chapter VI, Section 10, with the opening price representing the reference price.

[25] *See, e.g.,* Chapter VI, Section 10(1).

[26] 15 U.S.C. 78f(b).

objectives of Section 6(b)(5) of the Act [27] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The proposal is consistent with the goals of the Act because it will enhance and clarify the Opening Cross process, minimize or negate unnecessary complexity, and encourage liquidity at the crucial time of market open. The proposed change will also enhance the price discovery mechanism in the opening process to include not only Market Maker orders and quotes but also away market interest as represented by quotes. The Exchange believes this change will make the transition from the Opening Cross period to regular market trading more efficient and thus promote just and equitable principles of trade and serve to protect investors and the public interest.

The proposal is designed to promote just and equitable principles of trade by updating and clarifying the rules regarding the NASDAQ Opening and Halt Cross. In particular, the proposal would update or add Chapter VI, Section 8 definitions regarding NASDAQ Opening Cross, Eligible Interest, NBBO, and ABBO in respect of the Opening Cross and resuming options trading after a halt. The Exchange would add to Chapter VI, Section 1 the definition of ''On the Opening Order'' (OPG) as used in Section 8 in respect of the Opening Cross. The proposal would also, as discussed, make changes in Section 8 regarding: The criteria for opening of trading or resumption of trading after a halt; NASDAQ posting on its Web site any changes to the dissemination interval or prior Order Imbalance Indicator; the procedure if more than one price exists; the procedure if there are unexecuted contracts; and the ability of firms to elect that orders be returned in symbols that were not opened on NOM before the conclusion of the Opening Order Cancel Timer.

The proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. In particular, the Exchange proposes in Chapter VI, Section 8(b) to remove the class-by-class quote or trade characteristic because for the Opening Cross the Exchange will use a regular market hours quote or trade (as determined by the Exchange) for all underylings [sic] on the Exchange, without distinguishing among underlying symbols, or, in the case of a trading halt the Opening Cross shall occur when trading resumes pursuant to Chapter V, Section 4. The Exchange proposes to set forth in Section 8(b) clear language describing under what circumstances an Opening Cross will occur, and how the Opening Cross will occur if more than one price exists under certain circumstances. Thus, for example, proposed Section 8(b)(4) specifies that if more than one price exists under subparagraph (A), and contracts would remain unexecuted in the cross, then the opening price will be the highest/lowest price, in the case of a buy/sell imbalance, at which the maximum number of contracts can trade which is equal to or within a defined range, as established and published by the Exchange, of the Valid Width NBBO on the contra side of the imbalance that would not trade through the ABBO. The Exchange proposes, in Section 8(b)(4)(C), three alternatives for how remaining unexecuted contracts will be handled. These include: If unexecuted contracts remain with a limit price that is equal to the opening price, if unexecuted contracts remain with a limit price that is through the opening price and there is a contra side ABBO at the opening price, and if unexecuted contracts remain with a limit price that is through the opening price and there is no contra side ABBO at the opening price. The Exchange also proposes to clarify what happens if an Opening Cross in a symbol is not initiated before the conclusion of the Opening Order Cancel Timer. In that case, proposed Section 8(c)(2) [sic] indicates that a firm may elect to have orders returned by providing written notification to the Exchange. These orders include all non GTC orders received over the FIX protocol. The Opening Order Cancel Timer represents a period of time since the underlying market has opened, and shall be established and disseminated by the Exchange on its Web site.

The proposal is designed in general to protect investors and the public interest. The Exchange proposes to add certain criteria to current Section 8(b), in order to describe how the opening process will differ depending on whether a trade is possible or not on NOM. Assuming that ABBO is not crossed, proposed new Chapter VI, Section 8(b)(1) states that if there is a possible trade on NOM, a Valid Width NBBO must be present. Assuming that ABBO is not crossed, proposed Section 8(b)(2) states that if no trade is possible on NOM, then NOM will open dependent upon one of the following: A Valid Width NBBO is present; A certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA; or A certain period of time (as determined by the Exchange) has elapsed. The Exchange proposes to further enhance price discovery and disclosure regarding the Opening Cross process, by proposing in current Section (b)(1) (renumbered to be (b)(3)) that NASDAQ may choose to establish a dissemination interval that is shorter than every 5 seconds; and that the Exchange will indicate the interval on its Web site in conjunction to other information regarding the Opening Process. Moreover, the Exchange proposes to add language in current Section 8(c)(2) regarding the return of orders in un-opened symbols in the absence of an Opening Cross. Thus, if an Opening Cross in a symbol is not initiated before the conclusion of the Opening Order Cancel Timer, a firm may elect to have orders returned by providing written notification to the Exchange. These orders include all non GTC orders received over the FIX protocol. The Opening Order Cancel Timer represents a period of time since the underlying market has opened, and shall be established and disseminated by NASDAQ on its Web site.

For the above reasons, NASDAQ believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act. The Exchange believes that the proposed changes significantly improve the quality of execution of NOM's opening. The proposed changes give participants more choice about where, and when, they can send orders for the opening that would afford them the best experience. The Exchange believes that this should attract new order flow. The proposed changes should prove to be more robust and helpful to market participants, particularly those that are involved in adding liquidity during the Opening Cross.

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. While the Exchange does not believe that the proposal should have any direct impact on competition, it believes the proposal should help to further clarify the Opening Cross process and make it more efficient, reduce order entry complexity, enhance market liquidity, and be beneficial to market participants. Moreover, the Exchange believes that

[27] 15 U.S.C. 78f(b)(5).

the proposed changes significantly improve the quality of execution of NOM's opening. The proposed changes give participants more choice about where, and when, they can send orders for the opening that would afford them the best experience. The Exchange believes that this should attract new order flow. Absent these proposed enhancements, NOM's opening quality will remain less robust than on other exchanges, and the Exchange will remain at a competitive disadvantage.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–116 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–NASDAQ–2014–116. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–116, and should be submitted on or before December 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–28877 Filed 12–9–14; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8964]

Third International Conference on Financing for Development

AGENCY: Department of State.

ACTION: Request for comments.

SUMMARY: The Department of State invites the public, including non-governmental and civil society organizations, think tanks, educational institutions, private sector companies, and other interested persons, to submit written input on U.S. goals and objectives for the third International Conference on Financing for Development.

DATES: Written comments are due by January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Benjamin Thomson, Financial Economist, Office of Development Finance, Bureau of Economic and Business Affairs, Department of State at 202–647–9462. Comments should be emailed to Benjamin Thomson (*Post2015_Financing@State.gov*).

SUPPLEMENTARY INFORMATION: Pursuant to UN General Assembly resolution 68/279, the third International Conference on Financing for Development will be held on 13–16 July 2015, in Addis Ababa, Ethiopia (*http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/68/279&Lang=E*). Many of the preparatory discussions for the 2015 Financing for Development Conference have cited the potential to do more to maximize the development impact of existing development flows; leverage the considerable resources, knowledge, and expertise of a host of new partners; and truly revitalize a global partnership around proven ingredients of successful implementation. Some specific elements being discussed include data about total financial flows to developing countries, innovation in the use of official development assistance (especially to leverage other flows); reduction in the cost of remittances; tapping domestic resources in developing countries through enhanced capacity for tax collection, broadening the tax base and boosting savings, bolstering private investment in and trade with developing countries, curtailing illicit financial flows and fighting corruption to ensure the efficient and effective use of resources and domestic long-term financing.

The Department of State is seeking public comments on these concerns and all other elements related to United States interests in the Financing for Development Conference negotiations.

Dated: December 4, 2014.

Ambassador Lisa J. Kubiske,

Deputy Assistant Secretary, Office of International Finance and Development, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2014–28970 Filed 12–9–14; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability for the Cal Black Memorial Airport Draft Supplemental Environmental Impact Statement (Draft SEIS) and Section 4(f) Evaluation; Notice of Public Comment Period; and Notice of Opportunity for a Public Hearing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability, notice of comment period, and notice of opportunity for a public hearing.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and Council on Environmental Quality regulations (40 CFR part 1500–1508), the Federal Aviation Administration announces the availability and request for comment on a Draft Supplemental Environmental Impact Statement (Draft SEIS) and Section 4(f) Evaluation for the Cal Black Memorial Airport. The Section 4(f) Evaluation was prepared pursuant to Section 4(f) of the Department of Transportation Act of 1966 (recodified at 49 U.S.C. 303(c)).

DATES: Comments must be received on or before 45 days from the date of the publication of the Notice of Availability by the U.S. Environmental Protection Agency in the **Federal Register**. Anyone interested in the project has up to 15 days from the date of EPA's publication of the Notice of Availability in the **Federal Register** to request a hearing.

ADDRESSES: Copies of the Draft SEIS may be viewed during regular business hours at the following locations:

1. Federal Aviation Administration Airports Division, Suite 315, 1601 Lind Avenue SW., Renton, WA 98057.

2. Federal Aviation Administration, Airports District Office, Suite 224, 26805 East 68th Avenue, Denver, CO 80249.

3. San Juan County Courthouse, County Executive Office, 117 S Main, Monticello, Utah 84535.

4. Web site: *http://halls.crossing.airportnetwork.com/.*

Written requests for the Draft SEIS and Section 4(f) Evaluation, submittal of comments on the documents, and requests for a public hearing can be submitted to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Janell Barrilleaux, Environmental Program Manager, Federal Aviation Administration Airports Division, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98057. Mrs. Barrilleaux may be contacted during business hours at (425) 227–2611 (phone), (425) 227–1600 (fax), or via email at *Janell.Barrilleaux@faa.gov.*

SUPPLEMENTARY INFORMATION: The Northwest Mountain Region of the Federal Aviation Administration (FAA) as lead agency and the National Park Service (NPS) and Bureau of Land Management (BLM) as a cooperating agencies have prepared a Draft Supplemental Environmental Impact Statement (Draft SEIS) and Section 4(f) Evaluation to address issues arising from the 1993 10th Circuit U.S. Court of Appeals Decision concerning the development of Cal Black Memorial Airport. The U.S. National Park Service (NPS) and Bureau of Land Management (BLM) are cooperating agencies, by virtue of their jurisdictional authority and/or resource management responsibilities. This Draft SEIS and Section 4(f) Evaluation does not involve any new development or project at the airport. The Cal Black Memorial Airport opened in April 1992.

Halls Crossing Airport was located within the boundary of the Glen Canyon National Recreation Area, a unit of the National Park Service (NPS). Due to safety issues with that airport, an Environmental Impact Statement (EIS) was prepared concerning the development of a replacement airport. In 1990, the FAA issued a Draft and Final EIS for the development of a replacement Airport. In August 1990, the FAA issued a record of decision approving the development of Cal Black Memorial Airport. The FAA determined in the record of decision that the use of the BLM lands upon which the airport was built was reasonably necessary for the project. Accordingly, the BLM issued a Patent for the airport land to San Juan County on September 25, 1990. In reaching its approval, the FAA determined that no significant impacts would result from the new airport to the recreational experience of visitors to the recreational area.

In 1990, the National Parks and Conservation Association (NPCA), et al. brought suit against the FAA concerning the adequacy of the EIS and the adequacy of the BLM Plan Amendment and land transfer process. In its July 7, 1993, decision, the U.S. Court of Appeals, 10th Circuit, remanded the EIS decision back to the FAA and BLM for further environmental analysis of aircraft noise impacts to the recreational use of public lands and the BLM's plan amendment and transfer of land.

On November 17, 2008 the BLM issued the Monticello Field Office Record of Decision and Approved Resource Management Plan. The document provides guidance for the management of Federal lands administered by the BLM in San Juan County and a small portion of Grant County in southeast Utah and includes provisions for the disposal of the Cal Black Memorial Airport property.

Thus, the purpose of the Draft SEIS and Section 4(f) Evaluation is to address the requirements of the U.S. Court of Appeals findings. The scope of the Draft SEIS and Section 4(f) Evaluation includes: (1) The measurement of actual aircraft noise levels in GCNRA and visitor survey, (2) an updated evaluation of existing and future aircraft noise levels; (3) a Section 4(f) evaluation using the updated noise analysis; and (4) an analysis on potential cumulative effects.

The FAA encourages all interested parties to provide comments concerning the scope and content of the Draft SEIS. Comments should be as specific as possible and address the analysis of potential environmental impacts and the adequacy of the proposed action. Reviewers should organize their participation so that it is meaningful and makes the agency aware of the viewer's interests and concerns using quotations and other specific references to the text of the Draft SEIS and related documents. Matters that could have been raised with specificity during the comment period on the Draft SEIS may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has the opportunity to address them.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Issued in Renton, Washington, on December 3, 2014.

Carol Suomi,

Acting Division Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 2014–28869 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that

are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, State Route 1/Calera Parkway/Highway 1 Widening Project (from South of Fassler Avenue to North of Reina Del Mar Avenue in the City of Pacifica) in the County of San Mateo, State of California (Post Miles 41.7 to 43.0). Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before May 11, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Yolanda Rivas, District Branch Chief, Caltrans District 4 Office of Environmental Analysis, 111 Grand Avenue, P.O. Box 23660, Oakland, CA 94623–0660, 8:00 a.m.–5:00 p.m., Pacific Standard Time, Telephone (510) 286–6216, email *yolanda.rivas@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: State Route 1/Calera Parkway/Highway 1 Widening Project (from South of Fassler Avenue to North of Reina Del Mar Avenue in the City of Pacifica). The project will widen Highway 1/State Route 1/Calera Parkway in the city of Pacifica from four lanes to six lanes, extending from approximately 1,500 feet south of Fassler Avenue to approximately 2,300 feet north of Reina Del Mar Avenue, a distance of approximately 1.3 miles. The purpose of the project is to improve traffic operations by decreasing traffic congestion and improving peak-period travel times along a congested segment of State Route 1 within the city of Pacifica. Construction of the project is estimated to commence in spring of 2014 and is anticipated to take approximately two years. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Impact Report/Environmental Assessment (EIR/EA) for the project, approved on August 2, 2013, in the Finding of No Significant Impact (FONSI) issued on August 2, 2013, and in other documents in the FHWA project records. The EIR/EA, FONSI, and other project records are available by contacting Caltrans at the address provided above. The Caltrans IS/EA and FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist4/envdocs.htm#sanmateo.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)].

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: December 4, 2014.

Shawn Oliver,

Environmental/ROW Team Leader, Federal Highway Administration, Sacramento, California.

[FR Doc. 2014–28920 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7363; FMCSA–2002–12294; FMCSA–2006–24783; FMCSA–2006–26066]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 6 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 13, 2015. Comments must be received on or before January 9, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7363; FMCSA–2002–12294; FMCSA–2006–24783; FMCSA–2006–26066], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or

comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

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.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 6 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 6 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

David S. Brumfield (KY)
Robert R. Buis (KY)
Arthur A. Sappington (IN)
David W. Skillman (WA)
William H. Smith (AL)
Edward C. Williams (AL)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 6 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 45817; 65 FR 77066; 67 FR 46016; 67 FR 57267; 67 FR 71610; 69 FR 71098; 71 FR 32183; 71 FR 41310; 71 FR 63379; 72 FR 1050; 72 FR 1054; 73 FR 75806; 73 FR 78421; 75 FR 79079; 77 FR 76166). Each of these 6 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7363; FMCSA–2002–12294; FMCSA–2006–24783; FMCSA–2006–26066), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7363; FMCSA–2002–12294; FMCSA–2006–24783; FMCSA–2006–26066'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7363; FMCSA–2002–12294; FMCSA–2006–24783; FMCSA–2006–26066'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the

Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–28960 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7006; FMCSA–2012–0280]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 10 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective December 20, 2014. Comments must be received on or before January 9, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7006; FMCSA–2012–0280], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, 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.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 10 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 10 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Ronald J. Bergman (OH)
Noah E. Bowen (OH)
William J. Hall (WA)
Gary L. Killian (NC)
Shelby M. Kuehler (KS)
Lawrence D. Malecha (MN)
Paul B. Overman (WA)
Reginald I. Powell (IL)
Jerry M. Puckett (OH)
Emin Toric (GA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 10 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 20245; 65 FR 57230; 67 FR 67234; 69 FR 62741; 71 FR 62147; 73 FR 74565; 75 FR 66423; 77 FR 64839; 77 FR 68199; 77 FR 75494). Each

of these 10 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7006; FMCSA–2012–0280), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7006; FMCSA–2012–0280'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7006; FMCSA–2012–0280'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–28956 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0212]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 5 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' 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. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 5 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

DATES: The exemptions are effective December 10, 2014. The exemptions expire on December 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Division Chief, Physical Qualifications, Office of 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 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. 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., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 5 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an

individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*'' (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm*, under Seizure Disorders, and are in the docket for this notice.

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

Epilepsy diagnosis. If there is an epilepsy diagnosis, the applicant should be seizure-free for 8 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years. Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

Single unprovoked seizure. If there is a single unprovoked seizure (*i.e.*, there is no known trigger for the seizure), the individual should be seizure-free for 4 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years. Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

Single provoked seizure. If there is a single provoked seizure (*i.e.*, there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

• *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.

• *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

Medical Review Board Recommendations and Agency Decision

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive 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'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

C. Exemptions

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 5 individuals. Under current FMCSA regulations, all of the 5 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically

qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 5 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 5 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 5 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

D. Comments

Docket #FMCSA–2014–0212

On July 8, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on six individuals (79 FR 38663; Docket number FMCSA–2014–15955). The comment period ended on August 7, 2014. One commenter responded to this notice expressing interest in getting information about the requirements of applying for a seizure exemption. Of the eight applicants, three were denied. The Agency has determined that the following five applicants should be granted an exemption.

Ruben Alcantar

Mr. Alcantar is a 39 year-old driver in Oregon. He has a history of a single seizure in 1992 and has remained seizure free since that time. He takes anti-seizure medication with the dosage and frequency remaining the same since 1992. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Alcantar receiving an exemption.

Peter Bender

Mr. Bender is a 58 year-old class A CDL holder in Minnesota. He has a history of seizure and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Bender receiving an exemption.

Terry Hamby

Mr. Hamby is a 44 year-old class A CDL holder in North Carolina. He has a history of seizure and has remained seizure free since 1981. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hamby receiving an exemption.

Louis Lerch

Mr. Lerch is a 62 year-old class A CDL holder in Iowa. He has a history of seizure and has remained seizure free since 1978. He takes anti-seizure medication with the dosage and frequency remaining the same since 2007. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Lerch receiving an exemption.

Angel Velez-Cruz

Mr. Velez-Cruz is a 30 year-old class B CDL holder in New Jersey. He has a history of seizure and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since 2009. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Velez-Cruz receiving an exemption.

E. Basis for Exemption

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) 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, the Agency's 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 the driver to driving in intrastate commerce.

Conclusion

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 5 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 5 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 5 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 5 drivers for a period of 2 years with annual medical certification required: Ruben Alcantar (OR); Peter Bender (MN); Terry Hamby (NC); Louis Lerch (IA); and Angel Velez-Cruz (NJ) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect 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: December 1, 2014.

Larry W. Minor,

Associate Administrator for Policy .

[FR Doc. 2014–28952 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0299]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 24 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. If granted the exemptions would enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye.

DATES: Comments must be received on or before January 9, 2015. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0299 using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

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 regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 24 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Michael L. Boersma

Mr. Boersma, 65, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''I feel Michael has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Boersma reported that he has driven straight trucks for 14 years, accumulating 560,000 miles. He holds an operator's license from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Marc D. Butler

Mr. Butler, 62, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/25. Following an examination in 2014, his ophthalmologist stated, ''It is my opinion that Mr. Butler has sufficient visual acuity, color vision and visual field to safely operate a commercial vehicle.'' Mr. Butler reported that he has driven straight trucks for 24 years, accumulating 324,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roger P. Dittrich

Mr. Dittrich, 64, has had loss of vision secondary to retinal detachment and corneal scarring in his right eye since 1971. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Corneal scar OD. Pt does pass requirements for VA for CDL.'' Mr. Dittrich reported that he has driven straight trucks for 44 years, accumulating 880,000 miles, and tractor-trailer combinations for 30 years, accumulating 600,000 miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ralph V. Graven

Mr. Graven, 61, has had a retinal detachment in his left eye since 2000. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''I opine that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Graven reported that he has driven straight trucks for 43 years, accumulating 322,500 miles, and tractor-trailer combinations for 43 years, accumulating 322,500 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis R. Grear

Mr. Grear, 69, has had amblyopia in his left eye since childhood. The visual

acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''Mr. Grear has been operating a commercial vehicle for many years with his current visual deficiencies and in my opinion he should be able to safely continue to drive a commercial vehicle.'' Mr. Grear reported that he has driven straight trucks for 5 years, accumulating 175,000 miles, and tractor-trailer combinations for 42 years, accumulating 2.1 million miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael D. Halferty

Mr. Halferty, 44, has a retinal detachment in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''It is my opinion that Mr. Halferty has previously performed and has the visual capabilities to continue to perform the driving tasks required to operate a commercial vehicle.'' Mr. Halferty reported that he has driven straight trucks for 5 years, accumulating 150,000 miles, and tractor-trailer combinations for 24 years, accumulating three million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eric C. Hammer

Mr. Hammer, 42, has had amblyopia with refractive error in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''In my professional opinion, Eric Hammer has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hammer reported that he has driven straight trucks for 13 years, accumulating 390,000 miles, and tractor-trailer combinations for 13 years, accumulating 390,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas F. Hannon

Mr. Hannon, 52, has had a retinal scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''His peripheral vision is completely normal in both eyes and I do not see any reason why he could not perform the duties of a commercial driver, especially visual field-wise since his visual fields are normal except for a central scotoma in the right eye, which is easily compensated for in his left eye.'' Mr. Hannon reported that he has driven straight trucks for 1.5 years, accumulating 37,500 miles. He holds an operator's license from Rhode Island. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert K. Ipock

Mr. Ipock, 55, has had enucleation due to a tumor in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''It is in my opinion that Robert K. Ipock has sufficient vision to safely perform the driving tasks required to operate a commercial vehicle.'' Mr. Ipock reported that he has driven straight trucks for 25 years, accumulating 262,500 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kennard D. Julien

Mr. Julien, 45, has had amblyopia and a cataract in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''Dr [*sic*] Steiner certifies that is [*sic*] his opinion, Kennard has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Julien reported that he has driven straight trucks for 10 years, accumulating 240,000 miles, and tractor-trailer combinations for 8 years, accumulating 192,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to obey a road sign or traffic signal.

Peter M. Kirby

Mr. Kirby, 58, has had phthisical secondary to retinal detachment in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my medical opinion, I feel Mr. Kirby does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kirby reported that he has driven straight trucks for 35 years, accumulating 3.57 million miles, and tractor-trailer combinations for 35 years, accumulating 1.86 million miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William D. Koiner

Mr. Koiner, 31, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''The above individual has sufficient vision to operate a commercial vehicle.'' Mr. Koiner reported that he has driven straight trucks for one year, accumulating 10,000 miles, and tractor-trailer combinations for 6.5 years, accumulating 650,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jesse L. Lichtenberger

Mr. Lichtenberger, 32, has had refractive amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his ophthalmologist stated, ''It is of my opinion that Jesse certainly has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Lichtenberger reported that he has driven straight trucks for 14 years, accumulating 504,000 miles, and tractor-trailer combinations for 10 years, accumulating 360,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David J. Nocton

Mr. Nocton, 70, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his ophthalmologist stated, ''I certainly believe that his vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Nocton reported that he has driven buses for 14 years, accumulating 385,000 miles. He holds a Class B CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Darren W. Pruett

Mr. Pruett, 48, has had open globe trauma in his left eye due to a traumatic incident in 2009. The visual acuity in

his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my opinion is [*sic*] having had this defect for 5 years and maintaining a safe driving record he would have sufficiently learned how to adapt to his visual deficit by now and would be qualified to continue driving commercially.'' Mr. Pruett reported that he has driven straight trucks for 5 years, accumulating 175,000 miles, and tractor-trailer combinations for 13 years, accumulating 1.89 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows one crash, for which he was not cited and to which he did not contribute, and no convictions for moving violations in a CMV.

Frederick E. Schaub

Mr. Schaub, 57, has had optic atrophy in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''Based on his examination, and with the use of left sided mirrors, I do not see any contraindication to renewing his CDL.'' Mr. Schaub reported that he has driven straight trucks for 39 years, accumulating 1.46 million miles, and tractor-trailer combinations for 20 years, accumulating 250 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael R. Seldomridge

Mr. Seldomridge, 41, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/50. Following an examination in 2014, his optometrist stated, ''It is my opinion that Mr. Seldomridge has sufficient vision to perform that driving tasks required to operate a commercial vehicle.'' Mr. Seldomridge reported that he has driven straight trucks for 26 years, accumulating 390,000 miles, and tractor-trailer combinations for 20 years, accumulating 20,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael G. Somma

Mr. Somma, 32, has had amblyopic vision loss and aphakia in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/100. Following an examination in 2014, his ophthalmologist stated, ''His visual acuity in his left eye is stable with no evidence of progressive change. . .I see no contraindication to his use of operating and driving commercial vehicle [*sic*].'' Mr. Somma reported that he has driven straight trucks for 15 years, accumulating 300,000 miles. He holds an operator's license from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark J. Stanley

Mr. Stanley, 54, has a partial retinal detachment in his right eye due to a traumatic incident in 1979. The visual acuity in his right eye is 20/300, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Mark has been driving for 35 years and has adapted well to his visual condition. I certify that Mark Stanley is well qualified to continue commercial driving as he has for the past many years.'' Mr. Stanley reported that he has driven tractor-trailer combinations for 14 years, accumulating 840,000 miles. He holds a Class AM1 CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jason E. Thomas

Mr. Thomas, 28, has enucleation in his left eye due to a traumatic incident in 2007. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''In my medical opinion Jason has sufficient vision to drive a commercial vehicle.'' Mr. Thomas reported that he has driven straight trucks for 10 years, accumulating 50,000 miles, and tractor-trailer combinations for 10 years, accumulating 50,000 miles. He holds an operator's license from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael K. Toodle

Mr. Toodle, 60, has had optic atrophy in his left eye since 2009. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his optometrist stated, ''I Dr. Hamm certifies [*sic*] that in my medical opinion, Michael K. Toodle have [*sic*] sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Toodle reported that he has driven tractor-trailer combinations for 42 years, accumulating 4.2 million miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and three convictions for moving violations in a CMV; in one instance he exceeded the speed limit by nine mph; in two others he failed to obey traffic signs.

Troy W. Weaver

Mr. Weaver, 41, has had a Lasik vision complication in his left eye since 2008. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''I certify that Mr. Weaver has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Weaver reported that he has driven straight trucks for 15 years, accumulating 7,500 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Diane L. Wedebrand

Ms. Wedebrand, 53, has had amblyopia in her right eye since birth. The visual acuity in her right eye is 20/150, and in her left eye, 20/20. Following an examination in 2014, her optometrist stated, ''I, Dr. Craig Baker, in my medical opinion that Diane L. Wedebrand has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Ms. Wedebrand reported that she has driven straight trucks for 8 years, accumulating 9,600 miles. She holds an operator's license from Iowa. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eddie L. Wilkins

Mr. Wilkins, 65, has cyclodialysis and retinal scarring in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion Mr. Wilkins has sufficient vision to operate a commercial vehicle.'' Mr. Wilkins reported that he has driven straight trucks for 20 years, accumulating 400,000 miles, tractor-trailer combinations for 3 years, accumulating 12,000 miles, and buses for 3 years, accumulating 24,030 miles. He holds a Class B CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2014–0299 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

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* and insert the docket number FMCSA–2014–0299 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–28959 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0444]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 10 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' 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. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 10 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

DATES: The exemptions are effective December 10, 2014. The exemptions expire on December 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Division Chief, Physical Qualifications, Office of 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 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. 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., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 10 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

Epilepsy diagnosis. If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

Single unprovoked seizure. If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

Single provoked seizure. If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

• *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.

• *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke. The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

Medical Review Board Recommendations and Agency Decision

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive 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'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

C. Exemptions

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 10 individuals. Under current FMCSA regulations, all of the 10 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 10 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 10 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 10 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

D. Comments

Docket #FMCSA–2013–0444

On May 13, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 13 individuals (79 FR 27367; Docket number FMCSA–2014–10982). The comment period ended on June 12, 2014. No commenters responded to this **Federal Register** notice. Of the 13 applicants, three were denied. The Agency has determined that the following 10 applicants should be granted an exemption.

Travis Arend

Mr. Arend is a 41 year-old driver in Virginia. He has a history of seizure and has remained seizure free for 8 years. 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. Arend receiving an exemption.

Heath Crowe

Mr. Crowe is a 36 year-old driver in Louisiana. He has a history of epilepsy and has remained seizure free since 1998. 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. Crowe receiving an exemption.

Richard Degnan

Mr. Degnan is a 46 year-old driver in Arizona. He has a history of seizure disorder and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Degnan receiving an exemption.

Peter Della Rocco

Mr. Della Rocco is a 47 year-old class B CDL holder in Pennsylvania. He has a history of seizure and has remained seizure free since 1992. He takes anti-seizure medication with the dosage and frequency remaining the same for over 3 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Della Rocco receiving an exemption.

Edward Jacobs

Mr. Jacobs is a 45 year-old driver in Virginia. He has a history of seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Jacobs receiving an exemption.

Domenick Panfile

Mr. Panfile is a 55 year-old class B CDL holder in New Jersey. He has a history of seizure and has remained seizure free since 1982. He takes anti-seizure medication with the dosage and frequency remaining the same for over 20 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Panfile receiving an exemption.

Scott Reaves

Mr. Reaves is a 50 year-old driver in Texas. He has a history of seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same for over 10 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Reaves receiving an exemption.

Milton Tatham

Mr. Tatham is a 55 year old class A CDL holder in Nevada. He has a history of seizure disorder and has remained seizure free since 1994. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Tatham receiving an exemption.

Thomas Tincher

Mr. Tincher is a 48 year-old driver in North Carolina. He has a history of seizure and has remained seizure free for over 4 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 3 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Tincher receiving an exemption.

Duane Troff

Mr. Troff is a 52 year-old class A CDL holder in Minnesota. He has a history of seizure and has remained seizure free for 7 years. 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. Troff receiving an exemption.

E. Basis for Exemption

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) 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, the Agency's 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 the driver to driving in intrastate commerce.

Conclusion

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 10 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 10 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 10 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 10 drivers for a period of 2 years with annual medical certification required: Travis Arend (VA); Heath Crowe (LA);

Richard Degnan (AZ); Peter Della Rocco (PA); Edward Jacobs (VA); Domenick Panfile (NJ); Scott Reaves (TX); Milton Tatham (NV); Thomas Tincher (NC); and Duane Troff (MN) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect 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: December 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–28953 Filed 12–9–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from the Association of American Railroads (WB463–17—11/21/14) for permission to use certain data from the Board's 2012–2013 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–28931 Filed 12–9–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 5, 2014.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before January 9, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Departmental Offices (DO)

OMB Number: 1505–0246.

Type of Review: Reinstatement.

Title: Small Business Lending Fund (SBLF) Survey.

Abstract: Established by the Small Business Jobs Act of 2010 (the Act) (Pub. L. 111–240), the Small Business Lending Fund (SBLF) is a dedicated fund designed to provide capital to qualified community banks and community development loan funds (CDLFs) in order to encourage small business lending. The purpose of the SBLF is to encourage Main Street banks and small businesses to work together, help create jobs, and promote economic growth in communities across the nation. In order to receive capital from the SBLF, institutions were required to enter into a Securities Purchase Agreement with Treasury. Under Section 3.1(c)(ii)(D) of the Securities Purchase Agreement, institutions participating in the SBLF are required to complete an annual survey providing a description of, among other things, how the institutions have utilized the SBLF funds and how the funds have impacted the operations and status of the institutions. As such, Treasury is seeking responses from institutions participating in the SBLF regarding the institutions' small business lending policies and practices, use of SBLF funding, and efforts to engage in outreach activities with respect to small business lending.

Affected Public: Businesses and other for-profit institutions, and non-profit institutions.

Estimated Total Burden Hours: 2,224.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 2014–28963 Filed 12–9–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at 1–888–912–1227 or (214) 413–6523.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, January 28, 2015, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Ms. Billups at 1–888–912–1227 or 214–413–6523, or write TAP Office 1114 Commerce Street, Dallas, TX 75242–1021, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28854 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Special Projects Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meetings will be held Monday, January 12, 2015 and Tuesday, January 13, 2015.

FOR FURTHER INFORMATION CONTACT: Kim Vinci at 1–888–912–1227 or 916–974–5086.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting with the Taxpayer Advocacy Panel Special Projects Committee will be held Monday, January 12, 2015, from 1:00 p.m. to 4:30 p.m., and Tuesday, January 13, 2015, from 8:00 a.m. to 4:30 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Ms. Vinci. For more information please contact Ms. Vinci at 1–888–912–1227 or 916–974–5086, TAP Office, 4330 Watt Ave., Sacramento, CA 95821, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various special topics with IRS processes.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28851 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, January 15, 2015, through Friday, January 16, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at 1–888–912–1227 or (214) 413–6523.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, January 15, 2015, from 8:00 a.m. to 4:30 p.m., and Friday, January 16, 2015, from 8:00 a.m. to 12:00 p.m. Mountain Time. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Ms. Lisa Billups. For more information please contact Ms. Billups at 1–888–912–1227 or 214–413–6523, or write TAP Office 1114 Commerce Street, Dallas, TX 75242–1021, or post comments to the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28850 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meetings will be held Thursday, January 15, 2015 and Friday, January 16, 2015.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Thursday, January 15, 2015, from 8:00 a.m. to 4:30 p.m. and Friday, January 16, 2015, from 8:00 a.m. to 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Ms. Powers. For more information please contact Ms. Powers at 1–888–912–1227 or (954) 423–7977 or write: TAP Office, 1000 S. Pine Island Road, Plantation, FL 33324 or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28853 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meetings will be held Thursday, January 15, 2015 and Friday January 16, 2015.

FOR FURTHER INFORMATION CONTACT: Robin Owsley at 1–888–912–1227 or (317) 685–7627.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Thursday, January 15, 2015 from 8:00 a.m. to 4:30 p.m. and Friday, January 16, 2015, from 8:00 a.m. to 12:00 p.m. Central Time. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Robin Owsley. For more information please contact Ms. Owsley at 1–888–912–1227 or (317) 685–7627or write: TAP Office, 575 N. Pennsylvania, Indianapolis, IN 46204 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various issues related to services provided by the Taxpayer Assistance Centers. Public input is welcomed.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28852 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meetings will be held Monday, January 12, 2015 through Tuesday, January 13, 2015.

FOR FURTHER INFORMATION CONTACT: Linda Rivera at 1–888–912–1227 or (202) 317–3337.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Monday, January 12, 2015, from 1:00 p.m. to 4:30 p.m. and Tuesday, January 13, 2015, from 8:00 a.m. to 4:30 p.m. Central Time. Notification of intent to participate must be made with Linda Rivera. For more information please contact: Ms. Rivera at 1–888–912–1227 or (202) 317–3337, or write TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing Toll-free issues and public input is welcomed.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28849 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meetings will be held Monday, January 12, 2015 and Tuesday, January 13, 2015.

FOR FURTHER INFORMATION CONTACT: Theresa Singleton at 1–888–912–1227 or 202–317–3329.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Monday, January 12, 2015, from 1:00 p.m. to 4:30 p.m., and Tuesday, January 13, 2015, from 8:00 a.m. to 4:30 p.m. Mountain Time. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Ms. Singleton. For more information please contact Ms. Singleton at 1–888–912–1227 or 202–317–3329, TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: December 3, 2014.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2014–28848 Filed 12–9–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 79 Wednesday,
No. 237 December 10, 2014

Part II

Department of the Treasury

17 CFR Part 420
Government Securities Act Regulations: Large Position Reporting Rules; Final Rule

DEPARTMENT OF THE TREASURY

17 CFR Part 420

[Docket No. Treas–DO–2014–0002]

Government Securities Act Regulations: Large Position Reporting Rules

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

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is amending its rules for reporting large positions in certain Treasury securities. The large position reporting rules are issued under the Government Securities Act (GSA) for the purposes of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and otherwise assisting the Securities and Exchange Commission (SEC) in enforcing the GSA. In addition, the large position reports provide Treasury with information to better understand supply and demand dynamics in certain Treasury securities. These amendments are designed to improve the information available to Treasury and simplify the reporting process for many entities subject to the large position reporting rules.

DATES: The amendments will become effective March 10, 2015.

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

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

SUPPLEMENTARY INFORMATION: Treasury is amending the large position reporting (LPR) rules to improve the information reported so that we can better understand supply and demand dynamics in certain Treasury securities. Specifically, the amendments: (1) Eliminate the exemptions for foreign central banks, foreign governments, and international monetary authorities (collectively ''foreign official organizations'') and request that these entities, as well as U.S. Federal Reserve Banks for their own account, voluntarily submit large position reports (Reports) when they meet or exceed a reporting threshold; (2) replace the current $2 billion minimum reporting threshold with a percentage standard; (3) establish an additional reporting threshold for the number of futures, options on futures, and exchange-traded options contracts controlled by the reporting entity for which the specified Treasury security is deliverable; (4) replace the concept of the ''reportable position'' with a requirement that defined reporting entities [1] must file a Report if any one of eight criteria is met; (5) revise the format for the reporting of positions in the specified Treasury security and establish a two-column format for the reporting of gross ''obligations to receive'' and gross ''obligations to deliver'' as well as the gross quantity of securities borrowed and the gross quantity of securities lent; (6) expand the components of a position to include futures, options on futures, and options (both exchange-traded and over-the-counter) and establish a two-column format for reporting net positions in these contracts; (7) provide an option for a reporting entity to identify the type(s) of business it engages in and to identify its overall investment strategy with respect to positions in the specified Treasury security; and (8) consolidate relevant guidance in the LPR rules.

These amendments reflect Treasury's continuing need to obtain relevant information from reporting entities while minimizing the cost and burden on those entities affected by the regulations. We believe these amendments are consistent with the findings of Congress that ''(1) the liquid and efficient operation of the government securities market is essential to facilitate government borrowing at the lowest possible cost to taxpayers; and (2) the fair and honest treatment of investors will strengthen the integrity and liquidity of the government securities market.'' [2] In this final rule, we provide background on the current LPR rules, discuss the amendments proposed in the notice of proposed rulemaking (NPR) issued on June 10, 2014 [3] and public comments received, and then describe the amendments in the final rule. As explained below, we are adopting the amendments proposed in the NPR with nonsubstantive, technical modifications.

[1] 17 CFR 420.2.

[2] Public Law 103–202, 107 Stat. 2344 (1993) [15 U.S.C. 78o–5(f)].

[3] 79 FR 33145 (June 10, 2014).

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I. Current Large Position Reporting Rules

A. Statutory Authority

In response to short squeezes in two-year Treasury notes that occurred in the government securities market in 1990–1991,[4] Congress included a large position reporting provision in the 1993 amendments to the GSA. This provision grants Treasury authority to prescribe rules requiring specified persons holding, maintaining, or controlling large positions in to-be-issued or recently-issued [5] Treasury securities to

[4] *Joint Report on the Government Securities Market,* Department of the Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System (1992). *See www.treasurydirect.gov*. Market participants use the term ''squeeze'' to refer to a shortage of supply relative to demand for a particular security, as evidenced by a movement in its price to a level that is out of line with prices of comparable securities—either outright trading quotations or in financing arrangements.

[5] Treasury may request information on securities that fall outside of these timeframes if such large position information is necessary and appropriate for monitoring the impact of concentrations of positions in Treasury securities. (*See* 17 CFR 420.2(g)(5)).

keep records and, when requested by Treasury, file reports of such large positions. The provision was intended to improve Treasury's collection of information on large positions in Treasury securities held by market participants. Such information allows Treasury to monitor the impact of concentrations of positions in the Treasury securities market. This information is also made available to the Federal Reserve Bank of New York (FRBNY), as Treasury's agent, and the SEC.[6] Treasury does not believe that large positions in Treasury securities are inherently problematic and there is no presumption of manipulative or illegal intent merely because a reporting entity's position is large enough to be subject to Treasury's LPR rules.

The GSA specifically provides that Treasury shall not be compelled to disclose publicly any information required to be kept or reported for large position reporting. In particular, the GSA exempts such information from disclosure under the Freedom of Information Act.[7]

B. Rulemaking

Treasury published final rules in 1996 that established recordkeeping and reporting requirements related to large positions in certain Treasury securities.[8] The LPR rules were subsequently amended in 2002 to improve the collection of information in the Reports by requiring more detailed reporting of certain components of the formula for determining a reportable position, adding a second memorandum item that requires the reporting of the gross par amount of ''fails to deliver,'' and modifying the definition of ''gross financing position'' to eliminate the optional exclusion in the calculation of the amount of securities received through financing transactions.[9]

C. Reporting and Recordkeeping Requirements

1. On-Demand Reporting System

An ''on-demand'' reporting system, rather than a regular, ongoing system of reporting, provides Treasury with the information necessary to understand supply and demand dynamics in the Treasury securities market, while minimizing the potential impact on the market's efficiency and liquidity and the cost to taxpayers of funding the federal debt. It also minimizes the cost and burden to those reporting entities affected by the LPR rules.

2. Who Is Subject to the Large Position Reporting Rules

Treasury's LPR rules apply to all foreign and domestic persons and entities that control a reportable position in a Treasury security, including: Government securities brokers and dealers; registered investment companies; registered investment advisers; custodians, including depository institutions, that exercise investment discretion; hedge funds; pension funds; insurance companies; and foreign affiliates of U.S. entities.

The current rules provide an exemption for foreign official organizations.[10] U.S. Federal Reserve Banks are also exempt for the portion of any reportable position they control for their own account.[11]

3. Notice Requesting Large Position Reports

Reports must be filed with FRBNY in response to a notice from Treasury requesting large position information on a specific issue of a Treasury security.[12] The Reports must be filed by defined reporting entities controlling positions that equal or exceed the reporting threshold specified in the notice. FRBNY must receive the Reports before noon Eastern time on the fourth business day after the issuance of the notice calling for large position information.

4. Control

Treasury defines ''control'' as the authority to exercise investment discretion over the purchase, sale, retention, or financing of specific Treasury securities.[13] Investment discretion can be exercised by the beneficial owner, a custodian, or an investment adviser. The party responsible for making investment decisions, regardless of where securities are held, is the relevant reporting entity for large position reporting because the actions and objectives of the decision maker are what we are trying to determine.

5. Components of a Position

Under the current rules, a reportable position is the sum of the net trading positions, gross financing positions and net fails positions in a specified issue of Treasury securities collectively controlled by a reporting entity.[14] Specific components of these positions are identified at § 420.2.[15] Position amounts are required to be reported on a trade date basis at par value.

6. Recordkeeping

The recordkeeping requirements provide that any reporting entity controlling at least $2 billion of a particular Treasury security must maintain and preserve certain records that enable it to compile, aggregate, and report large position information.[16]

D. Calls for Large Position Reports

Treasury has conducted 14 calls since the LPR rules became effective in 1996.[17] We are amending the rules based on the experience gained from these calls.

II. Proposed Amendments to the Large Position Reporting Rules

On June 10, 2014, Treasury issued an NPR in which we proposed several amendments to Treasury's LPR rules.[18] In the NPR, Treasury proposed to eliminate the exemptions for foreign official organizations and U.S. Federal Reserve Banks (for their own account) and request that these organizations voluntarily submit Reports if they meet or exceed the reporting threshold(s). Foreign official organizations were exempted from the LPR rules issued in 1996 because they did not typically control large positions in Treasury securities and subjecting them to the reporting requirement would have presented legal and jurisdictional issues.[19] Since that time, foreign official organizations have significantly increased their participation in the Treasury securities market. Foreign official organizations have an interest in this market being liquid and well-functioning. U.S. Federal Reserve Banks were also exempted for the portion of any reportable position they controlled for their own account. Treasury believes that the voluntary submission of Reports by foreign official organizations and

[6] 15 U.S.C 78o–5(f)(1).

[7] 15 U.S.C. 78o–5(f)(6).

[8] 61 FR 48338 (September 12, 1996).

[9] 67 FR 77411 (December 18, 2002).

[10] 17 CFR 420.1(b).

[11] 17 CFR 420.1(c).

[12] The notice is in the form of a Treasury press release that is posted to the Treasury and TreasuryDirect Web sites, subsequently published in the **Federal Register**, and also disseminated via social media, major news and financial publications, and wire services. An electronic mailing list that distributes the notice to subscribers is also available at *www.treasurydirect.gov*.

[13] 17 CFR 420.2(b).

[14] 17 CFR 420.2(h).

[15] *See* 17 CFR 420.2 for definitions of gross financing position, net fails position, and net trading position.

[16] 17 CFR 420.4.

[17] So that market participants remain knowledgeable about the LPR rules, specifically how to calculate and report a reportable position, Treasury ''tests'' the reporting system by requesting Reports annually, regardless of market conditions for a particular security. *See* 60 FR 65223 (December 18, 1995).

[18] 79 FR 33145 (June 10, 2014).

[19] 61 FR 48342 (September 12, 1996).

U.S. Federal Reserve Banks is consistent with the purposes of the GSA and will help Treasury to better understand supply and demand dynamics in the Treasury securities market.

The NPR proposed to replace the current $2 billion minimum reporting threshold with a minimum threshold that is 10 percent of the outstanding amount of the specified Treasury security. Given the large range of issue sizes among various Treasury securities, making the minimum reporting threshold a percentage of the amount of the security outstanding may be a better indicator of concentrations of control. A percentage threshold would allow for a threshold that is less than the current $2 billion minimum. We would state the dollar amount of the reporting threshold in the notice and press release announcing a call for Reports. Treasury did not, however, propose amending the $2 billion threshold that triggers the LPR recordkeeping requirement.[20]

Treasury also proposed to replace the concept of the reportable position with a reporting requirement that reporting entities must file a Report if any one of seven criteria is met. For certain reporting criteria Treasury would announce different thresholds. Applying several different criteria may provide greater insight into gross exposures large enough to potentially impact the liquidity of the security, regardless of how the position was acquired. However, under no circumstances would a large position threshold be less than 10 percent of the amount outstanding of the specified Treasury security.

The NPR also introduced the term ''tri-party repurchase agreement shell.'' A tri-party repurchase agreement (repo) shell is an account created on the books of a tri-party repo agent bank following confirmation of a tri-party repo transaction between a cash lender and a collateral provider. Each shell has a unique account number and an eligibility rule set based on an agreement between the cash lender and the collateral provider.

Treasury proposed a revised format for an entity to report its positions and settlement obligations in the specified Treasury security, including: (1) Positions at the opening of the Federal Reserve System's Fedwire® Securities Service (Fedwire),[21] (2) settlement obligations created prior to and on the report date, and (3) positions at the close of Fedwire. The proposed reporting format would provide Treasury a better understanding of reporting entities' positions in the specified Treasury security leading up to the report date, their settlement obligations created prior to or on the report date, and their positions at the end of the report date.

For transactions between different entities, Treasury proposed a two-column format for positions to be reported on a gross basis in order to separate settlement ''obligations to receive'' and ''obligations to deliver.'' This format would potentially make it easier for Treasury to understand a reporting entity's trading activity, including what positions it might control in the future. This approach may also be easier for many reporting entities to understand because it may align more closely with the way they typically maintain their records.

In the NPR, Treasury proposed to expand the components of a position to also include futures, options on futures, and options contracts for which the specified Treasury security is deliverable. The components would include contracts that require delivery of the specified Treasury security as well as contracts that allow for the delivery of several securities.

Treasury also proposed to replace the current components of a total reportable position with the following report components:

a. Positions in the Security Being Reported at the Opening of Fedwire on the Report Date, including positions:

i. In accounts of the reporting entity;

ii. In tri-party repurchase agreement shells;

iii. As collateral or margin against financial derivatives and other contractual obligations of the reporting entity; and

iv. Controlled by any other means.

b. Settlement Obligations Attributable to Purchase and Sale Contracts Negotiated Prior to and on the Report Date (excluding settlement fails), including:

i. Obligations to receive or deliver, on the report date, the security being reported attributable to contracts for cash settlement (T+0);

ii. Obligations to receive or deliver, on the report date, the security being reported attributable to contracts for regular settlement (T+1);

iii. Obligations to receive or deliver, on the report date, the security being reported attributable to forward contracts, including when-issued contracts, for forward settlement (T+n, n>1);

iv. Obligations to receive, on the report date, the security being reported attributable to Treasury auction awards; and

v. Obligations to receive or deliver, on the report date, principal STRIPS[22] derived from the security being reported attributable to contracts for cash settlement, regular settlement, when-issued contracts, and forward contracts.

c. Settlement Obligations Attributable to Delivery-versus-Payment Financing Contracts (including repurchase agreements and securities lending agreements) Negotiated Prior to and on the Report Date (excluding settlement fails), including:

i. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to overnight agreements;

ii. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to term agreements opened on, or due to close on, the report date;

iii. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to open agreements opened on, or due to close on, the report date.

d. Settlement Fails from Days Prior to the Report Date (Legacy Obligations), including:

i. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, arising out of settlement fails on days prior to the report date.

e. Settlement Fails as of the Close of Fedwire on the Report Date, including:

i. Obligations to receive or deliver, on the business day following the report date, the security being reported, and principal STRIPS derived from the security being reported, arising out of settlement fails on the report date.

f. Positions in the Security Being Reported at the Close of Fedwire on the Report Date, including positions:

i. In accounts of the reporting entity;

ii. In tri-party repurchase agreement shells;

iii. As collateral or margin against financial derivatives and other contractual obligations of the reporting entity; and

iv. Controlled by any other means.

g. Quantity of Continuing Delivery-versus-Payment Financing Contracts for

[20] 17 CFR 420.4(a)(1).

[21] The Federal Reserve System's Fedwire® Securities Service is a book-entry securities transfer system that provides safekeeping, transfer, and delivery-versus-payment settlement services. The Fedwire Securities Service operates daily from 8:30 a.m. to 3:30 p.m. Eastern Time.

[22] STRIPS (Separate Trading of Registered Interest and Principal of Securities) means Treasury's program under which eligible securities are authorized to be separated into principal and interest components, and transferred separately. *See* 31 CFR 356.2.

the Security Being Reported, including the:

i. Net amount of security being reported lent out on term repurchase agreements that were opened before the report date and that were not due to close until after the report date, and on open repurchase agreements that were opened before the report date and that were not closed on the report date.

h. Futures and Options Contracts, including the:

i. Net long position, immediately prior to the opening of futures and options trading on the report date, in futures, options on futures, and options contracts on which the security being reported is deliverable; and

ii. Net long position, immediately following the close of futures and options trading on the report date, in futures, options on futures, and options contracts on which the security being reported is deliverable.

All amounts would be reported as positive numbers and at par in millions of dollars.

In the NPR, Treasury proposed an option for reporting entities to identify the type(s) of business engaged in by the reporting entity and its aggregating entities with respect to positions in the specified Treasury security by checking the appropriate box. Treasury also proposed an option for reporting entities to identify their overall investment strategy with respect to positions in the specified Treasury security by checking the appropriate box. Knowing the type(s) of business in which the reporting entity is engaged and its overall investment strategy with respect to the specified Treasury security would help us better understand the positions included in the entity's Report.

The current LPR rules specify the positions that entities are required to report, however, additional guidance on the treatment of specific transactions is contained in the preambles to the previous proposed and final rules, and a list of Frequently Asked Questions available on the TreasuryDirect Web site. The NPR proposed to consolidate certain guidance in the rules themselves, which may help to simplify the reporting process and make the reporting requirements clearer.

III. Comments Received in Response to the Proposed Amendments

In response to the proposed rule, Treasury received comment letters from a private citizen and a financial services industry trade association (''trade association'' or ''commenter'').[23] The private citizen's comments were not responsive to the request for comments on the proposed LPR amendments. While broadly supporting Treasury's goals and generally supportive of the proposed amendments in the NPR, the trade association raised several questions and technical comments.

A. Reporting Format

The trade association expressed concern that using a revised format that would require reporting entities to report certain information as of the opening and closing of Fedwire would not reflect actual, formal openings and closings of the Treasury and funding markets. The commenter also asserted that it would create significant operational burdens and possibly require manual processing that could undermine the overall quality of the information Treasury ultimately receives. Further, the trade association commented that, for many firms, the proposed reporting times reflect intraday positions. The commenter noted that, ''member firms could not reconcile intraday positions to verify the accuracy of non-end-of-day positions.'' The commenter suggested that, ''Treasury consider retaining its current close of business requirement for certain positions on the report date.''

B. Tri-Party Repurchase Agreement Shells

The trade association requested further guidance as to what positions are reportable under Part I, Line 2 ''held in tri-party repurchase agreement shells.''

C. Futures and Options Contracts

The trade association questioned the expansion of the LPR rules to include certain futures and options that allow for the delivery of several securities. Currently, the rules only require the reporting of positions in futures contracts that require the delivery of the specified Treasury security. The commenter asserted that Treasury's views stated in the 1995 proposed LPR rules[24] ''are still appropriate today (and arguably even more so given the Chicago Board of Trade's adoption of position limits on Treasury futures in 2005).''

The commenter noted that Treasury's 1995 proposed LPR rules stated the following:

- Options and certain futures contracts are excluded because they do not provide the holder with either immediate control or an effective way to manipulate the price of a specific security.
- For options, an entity would only gain control of the security at the time the position is exercised, at which time the security would become a component of a reportable position.
- Large positions in futures contracts are already reported to the Commodity Futures Trading Commission. Thus, this information will be available to Treasury, if needed, without imposing additional reporting requirements.

The commenter noted that, ''the data collected could overstate current issue positions and not provide the Treasury with an accurate picture of the potential demand and supply characteristics of a particular security. This could potentially compromise the overall value and general usefulness of this information to the Treasury.'' If Treasury proceeds with the expanded reporting requirement, the trade association suggested that Treasury should:

- Incorporate an adjustment to the required reporting amount to reflect the probability that the particular security will be delivered (*e.g.,* a delta adjustment for options) to ensure that the information reflects accurately the demand and supply for that particular security.
- Clarify whether over-the-counter (OTC) options are to be considered within the scope of this expanded collection. Treasury should also provide additional guidance as to the use of published lists of cheapest-to-deliver securities provided by the futures exchanges or a vendor to determine which CUSIPs are deliverable for futures and options and the degree to which firms could limit the reportable positions to those CUSIPs that are within the top three cheapest-to-deliver.

D. Worked Examples

The trade association suggested it would be helpful to market participants to see the expected treatment of a hypothetical position that would include the new data elements.

E. Transition

The trade association requested that the final rule include an appropriate transition period before making the changes effective to allow firms sufficient time to implement the necessary tracking and reporting changes.

IV. Section-by-Section Analysis of the Final Amendments

Treasury has endeavored to strike a balance between achieving the purposes

[23] Comment letter of Matthew Lykken (June 7, 2014), and comment letter of the Securities Industry and Financial Markets Association (August 8, 2014), are available at *http://www.treasurydirect.gov/instit/statreg/gsareg/gsareg.htm.*

[24] 60 FR 65219 (December 18, 1995).

and objectives of the GSA's LPR requirements and minimizing costs and burdens on reporting entities. We believe that these amendments continue to achieve this balance by improving the type of information collected through the Reports while simplifying the reporting process for many reporting entities.

Treasury has carefully considered the comments we received. We have also consulted staff of the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, and the Federal Reserve Bank of New York in developing the final LPR rule amendments. We are adopting the amendments proposed in the NPR with nonsubstantive, technical modifications, including a clarification recommended by the commenter.

A. Section 420.1—Applicability

In the NPR, Treasury proposed to eliminate the exemptions for foreign central banks, foreign governments, and international monetary authorities and request that these entities as well as U.S. Federal Reserve Banks for their own account voluntarily submit Reports if they meet or exceed the reporting threshold(s). We did not receive any comments on this proposed amendment and, therefore, we are adopting it as proposed.

B. Section 420.2—Definitions

1. Control

To avoid potential confusion regarding multiple entities reporting the same position in the specified Treasury security, we are modifying the definition of ''control'' by deleting the sentence that states only one entity should be considered to have investment discretion over a particular position. There may be situations, such as financing transactions, where more than one entity may include the same position in their calculation.

2. Large Position Threshold

Treasury proposed to replace the current $2 billion minimum reporting threshold with a minimum threshold that is 10 percent of the outstanding amount of the specified Treasury security. We did not receive any comments on this proposed amendment and, therefore, we are adopting it as proposed.

We are also adding a sentence to the definition of large position threshold stating that the term also means the minimum number of futures, options on futures, and exchange-traded options contracts that a reporting entity controls for which the specified Treasury security is deliverable. This technical modification was made to provide for the reporting of the number of these contracts.

3. Reporting Requirement

Treasury proposed in the NPR to replace the concept of the reportable position with a reporting requirement that reporting entities file a Report if any one of seven criteria set out in the Report is met. Because Treasury is requiring that futures, options on futures, and exchange-traded options be reported separately from OTC options, criterion G has been split and an eighth criterion H was added. Under G, reporting entities will be required to submit a Report if the number of futures, options on futures, and exchange-traded options contracts controlled by the reporting entity is equal to or greater than the announced large position threshold. To provide more clarity on the reporting of options positions, criterion H will require that reporting entities submit a Report if their net position in OTC options contracts on which the security being reported is deliverable is equal to or greater than the announced large position threshold. Entities would report the notional amounts of contracts regardless of the option delta.

4. Tri-Party Repurchase Agreements

The proposed amendments also introduced the term ''tri-party repurchase agreement shell.'' In its comment letter the trade association indicated that the term ''tri-party repurchase agreement shell'' may not be clear to reporting entities and requested further guidance as to what positions are reportable under this item. Treasury is adopting the amendment with modifications to address the issue raised by the commenter. Treasury is replacing the term ''tri-party repurchase agreement shell'' with ''tri-party repurchase agreements,'' a more familiar and well understood term in the Treasury securities market.

C. Section 420.3—Reporting

1. Reporting Format

In the NPR, Treasury proposed a revised format for an entity to report its positions and settlement obligations in the specified Treasury security at the opening and closing of Fedwire. The trade association acknowledged the informational benefits of comparing positions at two points in time and that Treasury would receive important information on a firm's behavior and activity in the market over the course of a trading day. In its comment letter, however, the trade association stated its belief that the opening and closing of Fedwire as reporting times do not reflect actual, formal openings and closings of the Treasury and funding markets and would create significant operational burdens that could undermine the overall quality of the information Treasury ultimately receives. The commenter advocated reporting these positions as of the close of business on the report date and at the close of business on the day prior to the report date. The commenter asserted that these timeframes would be consistent with current practice and better reflect a firm's position. As recommended by the commenter, we are replacing references in the NPR to the opening and closing of Fedwire with reporting as of the opening and close of business. We are also making technical modifications to § 420.3 and appendix B to clarify the components to be included in the Report.

2. Gross Reporting

For transactions between different defined reporting entities, Treasury proposed a two-column format for positions to be reported on a gross basis in order to separate settlement ''obligations to receive'' and ''obligations to deliver.'' Aggregating entities that are part of the same reporting entity may net receive and deliver obligations resulting from intercompany transactions. We did not receive any comments on this proposed amendment and, therefore, we are adopting it as proposed. We are also modifying Part VII of the Report to require the reporting of the gross quantity of securities borrowed and the gross quantity of securities lent for delivery-versus-payment financing contracts. The modification was made to parallel the approach taken in other sections for reporting on a ''gross'' basis instead of ''net'' basis.

3. Futures and Options Contracts

Treasury proposed to expand the components of a position to also include futures, options on futures, and options contracts for which the specified Treasury security is deliverable. The trade association questioned this proposal citing Treasury's rationale for excluding certain futures and options from the components of a reportable position in its 1996 final rule. While we continue to believe, as we did in 1996, that options and certain futures contracts do not provide the holder with either immediate control or an effective way to manipulate the price of a specific security, the proposed amendment was designed to provide Treasury with

potentially important insight into a reporting entity's strategy regarding the underlying security.

The commenter requested that, if Treasury proceeds with the expanded reporting requirement for futures and options, Treasury provide an adjustment or additional guidance to reporting entities to limit reportable positions to those Treasury securities that are the most likely to be delivered against a futures or options contract. We believe that such adjustments will complicate the position calculation process and therefore we are including all futures, options on futures, and options contracts (both exchange-traded and OTC) for which the specified Treasury security is deliverable. In addition, we are modifying Part VIII to require the reporting of net positions in these contracts (both net long and net short positions) to parallel the approach taken in other sections of the Report.

The trade association also requested that Treasury clarify whether OTC options will be within the scope of futures and options contracts that must be included in the large position reporting calculation. Treasury is making this clarification and including OTC options within the scope of the reporting requirement.

4. Components of a Position

With the exception of futures and options contracts and tri-party repurchase agreement shells, Treasury did not receive comments on any other components of a position. However, to provide more clarity on the reporting of repurchase agreement positions, we are adding a separate component for the reporting of collateral against borrowings of funds on general collateral finance repurchase agreements, including the Depository Trust & Clearing Corporation's GCF Repo® service.[25]

5. Optional Administrative Information

In the NPR, Treasury proposed an option for reporting entities to identify the type(s) of business engaged in by the reporting entity and its aggregating entities with respect to positions in the specified Treasury security by checking the appropriate box. Treasury also proposed an option for reporting entities to identify their overall investment strategy with respect to positions in the specified Treasury security by checking the appropriate box. We did not receive any comments on these administrative information options and, therefore, we are adopting them as proposed.

D. Appendix B to Part 420—Sample Large Position Report

The sample large position report in appendix B has been amended to conform to the changes in § 420.3(c) of the final reporting rules.

V. Effective Date and LPR Workshops

The trade association requested that the final rule include an appropriate transition period. Treasury is providing a 90-day delayed effective date from the date of publication in the **Federal Register** to allow reporting entities sufficient time to make necessary preparations for compliance. The trade association also suggested that examples of expected treatment of a hypothetical position would be helpful. Subsequent to the rules taking effect, Treasury will also conduct LPR workshops at FRBNY for market participants that may potentially control large positions in a particular Treasury security.

VI. Paperwork Reduction Act

The collections of information contained in the final amendments have been reviewed and approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (Act).[26] Under the Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.[27]

The collection of information in these amendments is contained in § 420.3. The amendments require a reporting entity that meets any one of eight criteria to submit a Report to FRBNY. Although we cannot be certain of the number of entities that would be required to report their positions as a result of a call for such Reports, we believe few reporting entities would actually have to file Reports because the minimum reporting threshold remains high. In fact, the actual reporting threshold(s) in a specific call for large position reports may exceed the minimum reporting threshold. Moreover, we expect that our requests for information will continue to be infrequent.

Treasury does not believe that reporting entities will find reporting the additional position information overly burdensome because this approach may align more closely with the way many reporting entities typically maintain their records. In addition, reporting entities must collect much of this information to calculate their reportable position under the current LPR rules. Because the amendments require more detailed information to be provided by entities that file reports, we increased the annual reporting burden in our submission to OMB by 104 hours, representing an increase from eight hours to ten hours per reporting entity and an increase from 12 to 20 reporting entities.

The collection of information is intended to enable Treasury and other regulators to better understand supply and demand dynamics in certain Treasury securities. Such information allows Treasury to monitor the impact of concentrations of positions in the Treasury securities market. This information will help the Treasury securities market remain liquid and efficient and facilitate government borrowing at the lowest possible cost to taxpayers.

Estimated total annual reporting burden: 200 hours.

Estimated annual number of respondents: 20.

Estimated annual frequency of response: 1.

Comments on the accuracy of the estimate for this collection of information or suggestions to reduce the burden should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Department of the Treasury, Washington, DC, 20503; and to the Government Securities Regulations Staff, Department of the Treasury, Bureau of the Fiscal Service, 401 14th Street SW., Washington, DC 20227.

VII. Special Analysis

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

These amendments reflect Treasury's continuing interest in meeting its informational needs while minimizing the cost and burden on those entities affected by the regulations. The amendments retain the on-demand

[25] The Depository Trust & Clearing Corporation's GCF Repo® service enables dealers to trade general collateral repos, based on rate, term, and underlying product, throughout the day without requiring intra-day, trade-for-trade settlement on a delivery-versus-payment basis.

[26] 44 U.S.C. 3507(d).

[27] The collections of information contained in the final amendments have been approved by the Office of Management and Budget under control number 1535–0089.

reporting system, adopted in 1996, which is less burdensome than a regular reporting system. Based on the limited impact of these amendments, it is our view that this final rule is not a ''significant regulatory action'' for the purposes of Executive Order 12866.

In addition, we certify under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that the amendments to the current regulations will not have a significant economic impact on a substantial number of small entities. We believe that small entities will not control positions of 10 percent or greater of the amount outstanding in any particular Treasury security. The inapplicability of the amendments to small entities indicates there is no significant impact. As a result, a regulatory flexibility analysis is not required.

Even though this rule qualifies as a procedural rule for purposes of 5 U.S.C. 553(b)(A), we published a proposed rule for public comment.

List of Subjects in 17 CFR Part 420

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

For the reasons stated in the preamble, 17 CFR part 420 is revised to read as follows:

PART 420—LARGE POSITION REPORTING

Sec.

Authority: 15 U.S.C. 78o–5(f).

§ 420.1 Applicability.

(a) This part is applicable to all persons that participate in the government securities market, including, but not limited to: Government securities brokers and dealers, depository institutions that exercise investment discretion, registered investment companies, registered investment advisers, pension funds, hedge funds, and insurance companies that may control a position in a recently-issued marketable Treasury bill, note, or bond as those terms are defined in § 420.2.

(b) Notwithstanding paragraph (a) of this section, Treasury requests that central banks (including U.S. Federal Reserve Banks for their own account), foreign governments, and international monetary authorities voluntarily submit large position reports when they meet or exceed a reporting threshold.

§ 420.2 Definitions.

For the purposes of this part:

Aggregating entity means a single entity (*e.g.,* a parent company, affiliate, or organizational component) that is combined with other entities, as specified in the definition of ''reporting entity'' of this section, to form a reporting entity. In those cases where an entity has no affiliates, the aggregating entity is the same as the reporting entity.

Control means having the authority to exercise investment discretion over the purchase, sale, retention, or financing of specific Treasury securities.

Large position threshold means the minimum dollar par amount of the specified Treasury security that a reporting entity must control in order for the entity to be required to submit a large position report. It also means the minimum number of futures, options on futures, and exchange-traded options contracts for which the specified Treasury security is deliverable that the reporting entity must control in order for the entity to be required to submit a large position report. Treasury will announce the large position thresholds, which may vary with each notice of request to report large position information and with each specified Treasury security. Treasury may announce different thresholds for certain reporting criteria. Under no circumstances will a large position threshold be less than 10 percent of the amount outstanding of the specified Treasury security.

Recently-issued means:

(1) With respect to Treasury securities that are issued quarterly or more frequently, the three most recent issues of the security.

(2) With respect to Treasury securities that are issued less frequently than quarterly, the two most recent issues of the security.

(3) With respect to a reopened security, the entire issue of a reopened security (older and newer portions) based on the date the new portion of the reopened security is issued by Treasury (or for when-issued securities, the scheduled issue date).

(4) For all Treasury securities, a security announced to be issued or auctioned but unissued (when-issued), starting from the date of the issuance announcement. The most recent issue of the security is the one most recently announced.

(5) Treasury security issues other than those specified in paragraphs (1) and (2) of this definition, provided that such large position information is necessary and appropriate for monitoring the impact of concentrations of positions in Treasury securities.

Reporting entity means any corporation, partnership, person, or other entity and its affiliates, as further provided herein. For the purposes of this definition, an affiliate is any: Entity that is more than 50% owned, directly or indirectly, by the aggregating entity or by any other affiliate of the aggregating entity; person or entity that owns, directly or indirectly, more than 50% of the aggregating entity; person or entity that owns, directly or indirectly, more than 50% of any other affiliate of the aggregating entity; or entity, a majority of whose board of directors or a majority of whose general partners are directors or officers of the aggregating entity or any affiliate of the aggregating entity.

(1) Subject to the conditions prescribed in appendix A to this part, one aggregating entity, or a combination of aggregating entities, may be recognized as a separate reporting entity.

(2) Notwithstanding this definition, any persons or entities that intentionally act together with respect to the investing in, retention of, or financing of Treasury securities are considered, collectively, to be one reporting entity.

Reporting requirement means that an entity must file a large position report when it meets any one of eight criteria contained in appendix B to this part.

§ 420.3 Reporting.

(a) A reporting entity must file a large position report if it meets the reporting requirement as defined in § 420.2. Treasury will provide notice of the large position thresholds by issuing a press release and subsequently publishing the notice in the **Federal Register**. Such notice will identify the Treasury security issue(s) to be reported (including, where applicable, identifying the related STRIPS principal component); the date or dates for which the large position information must be reported; and the large position thresholds for that issue. A reporting entity is responsible for taking reasonable actions to be aware of such a notice.

(b) A reporting entity shall select one entity from among its aggregating entities (*i.e.,* the designated filing entity) as the entity designated to compile and file a report on behalf of the reporting entity. The designated filing entity shall be responsible for filing any large position reports in response to a notice issued by Treasury and for maintaining

the additional records prescribed in § 420.4.

(c)(1) In response to a notice issued under paragraph (a) of this section requesting large position information, a reporting entity that controls an amount of the specified Treasury security that equals or exceeds one of the specified large position thresholds stated in the notice shall compile and report the amounts of the reporting entity's positions in the order specified, as follows:

(i) *Part I.* Positions in the Security Being Reported as of the Opening of Business on the Report Date, including positions:

(A) In book-entry accounts of the reporting entity;

(B) As collateral against borrowings of funds on general collateral finance repurchase agreements;

(C) As collateral against borrowings of funds on tri-party repurchase agreements;

(D) As collateral or margin to secure other contractual obligations of the reporting entity; and

(E) Otherwise available to the reporting entity.

(ii) *Part II.* Settlement Obligations Attributable to Outright Purchase and Sale Contracts Negotiated Prior to or on the Report Date (excluding settlement fails), including:

(A) Obligations to receive or deliver, on the report date, the security being reported attributable to contracts for cash settlement (T+0);

(B) Obligations to receive or deliver, on the report date, the security being reported attributable to contracts for regular settlement (T+1);

(C) Obligations to receive or deliver, on the report date, the security being reported attributable to contracts, including when-issued contracts, for forward settlement (T+n, n>1);

(D) Obligations to receive, on the report date, the security being reported attributable to Treasury auction awards; and

(E) Obligations to receive or deliver, on the report date, principal STRIPS derived from the security being reported attributable to contracts for cash settlement, regular settlement, when-issued settlement, and forward settlement.

(iii) *Part III.* Settlement Obligations Attributable to Delivery-versus-Payment Financing Contracts (including repurchase agreements and securities lending agreements) Negotiated Prior to or on the Report Date (excluding settlement fails), including:

(A) Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to overnight agreements;

(B) Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to term agreements due to open on, or due to close on, the report date; and

(C) Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to open agreements due to open on, or due to close on, the report date.

(iv) *Part IV.* Settlement Fails from Days Prior to the Report Date (Legacy Obligations), including obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, arising out of settlement fails on days prior to the report date.

(v) *Part V.* Settlement Fails as of the Close of Business on the Report Date, including obligations to receive or deliver, on the business day following the report date, the security being reported, and principal STRIPS derived from the security being reported, arising out of settlement fails on the report date.

(vi) *Part VI.* Positions in the Security Being Reported as of the Close of Business on the Report Date, including positions:

(A) In book-entry accounts of the reporting entity;

(B) As collateral against borrowings of funds on general collateral finance repurchase agreements;

(C) As collateral against borrowings of funds on tri-party repurchase agreements;

(D) As collateral or margin to secure other contractual obligations of the reporting entity; and

(E) Otherwise available to the reporting entity.

(vii) *Part VII.* Quantity of Continuing Delivery-versus-Payment Financing Contracts for the Security Being Reported, including the gross amount of security being reported borrowed or lent out on term delivery-versus-payment repurchase agreements opened before the report date and not due to close until after the report date, and on open delivery-versus-payment repurchase agreements opened before the report date and not closed on the report date.

(viii) *Part VIII.* Futures and Options Contracts, including:

(A)(*1*) Net position, as of the close of market on the business day prior to the report date, in futures, options on futures, and exchange-traded options contracts on which the security being reported is deliverable (report number of contracts); and

(*2*) Net position, as of the close of market on the report date, in futures, options on futures, and exchange-traded options contracts on which the security being reported is deliverable (report number of contracts).

(B)(*1*) Net position, as of the close of market on the business day prior to the report date, in over-the-counter options contracts on which the security being reported is deliverable (report notional amount of contracts regardless of option delta); and

(*2*) Net position, as of the close of market on the report date, in over-the-counter options contracts on which the security being reported is deliverable (report notional amount of contracts regardless of option delta).

(d) An illustration of a sample report is contained in appendix B of this part.

(e) Each of the components of Part I–Part VIII of paragraph (c)(1) of this section shall be reported as a positive number or zero. All reportable amounts should be reported in the order specified above and at par in millions of dollars, except futures, options on futures, and exchange-traded options contracts, which should be reported as the number of contracts. Over-the-counter options contracts should be reported as the notional dollar amount of contracts regardless of option delta.

(f) Each submitted large position report must include the following administrative information: Name of the reporting entity; address of the principal place of business; name and address of the designated filing entity; the Treasury security that is being reported; the CUSIP number for the security being reported; the report date or dates for which information is being reported; the date the report was submitted; name and telephone number of the person to contact regarding information reported; and name and position of the authorized individual submitting this report.

(1) Reporting entities have the option to identify the type(s) of business engaged in by the reporting entity and its aggregating entities with positions in the specified Treasury security by checking the appropriate box. The types of businesses include: Broker or dealer, government securities broker or dealer, municipal securities broker or dealer, futures commission merchant, bank holding company, non-bank holding company, bank, investment adviser, commodity pool operator, pension trustee, non-pension trustee, and insurance company. Reporting entities may select as many business types as applicable. If the reporting entity is engaged in a business that is not listed,

it could select ''other'' and provide a description of its business with respect to positions in the specified Treasury security.

(2) Reporting entities also have the option to identify their overall investment strategy with respect to positions in the specified Treasury security by checking the appropriate box. Active investment strategies include those that involve purchasing, selling, borrowing, lending, and financing positions in the security prior to maturity. Passive investment strategies include those that involve holding the security until maturity. A combination of active and passive strategies would involve applying the aforementioned active and passive strategies to all or a portion of a reporting entity's positions in the specified Treasury security. Reporting entities may select the most applicable investment strategy.

(g) The large position report must be signed by one of the following: The chief compliance officer; chief legal officer; chief financial officer; chief operating officer; chief executive officer; or managing partner or equivalent of the designated filing entity. The designated filing entity must also include in the report, immediately preceding the signature, a statement of certification as follows:

> By signing below, I certify that the information contained in this report with regard to the designated filing entity is accurate and complete. Further, after reasonable inquiry and to the best of my knowledge and belief, I certify that: (i) The information contained in this report with regard to any other aggregating entities is accurate and complete; and (ii) the reporting entity, including all aggregating entities, is in compliance with the requirements of 17 CFR part 420.

(h) The report must be filed before noon Eastern Time on the fourth business day following issuance of the press release.

(i) A report to be filed pursuant to paragraph (c) of this section will be considered filed when received by the Federal Reserve Bank of New York. The report may be filed by facsimile or delivered hard copy. The Federal Reserve Bank of New York may in its discretion also authorize other means of reporting.

(j) A reporting entity that has filed a report pursuant to paragraph (c) of this section shall, at the request of Treasury or the Federal Reserve Bank of New York, timely provide any supplemental information pertaining to such report.

(Approved by the Office of Management and Budget under control number 1535–0089)

§ 420.4 Recordkeeping.

(a) *Recordkeeping responsibility of aggregating entities.* Notwithstanding the provisions of paragraphs (b) and (c) of this section, an aggregating entity that controls a portion of its reporting entity's position in a recently-issued Treasury security, when such position of the reporting entity equals or exceeds $2 billion, shall be responsible for making and maintaining the records prescribed in this section.

(b) *Records to be made and preserved by entities that are subject to the recordkeeping provisions of the SEC, Treasury, or the appropriate regulatory agencies for financial institutions.* As an aggregating entity, compliance by a registered broker or dealer, registered government securities broker or dealer, noticed financial institution, depository institution that exercises investment discretion, registered investment adviser, or registered investment company with the applicable recordkeeping provisions of the SEC, Treasury, or the appropriate regulatory agencies for financial institutions shall constitute compliance with this section, provided that, if such entity is also the designated filing entity, it:

(1) Makes and keeps copies of all large position reports filed pursuant to this part;

(2) Makes and keeps supporting documents or schedules used to compute data for the large position reports filed pursuant to this part, including any certifications or schedules it receives from aggregating entities pertaining to their holdings of the reporting entity's position;

(3) Makes and keeps a chart showing the organizational entities that are aggregated (if applicable) in determining the reporting entity's position; and

(4) With respect to recordkeeping preservation requirements that contain more than one retention period, preserves records required by paragraphs (b)(1) through (3) of this section for the longest record retention period of applicable recordkeeping provisions.

(c) *Records to be made and preserved by other entities.* (1) An aggregating entity that is not subject to the provisions of paragraph (b) of this section shall make and preserve a journal, blotter, or other record of original entry containing an itemized record of all transactions that contribute to a reporting entity's position, including information showing the account for which such transactions were effected and the following information pertaining to the identification of each instrument: The type of security, the par amount, the CUSIP number, the trade date, the maturity date, the type of transaction (*e.g.*, a reverse repurchase agreement), and the name or other designation of the person from whom sold or purchased.

(2) If such aggregating entity is also the designated filing entity, then in addition it shall make and preserve the following records:

(i) Copies of all large position reports filed pursuant to this part;

(ii) Supporting documents or schedules used to compute data for the large position reports filed pursuant to this part, including any certifications or schedules it receives from aggregating entities pertaining to their holdings of the reporting entity's position; and

(iii) A chart showing the organizational entities that are aggregated (if applicable) in determining the reporting entity's position.

(3) With respect to the records required by paragraphs (c)(1) and (2) of this section, each such aggregating entity shall preserve such records for a period of not less than six years, the first two years in an easily accessible place. If an aggregating entity maintains its records at a location other than its principal place of business, the aggregating entity must maintain an index that states the location of the records, and such index must be easily accessible at all times.

(Approved by the Office of Management and Budget under control number 1535–0089)

§ 420.5 Applicability date.

The provisions of this part shall be first applicable beginning March 31, 1997.

Appendix A to Part 420—Separate Reporting Entity

Subject to the following conditions, one or more aggregating entity(ies) (*e.g.,* parent, subsidiary, or organizational component) in a reporting entity, either separately or together with one or more other aggregating entity(ies), may be recognized as a separate reporting entity. All of the following conditions must be met for such entity(ies) to qualify for recognition as a separate reporting entity:

(1) Such entity(ies) must be prohibited by law or regulation from exchanging, or must have established written internal procedures designed to prevent the exchange of information related to transactions in Treasury securities with any other aggregating entity;

(2) Such entity(ies) must not be created for the purpose of circumventing these large position reporting rules;

(3) Decisions related to the purchase, sale or retention of Treasury securities must be made by employees of such entity(ies). Employees of such entity(ies) who make decisions to purchase or dispose of Treasury

securities must not perform the same function for other aggregating entities; and

(4) The records of such entity(ies) related to the ownership, financing, purchase and sale of Treasury securities must be maintained by such entity(ies). Those records must be identifiable—separate and apart from similar records for other aggregating entities.

To obtain recognition as a separate reporting entity, each aggregating entity or group of aggregating entities must request such recognition from Treasury pursuant to the procedures outlined in § 400.2(c) of this chapter. Such request must provide a description of the entity or group and its position within the reporting entity, and provide the following certification:

[Name of the entity(ies)] hereby certifies that to the best of its knowledge and belief it meets the conditions for a separate reporting entity as described in appendix A to 17 CFR part 420. The above named entity also certifies that it has established written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent the entity or group of entities from:

(1) Exchanging any of the following information with any other aggregating entity (a) positions that it holds or plans to trade in a Treasury security; (b) investment strategies that it plans to follow regarding Treasury securities; and (c) financing strategies that it plans to follow regarding Treasury securities, or

(2) In any way intentionally acting together with any other aggregating entity with respect to the purchase, sale, retention or financing of Treasury securities.

The above-named entity agrees that it will promptly notify Treasury in writing when any of the information provided to obtain separate reporting entity status changes or when this certification is no longer valid.

Any entity, including any organizational component thereof, that previously has received recognition as a separate bidder in Treasury auctions from Treasury pursuant to 31 CFR part 356 is also recognized as a separate reporting entity without the need to request such status, provided such entity continues to be in compliance with the conditions set forth in appendix A to 31 CFR part 356.

Appendix B to Part 420—Sample Large Position Report

Formula for Determining Whether To Submit a Large Position Report

(Report all components as a positive number or zero in millions of dollars at par value)

BILLING CODE 4810–39–P

	Column A	Column B
	Quantity	
Part I. Positions in the Security Being Reported as of the Opening of Business on the Report Date		
1. In book-entry accounts of the reporting entity		
2. As collateral against borrowings of funds on general collateral finance repurchase agreements		
3. As collateral against borrowings of funds on tri-party repurchase agreements		
4. As collateral or margin to secure other contractual obligations of the reporting entity		
5. Otherwise available to the reporting entity		
Part II. Settlement Obligations Attributable to Outright Purchase and Sale Contracts Negotiated Prior to or on the Report Date (excluding settlement fails)	**Obligations to Receive**	**Obligations to Deliver**
6. Obligations to receive or deliver, on the report date, the security being reported attributable to contracts for cash settlement (T+0)		
7. Obligations to receive or deliver, on the report date, the security being reported attributable to contracts for regular settlement (T+1)		
8. Obligations to receive or deliver, on the report date, the security being reported attributable to contracts, including when-issued contracts, for forward settlement (T+n, n>1)		

9. Obligations to receive, on the report date, the security being reported attributable to Treasury auction awards		
10. Obligations to receive or deliver, on the report date, principal STRIPS derived from the security being reported attributable to contracts for cash settlement, regular settlement, when-issued settlement, and forward settlement		
Part III. Settlement Obligations Attributable to Delivery-versus-Payment Financing Contracts (including repurchase agreements and securities lending agreements) Negotiated Prior to or on the Report Date (excluding settlement fails)	**Obligations to Receive**	**Obligations to Deliver**
11. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to overnight agreements		
12. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to term agreements due to open on, or due to close on, the report date		
13. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, attributable to open agreements due to open on, or due to close on, the report date		
Part IV. Settlement Fails from Days Prior to the Report Date (Legacy Obligations)		
14. Obligations to receive or deliver, on the report date, the security being reported, and principal STRIPS derived from the security being reported, arising out of settlement fails on days prior to the report date		

Part V. Settlement Fails as of the Close of Business on the Report Date

15. Obligations to receive or deliver, on the business day following the report date, the security being reported, and principal STRIPS derived from the security being reported, arising out of settlement fails on the report date	

Part VI. Positions in the Security Being Reported as of the Close of Business on the Report Date	**Quantity**
16. In book-entry accounts of the reporting entity	
17. As collateral against borrowings of funds on general collateral finance repurchase agreements	
18. As collateral against borrowings of funds on tri-party repurchase agreements	
19. As collateral or margin to secure other contractual obligations of the reporting entity	
20. Otherwise available to the reporting entity	

Part VII. Quantity of Continuing Delivery-versus-Payment Financing Contracts for the Security Being Reported	**Quantity Borrowed**	**Quantity Lent**
21. Gross amount of security being reported borrowed or lent out on term delivery-versus-payment repurchase agreements opened before the report date and not due to close until after the report date, and on open delivery-versus-payment repurchase agreements opened before the report date and not closed on the report date		

Part VIII. Futures and Options Contracts	Quantity if Net Long	Quantity if Net Short
22. a) Net position, as of the close of market on the business day prior to the report date, in futures, options on futures, and exchange-traded options contracts on which the security being reported is deliverable (report number of contracts)		
b) Net position, as of the close of market on the report date, in futures, options on futures, and exchange-traded options contracts on which the security being reported is deliverable (report number of contracts)		
23. a) Net position, as of the close of market on the business day prior to the report date, in over-the-counter options contracts on which the security being reported is deliverable (report notional amount of contracts regardless of option delta)		
b) Net position, as of the close of market on the report date, in over-the-counter options contracts on which the security being reported is deliverable (report notional amount of contracts regardless of option delta)		

A reporting entity must submit a large position report if it meets any one of the following criteria:

[ ] A. If the sum of column A in lines 1 through 5 and the gross amount lent in line 21 is greater than or equal to the announced large position threshold.
[ ] B. If the sum of column A in lines 16 through 20 and the gross amount lent in line 21 is greater than or equal to the announced large position threshold.
[ ] C. If the sum of column A in lines 6 through 14 is greater than or equal to the announced large position threshold.
[ ] D. If the sum of column B in lines 6 through 14 is greater than or equal to the announced large position threshold.
[ ] E. If column A in line 15 is greater than or equal to the announced large position threshold.
[ ] F. If column B in line 15 is greater than or equal to the announced large position threshold.
[ ] G. If line 22(a) or line 22(b) is greater than or equal to the announced futures, options on futures and exchange-traded options contract threshold.
[ ] H. If line 23(a) or line 23(b) is greater than or equal to the announced large position threshold.

Please specify which of the above criteria triggered the reporting requirement (check all that apply).

Administrative Information to be Provided in the Report

- Name of Reporting Entity:
- Address of Principal Place of Business:
- Name and Address of the Designated Filing Entity:
- Treasury Security Reported on:
- CUSIP Number:
- Date or Dates for which Information is Being Reported:
- Date Report Submitted:
- Name and Telephone Number of Person to Contact Regarding Information Reported:

Name and Position of Authorized Individual Submitting this Report (Chief Compliance Officer; Chief Legal Officer; Chief Financial Officer; Chief Operating Officer; Chief Executive Officer; or Managing Partner or Equivalent of the Designated Filing Entity Authorized to Sign Such Report on Behalf of the Entity):

(Optional) Identify the business(es) engaged in by the reporting entity and any of its aggregating entities with respect to the specified Treasury security (check all that apply).

[ ] A. Broker or Dealer
[ ] B. Government Securities Broker or Dealer
[ ] C. Municipal Securities Broker or Dealer
[ ] D. Futures Commission Merchant
[ ] E. Bank Holding Company
[ ] F. Non-Bank Holding Company
[ ] G. Bank
[ ] H. Investment Adviser
[ ] I. Commodity Pool Operator
[ ] J. Pension Trustee
[ ] K. Non-Pension Trustee
[ ] L. Insurance Company
[ ] M. Other (specify) _____

(Optional) Do you consider the reporting entity's overall investment strategy with respect to the specified Treasury security to be:

[ ] Active
[ ] Passive
[ ] Combination of Active and Passive

Statement of Certification: "By signing below, I certify that the information contained in this report with regard to the designated filing entity is accurate and complete. Further, after reasonable inquiry and to the best of my knowledge and belief, I certify that: (i) the information contained in this report with regard to any other aggregating entities is accurate and complete; and (ii) the reporting entity, including all aggregating entities, is in compliance with the requirements of 17 CFR Part 420."

Signature of Authorized Person:

Matthew S. Rutherford,

Acting Under Secretary for Domestic Finance.

[FR Doc. 2014–28734 Filed 12–9–14; 8:45 am]

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Part III

Department of Education

Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs; Notice

DEPARTMENT OF EDUCATION

[Docket ID ED–2013–OII–0146]

RIN 1894–AA04

Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Final priorities and definitions.

SUMMARY: To support a comprehensive education agenda, the Secretary of Education establishes 15 priorities and related definitions for use in any appropriate discretionary grant program for fiscal year (FY) 2015 and future years. These priorities and definitions replace the supplemental priorities for discretionary grant programs that were published in 2010 and corrected in 2011. These priorities reflect the lessons learned from implementing discretionary grant programs, as well as our current policy objectives and emerging needs in education.

DATES: *Effective Date:* These supplemental priorities and definitions are effective January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Allison Moss, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W319, Washington, DC 20202. Telephone: (202) 205–7726 or by email: *allison.moss@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of This Regulatory Action: The Secretary has outlined a comprehensive education agenda that includes support for early learning and development programs that prepare children to succeed in school; elementary and secondary education programs that prepare students to succeed in college, career, and life; and postsecondary programs that prepare students to be competitive in the workforce. These final priorities and definitions may be used across the Department of Education's (the Department) discretionary grant programs to further the Department's mission to promote Student Achievement [1] and global competitiveness.

Summary of the Major Provisions of This Regulatory Action: This regulatory action announces 15 supplemental priorities and relevant definitions. Each major provision is discussed in the *Public Comment* section of this document.

Program Authority: 20 U.S.C. 1221e–3, 3474.

We published a notice of proposed priorities and definitions (NPP) in the **Federal Register** on June 24, 2014 (79 FR 35736). That document contained background information and our reasons for proposing the particular priorities and definitions.

Public Comment: In response to our invitation in the NPP, more than 1,600 parties submitted comments on the proposed priorities and definitions.

We group major issues according to subject. Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and any changes in the priorities and definitions since publication of the notice of proposed priorities and definitions follows.

General

Comment: Over 1,000 commenters urged the Department to include in this notice of final priorities (NFP) a priority on a specific content area in education. Many of these commenters expressed support for a new priority focused on history and civic learning, but several commenters also wrote in support of the arts, foreign languages, geography, economics, and social studies. These commenters, in general, stated that it is inappropriate to include a priority that promotes science, technology, engineering, and mathematics (STEM) education without focusing on other educational areas such as history, civic learning, and social studies. One commenter suggested that if a new priority focused on such subjects was not possible, we amend all of the 15 proposed priorities to require that applicants demonstrate knowledge of peoples, cultures, and histories within that applicant's region.

Discussion: We appreciate the commenters' concern that these priorities do not highlight content areas equally. While we do include Priority 7, which promotes STEM education and access to rigorous coursework in those subjects, but not priorities for other content areas, we clearly discuss our reasoning for focusing on STEM learning in the background section for Priority 7 in the NPP.

Most of the priorities, as written, could be used to support any type of content area or classroom. For example, an applicant proposing a project designed to address *Priority 2—Influencing the Development of Non-Cognitive Factors* could do so using a strategy that includes creative arts expression. In addition, under *Priority 9—Improving Teacher Effectiveness and Promoting Equitable Access to Effective Teachers,* projects that recruit, select, develop, support, and retain effective teachers could be designed with the specific needs of a history, social studies, foreign language, or civic education teacher in mind. As such, we do not think specific priorities in the recommended content areas are necessary.

We appreciate the commenter's suggestion that, if inclusion of a priority on history and civic learning is not possible, we change all of our priorities to ensure that applicants approach their proposed projects with the full context of the communities they propose to serve in mind. We agree that, to implement projects successfully, grant recipients should consider the history and characteristics of the communities they serve. However, applicants already have adequate incentives to demonstrate that they understand the community they intend to serve through their responses to the selection criteria used by the Department in its discretionary grant competitions to solicit information from applicants, such as how the proposed project would work, why the proposed project is necessary, and if the applicant has the necessary resources and experience to successfully implement the proposed project. In addition to program-specific selection criteria, general selection criteria are available in 34 CFR 75.210 for the Department to use, when appropriate, and the Department can develop selection criteria under 34 CFR 75.209 for use in any discretionary grant program. Including such a focus in each priority is therefore unnecessary.

Changes: None.

Comment: A few commenters asked that the Department include priorities on additional general topics. One commenter asked the Department to prioritize secondary and postsecondary transitions. Another commenter requested that we prioritize emerging fields of study that are important to national security and global competitiveness, such as computer science. A third commenter asked that we include a priority that would support school personnel who are not teachers or principals, but who are still critical to student success.

Discussion: We agree with the commenters that transitions, national security and global competitiveness, and school support staff are important issues that merit attention. However, we

[1] Defined terms are used throughout this document and are indicated by capitalization.

think that these topics are addressed in the final priorities.

For example, we think that smooth transitions from secondary to postsecondary education could be part of a project under Priority 8, which focuses on implementation of internationally benchmarked college- and career-ready standards and assessments. In addition, a program using subpart (c) of *Priority 5—Improving Postsecondary Access, Affordability, and Completion* would seek projects that are designed to increase the number and proportion of High-need Students who are prepared to enroll in and complete college, other postsecondary education, or other career and technical education, thus improving transitions to postsecondary education.

These final priorities reflect a comprehensive education agenda that supports projects that improve student outcomes and prepare students for success in their careers and in life. Improving the education of the Nation's students would have the ancillary effect of improved national security and global competitiveness. Further, we expect that use of Priority 7 to promote STEM education and improve Student Achievement in these areas will spur technological innovation, creation, and study across the Nation. The commenter references computer science as a particularly important field of study, and we note that computer science falls clearly within the scope of the STEM fields addressed in Priority 7.

Finally, we agree with the commenter that school support staff, in addition to teachers and principals, can play integral roles in improving student academic outcomes. We think that projects that are designed to support such staff could be proposed under several priorities, including *Priority 2—Influencing the Development of Non-Cognitive Factors, Priority 4—Supporting High-Need Students, Priority 13—Improving School Climate, Behavioral Supports, and Correctional Education,* and *Priority 14—Improving Parent, Family, and Community Engagement*

Changes: None.

Comment: Some commenters requested a separate priority focusing on partnerships, including school and community partnerships, and support for intermediaries. One commenter proposed adding a priority on utilizing the collective impact of such partnerships, including subparts on implementing a shared community vision, integrating professional expertise and data to make decisions, creating networks of cross-sector practitioners, and building civic infrastructure through committed resources. Another commenter recommended a priority that will support projects that leverage national service initiatives.

Discussion: We agree that partnerships, whether they are school and community partnerships or partnerships with other intermediaries, provide opportunities to leverage resources to either increase a project's effectiveness or its ability to reach more students. However, we do not agree with the recommendation of a priority that focuses solely on the establishment of such partnerships, and note that applicants could form partnerships to address any of the priorities proposed in the NPP.

It is important to note that the Department may use factors from the general selection criteria in 34 CFR 75.210 and criteria developed under 34 CFR 75.209 to encourage the types of efforts described by the commenters. For example, 34 CFR 75.210(c) (Quality of the project design) includes factors that ask applicants to describe the extent to which the proposed project is supported by evidence and will integrate with, or build on, similar or related efforts, using existing funding streams from other programs or policies supported by community, State, and Federal resources. The Department has discretion in choosing whether to use the selection criteria and, if so, which selection criteria and factors are most appropriate for a given competition.

Changes: None.

Comments: Several commenters provided suggestions to strengthen the background sections for each priority included in the NPP.

Discussion: We appreciate the feedback we received on the background sections included in the NPP, which explain our rationale for each proposed priority. We do not include background sections for priorities in the NFP. Therefore, we are not making any changes in response to these comments.

Changes: None.

Comment: One commenter urged the Department to use the priorities and selection criteria related to building evidence of effectiveness in the Education Department General Administrative Regulations (EDGAR) in combination with these priorities.

Discussion: We appreciate the commenter's suggestion and note that this combination is already possible. For a discretionary grant program, the Department already may use the evidence-related competitive preference priorities in 34 CFR 75.266 (What procedures does the Secretary use if the Secretary decides to give special consideration to applications supported by strong or moderate evidence of effectiveness?) or selection criteria in 34 CFR 75.210 (General selection criteria) or developed under 34 CFR 75.209 so long as the priority or criteria are consistent with the program's authorizing statute and purpose.

Changes: None.

Comment: A few commenters were concerned that we are including too many priorities, and that it would be difficult to determine which of the priorities are most important. One commenter noted that it is confusing to include so many supplemental priorities in addition to the selection criteria and factors available in 34 CFR 75.210, and that so many emphases create unrest in the education field. Another commenter stated that all 15 priorities are not suitable for some discretionary grant programs, and may add unnecessary burden for applicants. In the same vein, another commenter strongly encouraged us to consider funding those programs using these priorities at levels appropriate for successful implementation of projects designed to address them.

Some commenters also suggested strategies to better organize the priorities. For example, one commenter suggested we group the priorities into broader categories.

Discussion: We appreciate the commenters' concerns and suggestions, and want to clarify the purpose of these supplemental priorities. These priorities are intended as options for the Department to use when announcing a discretionary grant program competition. For each grant program the Department may choose which, if any, of the priorities (or subparts) and definitions included in this NFP are appropriate for the competition with regard to feasibility and scope. The Department has the discretion to choose which priorities should be used in each competition, and how the priority would apply; for example, a priority may be used as an absolute priority, meaning that applicants that propose projects under that priority would need to address the priority to be eligible to receive funds. A priority could also be used as a competitive preference priority, meaning that applicants that propose projects addressing that priority could receive additional points for their applications, depending on how well they do so. Although we publish 15 priorities in this NFP, we will use only those priorities that are relevant to and appropriate for the particular program. Furthermore, the Department is not required to use any of these priorities for any particular program.

In addition, we think it is important to clarify how selection criteria are used in discretionary grant competitions as compared to absolute and competitive preference priorities. Selection criteria developed under 34 CFR 75.209 and general selection criteria from 34 CFR 75.210 may be used to focus applicants on how they would meet statutory or regulatory requirements of a program, and encourage applicants to describe how well they are positioned to implement their proposed projects. For example, 34 CFR 75.210(c) (Quality of the project design) asks applicants to describe the project's logic model, or theory of action. These factors are content neutral, and, if used, may help the Department to fund well-designed and thoughtful projects that are proposed by capable applicants.

Conversely, absolute, competitive preference, and invitational priorities are used in discretionary grant competitions to guide applicants to propose projects that respond to a specific need, such as increasing completion rates for High-need Students at the postsecondary level, or improving family engagement efforts in schools. Thus, the priorities used in discretionary grant competitions instruct applicants in what to propose in their applications, while the Department uses selection criteria to assess how well the applicants could implement their proposed projects within the context of the priorities, in addition to the underlying statute and any applicable rules or regulations. Finally, we do not think that grouping priorities is necessary since they are designed so that each discretionary grant program may use one or a combination of several priorities in its competition, as appropriate; and further grouping could limit flexibility in using the priorities.

Changes: None.

Comment: One commenter suggested that, in establishing the Supplemental Priorities, the Department is inappropriately bypassing the legislative process, and providing itself with total discretion over how each priority will be used in discretionary grant programs.

Discussion: We appreciate the commenter's concerns; however, the Department is not bypassing the legislative process. Section 410 of the General Education Provisions Act (GEPA) authorizes the Secretary ''to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.'' (20 U.S.C. 1221e–3.) When establishing rules—such as these priorities—the Department is required to obtain and consider public comment. (20 U.S.C. 1232(d); see also 5 U.S.C. 551, *et seq.*) Establishing these priorities through rulemaking at one time simply enables the Department to avoid the expenditure of resources otherwise needed to conduct a separate rulemaking for each grant competition for which it would want to apply one or more of the priorities. The statutory provisions cited above authorize the establishment of these priorities.

Second, the commenter is correct that the Department will have discretion to decide which of the priorities, if any, are applicable to a particular discretionary grant competition. However, its decision to apply one or more to a particular competition, and to do so as absolute, competitive preference, or invitational priorities, must be consistent with the statute authorizing the program for which the Department has announced that competition and the statutory provisions identified in the preceding paragraph. Furthermore, we note that use of these priorities in any particular grant competition is not mandatory.

Finally, to effectively carry out our responsibilities to award discretionary grant funds in a timely manner, our administrative regulations clearly delineate areas in which the Department may exercise discretion. This discretion includes, for example, selecting priorities from those established by Department regulations or statutory language, program regulations, or statutory provisions; deciding whether priorities should be absolute or competitive; and establishing selection criteria by which applications will be judged. (See, *e.g.,* 34 CFR 75.105, 75.209, and 75.210.) Moreover, supplemental priorities that the Department may apply to its grant competitions have been available since October 11, 2006 (71 FR 60046).

Changes: None.

Comment: One commenter wrote that *Priority 2—Influencing the Development of Non-Cognitive Factors* and *Priority 12—Promoting Diversity* should be eliminated because they do not focus specifically on educational outcomes and may conflict with family values.

Discussion: We appreciate the commenter's concern, but are unclear on how Priorities 2 and 12 would affect ''family values.'' The commenter did not define ''family values,'' so we cannot be certain which particular values the commenter considers at risk. We also note that Priority 2 and Priority 12 include implicit references to academic outcomes: Projects designed to meet Priority 2 would need to improve some combination of student academic behaviors, academic mindset, perseverance, self-regulation, social and emotional skills, and approaches toward learning strategies, and projects designed to meet Priority 12 would need to prepare students for success in the workforce.

Changes: None.

Comments: Two commenters suggested several edits across each priority to better reflect afterschool and expanded learning programs.

Discussion: We thank the commenters for the suggestions, and agree that high-quality afterschool and expanded learning programs may be effective mechanisms for engaging students, and their families, in their academic lives. For this reason, we have modified some of the priorities to include a focus on programs such as these in addition to schools, thereby broadening the scope of those priorities to include afterschool, expanded learning, and other community-based programs.

Changes: In *Priority 1—Improving Early Learning and Development Outcomes, Priority 14—Improving Parent, Family, and Community Engagement,* and the definitions for Community Engagement and Parent and Family Engagement, we have included an emphasis on ''programs'' and ''program staff'' so that community-based programs could be supported through these priorities.

Comment: One commenter urged us to better support projects that are designed to increase academic outcomes for students in middle school.

Discussion: We agree that the middle grades are important to a student's overall academic outcomes. We note that projects designed to support student success in middle school could meet many of the priorities in this NFP; for example, a project designed to implement Personalized Learning approaches to ensure appropriate support and academic excellence could be targeted at students in the middle grades. We prioritize early learning and development and postsecondary access, affordability, and completion separately because projects designed to address these areas would largely fall outside the kindergarten-through-12th grade (K–12) sphere, or may seek to improve different outcomes that would require a different set of strategies.

Changes: None.

Comment: One commenter urged the Department to include a priority focused on school turnaround, similar to the priority included in the current Supplemental Priorities published in 2010 (75 FR 78485) and corrected and republished in 2011 (76 FR 27637)

(2010 Supplemental Priorities). The commenter recognized that a few of the proposed priorities referenced teachers or principals who work in Lowest-performing Schools, but wished to see specific support for Priority Schools in our discretionary grant programs.

Discussion: In drafting the NPP, the Department considered lessons learned in implementing discretionary grant programs. One lesson we learned from our implementation of the 2010 Supplemental Priorities was that the priority focused on turning around Persistently-lowest Achieving Schools was not broadly applicable across our programs. We think that integrating such efforts into other priorities may allow us to use the discretionary grant programs to encourage turnaround initiatives in ways that better align with the programs' purposes. For that reason, we decided to approach supporting these schools differently by retaining a focus on students in schools that are in urgent need of support. As the commenter noted, we included in *Priority 9—Improving Teacher Effectiveness and Promoting Equitable Access to Effective Teachers* and *Priority 10—Improving the Effectiveness of Principals* references to Lowest-performing Schools. Students in these schools are also a focus of *Priority 4—Supporting High-Need Students.* Our definition of Lowest-performing Schools is designed to include struggling schools in all States, regardless of whether the State has received a flexibility waiver from the Department under the Elementary and Secondary Education Act of 1965, as amended (ESEA). We do not think that including a special priority for school turnaround is necessary in this NFP because the students and educators in these schools would be a focus of these other priorities.

Changes: None.

Comment: One commenter suggested that we include in the NFP several Federal coordination efforts, including joint ventures between the Department and the U.S. Department of Labor to create a cooperative grant application process, manage contracts, provide team-based technical assistance, and promote a particular mechanism for workforce program performance reporting.

Discussion: We appreciate the commenter's suggestions, but we cannot make the administrative and procedural changes the commenter suggested because the purpose of this NFP is to announce final priorities and definitions, based on our current policy agenda, for use in discretionary grant programs.

Changes: None.

Priority 1—Improving Early Learning and Development Outcomes

Comment: One commenter expressed general support for Priority 1 and suggested that we incorporate the concept of program leadership into the priority, noting that it is a critical factor in program success.

Discussion: We appreciate the commenter's support for this priority and agree that leadership is important to the success of any early learning and development program. We have revised subpart (b) of Priority 1 to emphasize that it includes administrators, which may include directors, supervisors, and other early learning and development program leaders.

Change: We have added ''including administrators'' to subpart (b) so that it now reads: ''Improving the quality and effectiveness of the early learning workforce so that early childhood educators, including administrators, have the knowledge, skills, and abilities necessary to improve young children's health, social-emotional, and cognitive outcomes.''

Comment: Several commenters expressed support for mixed-delivery models discussed in Priority 1. Two commenters suggested we revise subpart (d) to include a focus on community-wide mixed-delivery systems.

Discussion: We appreciate the commenters' support for community-wide mixed-delivery models and agree that they are important. We have therefore revised subpart (d) to include a focus on community-based programs, which will allow discretionary grant programs to prioritize in competitions community-wide mixed-delivery models and other community-based strategies.

Changes: We have added ''whether offered in schools or community-based settings'' to subpart (d) so that it now reads: ''Including preschool, whether offered in schools or community-based settings, as part of elementary education programs and systems in order to expand opportunities for preschool students and teachers.''

Comment: Several commenters stated that they appreciated the inclusion of the coordination and alignment between early learning and development systems and elementary education systems in subpart (c) of Priority 1. One commenter noted that, while vertical alignment between early learning and development and early elementary programs is highlighted in Priority 1, we should also focus on horizontal alignment with existing early childhood programs.

One commenter suggested that we clarify that early learning and development systems include early intervention. Three commenters suggested that we emphasize meaningful transition planning that includes parents and families. Another commenter asked that we emphasize knowledge and skills as a way to improve transitions from birth through third grade.

Discussion: We appreciate the commenters' support for subpart (c). While we do not define ''early learning and development systems'' or ''early learning and development programs,'' we mention early learning and development programs in subpart (a) of Priority 1, which supports projects that increase access to high-quality programs, particularly for Children with High Needs. Early learning and development programs may include early intervention. We do not think that it is necessary to include a specific reference to ''knowledge and skills as a way to improve transitions from birth through third grade'' because the priority does not list the specific strategies that should be used to improve the coordination and alignment between early learning and development systems and elementary education systems, but rather allows applicants the flexibility to propose how they would improve this coordination and alignment. We also note that Priority 1 asks that all projects be designed to improve one or more outcomes across the Essential Domains of School Readiness, which include several examples of knowledge and skills.

We agree with the commenter's suggestion that it would be helpful to include in Priority 1 a focus on transition planning, particularly for parents and families as their children transition into kindergarten. We also appreciate the commenters' suggestions on improving coordination among early learning and development programs and engaging parents in the transition process.

Changes: We have changed the language in subpart (c) so that it now reads: ''Improving the coordination and alignment among early learning and development systems and between such systems and elementary education systems, including coordination and alignment in engaging and supporting families and improving transitions for children along the birth-through-third-grade continuum, in accordance with applicable privacy laws.''

Comment: One commenter expressed strong support for State flexibility to establish multiple ways to improve the

quality and effectiveness of the early learning workforce.

Discussion: We appreciate the commenter's support for State flexibility. We believe the priority allows flexibility for applicants to focus proposed projects on improving the quality and effectiveness of their early learning workforce in accordance with their States' laws and approaches.

Changes: None.

Comment: Several commenters suggested that we define terms such as ''preschool,'' ''early learning provider,'' and ''early learning programs.'' One commenter asked that ''preschool'' be defined as early learning from birth to age five. Other commenters requested that ''early learning provider'' and ''early learning programs'' be defined and used in a manner consistent with the Preschool Development and Expansion grants program. One commenter requested that we clarify that parent and family engagement and cultural and linguistic sensitivity are important elements of high-quality early learning.

Discussion: We appreciate the commenters' suggestions. We do not think it is appropriate to establish a formal definition for ''preschool'' because, while the term is generally understood to mean early education that takes place before kindergarten, each State may have different requirements. We note that the term ''early learning provider'' is not used in this NFP, nor is the term ''early learning program.''

Changes: None.

Comment: One commenter asked that we clarify how assessment results will be used to determine if our efforts to align preschool with early elementary grades are working. The commenter also asserted that the assessments should be research-based.

Discussion: We appreciate the commenter's recommendations. While the focus of Priority 1 is not primarily on assessments, we think that there are several ways in which grantees could use assessments and their results to enhance the quality of their projects. For example, projects designed to address Priority 1 should improve early learning and development outcomes across one or more of the Essential Domains of School Readiness, which includes areas of language and literacy development, cognition, and general knowledge. We also note that any project funded by the Department must be evaluated in accordance with 34 CFR 75.590 (Evaluation by the grantee). We think that one way in which a grant recipient proposing a project designed to address Priority 1 could meet this evaluation requirement is by assessing students on the Essential Domains of School Readiness that are relevant to that project. As such, we do not think it is necessary to include a focus on research-based assessments in this NFP.

Changes: None.

Comment: One commenter expressed concerns regarding the examples provided in the background section of the NPP. Specifically, the commenter was concerned that an early learning provider that did not offer a full-day program, but that had improved early learning and development outcomes, would not meet the description of ''high-quality early learning'' provided in the background section.

Discussion: We note that the examples in the background section of the NPP were meant to clarify what we mean by ''high-quality early learning'' and are not binding. We do not define ''high-quality'' because early learning and development programs may cover a wide range of age groups from birth through kindergarten entry. Group size, ratios, and professional qualifications, for example, will differ depending on the age of the children served, and it is therefore difficult to set a ''high-quality'' standard that would be appropriate for all types of programs for children of different ages.

Changes: None.

Comment: One commenter asked that we emphasize the effects that stress and trauma may have on the development of the brain in Priority 1.

Discussion: We appreciate this suggestion from the commenter. We think that this concept could be supported already through subpart (b) of Priority 1, which references health, socio-emotional, and cognitive outcomes. In addition, we think that projects designed to meet *Priority 2—Influencing the Development of Non-Cognitive Factors* and *Priority 13—Improving School Climate, Behavioral Supports, and Correctional Education* could include elements of this suggestion.

Changes: None.

Comment: Two commenters suggested that we include a new subpart in Priority 1 focused on increasing the percentage of children who are able to read and perform mathematics at grade level by the end of third grade.

Discussion: We appreciate the commenters' suggestion but note that a change is unnecessary because, given our definition of Essential Domains of Schools Readiness, these types of projects would currently be covered by the introductory paragraph of the priority: ''Projects that are designed to improve early learning and development outcomes across one or more of the Essential Domains of Schools Readiness.''

Changes: None.

Comment: One commenter noted that early learning should be an absolute priority in all discretionary grant competitions. The commenter also requested that we refer to ''early learning and education'' consistently throughout the NFP to emphasize our cradle-to-career focus.

Discussion: These priorities are intended as a menu of options for our discretionary grant programs. The Department may choose which, if any, of the priorities or subparts are appropriate for a particular program competition. If the Department chooses to use the supplemental priorities, it also has discretion to decide how the priorities should be used in the grant competitions. Furthermore, because some discretionary grant programs that may decide to use some of these priorities are statutorily required to serve only K–12 or postsecondary students (in other words, not early learning students or programs), it is not appropriate to require all programs using the Supplemental Priorities to include an absolute priority or focus on early learning.

In addition, we think that using the phrase ''education'' throughout the priorities is broad enough to include early learning and development. Unless explicitly stated otherwise, the priorities could be used in competitions that focus on early learning and development programs.

Changes: None.

Priority 2—Influencing the Development of Non-Cognitive Factors

Comment: Several commenters expressed support for this priority, and many of these commenters also recommended expanding it. Four commenters suggested including a focus on tools that appropriately measure the development of non-cognitive factors. One commenter advocated for the priority supporting the assessment, measurement, and design of high-quality instructional tools that provide for students' mastery of non-cognitive skills. Three commenters recommended that the priority include a focus on professional development for teachers or district and school personnel; and two commenters made similar recommendations about providing training for parents. One commenter noted the importance of teachers, parents, and students learning a ''growth mindset'' to recognize one's own control of his or her growth and achievement.

A number of commenters suggested that the Department use the priority to encourage the use of specific approaches, including arts education, physical education, expanded learning time, and afterschool or summer programs. Another commenter noted the importance of addressing non-cognitive factors for middle school students.

Discussion: Although we appreciate the commenters' recommendations for how this priority could be expanded, we want to clarify that the priority does not prohibit the projects described by the commenters so long as the projects are designed to improve students' mastery of non-cognitive skills and behaviors and enhance student motivation and engagement in learning. Applicants have the discretion to determine what approach or intervention will best address the priority and meet the needs of the targeted student population.

Finally, because any one of these Supplemental Priorities may be used in a variety of discretionary grant programs, we do not think it is appropriate to prescribe a specific approach to addressing this priority. As such, we decline to revise the priority in a manner that might limit its use.

Changes: None.

Comment: One commenter suggested adding the reduction of maladaptive behaviors that interfere with learning as an expected outcome of projects funded under this priority.

Discussion: This priority requires applicants to propose projects that would improve students' mastery of non-cognitive skills and behaviors and enhance student motivation and engagement in learning. These stated outcomes, which are specific to the priority, provide applicants with the discretion to develop performance measures that are appropriate to their specific contexts and relevant to their proposed projects. A performance measure for the reduction of maladaptive behaviors may be appropriate for a particular project or discretionary grant program, but may not be appropriate for all projects or discretionary grant programs that may use the priority. We do not think it is necessary to prescribe a performance measure that applicants may already use under the expected outcomes that are included in the priority.

Changes: None.

Comment: Two commenters discussed the meaning of ''non-cognitive factors.'' Specifically, one commenter suggested that the Department identify specific indicators of success in school settings, such as those indicators referenced in the Division for Early Childhood's recent publication on recommended practices in early intervention. Another commenter recommended the inclusion of the four academic mindsets that are discussed in the University of Chicago Consortium of Chicago School Research June 2012 publication (*i.e.,* sense of belonging, implicit theories of ability, self-efficacy, and expectancy-value theory). The commenter noted that these mindsets help students identify their educational and social needs as well as intellectual and emotional development needs, which provides a critical connection between college readiness and college fit.

Discussion: Research on non-cognitive skills and behaviors is emerging. We recognize that the education field does not have a standard definition for non-cognitive factors, and we have not defined that term here. Rather, we provided examples of non-cognitive skills and behaviors in the priority. By using examples that reflect current research, we aim to provide a common understanding of our intent for the priority while also allowing applicants the flexibility to adjust as new research emerges.

Changes: None.

Comment: Five commenters expressed support for the priority, but requested that the Department change its title. One commenter noted that the behavior and processes that the Department includes in ''non-cognitive factors'' involve cognition and suggested the Department use the term ''metacognitive learning skills'' instead. Another commenter recommended using ''foundational skills'' because those skills are inherently embedded in cognitive processes. Three commenters offered ''social and emotional skills,'' ''social and emotional competency,'' or ''social and intellectual habits'' as alternative titles for the priority.

Discussion: We recognize and appreciate the concerns of the commenters and the potential risk of using a term that suggests that cognition is not involved in the process of developing the skills and behaviors covered under this priority. However, we also realize that ''non-cognitive'' is a term that is commonly used and understood in the education field and that broad consensus has not been reached on a new term that would replace it.

Changes: None.

Comment: One commenter applauded this priority, and encouraged the Department to consider the difference between beliefs and skills, the need for students to develop non-cognitive factors at both the classroom and cultural levels, and the importance of continuing funding for the practical application of researched interventions. Another commenter noted the importance of using empirical research on targeted non-cognitive interventions to spread the use of effective programs.

Discussion: Priority 2 could support projects that may address the issues raised by the commenters. We do not think that it is necessary to revise the priority to require research, because the Department has discretion to select factors from 34 CFR 75.210(c) (Quality of the project design) to encourage applicants to provide evidence or a reasonable hypothesis in support of their proposed projects. Under 34 CFR 75.266 (What procedures does the Secretary use if the Secretary decides to give special consideration to applications supported by strong or moderate evidence of effectiveness?), the Department has the discretion to provide incentives to applicants that propose projects based on rigorous evidence through the use of competitive preference or absolute priorities. Finally, the Department has the discretion to select factors from 34 CFR 75.210(h) (Quality of the project evaluation) to encourage applicants to design project evaluations that are appropriate for the areas of study and research goals for a particular program.

Changes: None.

Comment: One commenter urged the Department to revise the priority to clarify that projects must set high expectations for all students, including students with disabilities. Another commenter noted that it is particularly important for students with learning and attention issues to develop non-cognitive skills.

Discussion: We agree with the commenters that it is important to set high expectations for all students, including students with disabilities. This priority includes all students, and does not include language limiting its focus to a subset of students. As the language of the priority does not limit access for or, expectations of, a subset of students, we do not think a revision to the priority is necessary.

Changes: None.

Proposed Priority 3—Promoting Personalized Learning

Comment: One commenter stated that the Department's emphasis on Personalized Learning is misplaced and that we should remove Priority 3 from the NFP. Specifically, the commenter cautioned that tools developed outside of the classroom would be less effective at informing instruction than tools developed within the classroom through face-to-face interactions.

Discussion: We disagree with the underlying assumption of the comment that grant funding would result in projects using tools that were developed without consideration for the classroom context. Depending on the discretionary grant program, local educational agencies (LEAs), State educational agencies (SEAs), nonprofit organizations, and institutions of higher education (IHEs) may be applicants. Applicants are primarily responsible for deciding what tool or approach will be used and we do not think that Federal funding would cause applicants to propose using tools that are not relevant or useful for informing instruction.

Changes: None.

Comment: Several commenters expressed support for the priority, and some of these commenters also provided suggestions for expanding it. One commenter proposed adding a new subpart focusing on professional development. One commenter recommended that the Department add a focus that would support projects that propose to design and implement networks that support the technology and dynamic learning environments necessary for students to experience ''anytime, anywhere'' Personalized Learning. Another commenter expressed concern that the proposed priority did not require applicants to intentionally plan for scaling the use of technology to deliver personalized resources to students, and suggested that the Department require applicants addressing the priority to develop a sustainable plan for leveraging technology. Conversely, another commenter suggested that we clarify that applicants could propose projects that use Personalized Learning modalities other than technology.

A few commenters noted that the Department's 2010 National Educational Technology Plan identified universal design for learning (UDL) as a method for supporting all students' learning, and suggested revising the proposed priority to encourage projects that support Personalized Learning based on UDL principles. One commenter noted that Personalized Learning can be achieved through competency-based learning, and another commenter suggested that the priority support projects that use competency-based learning as a component of Personalized Learning with a requirement that students demonstrate a mastery of college- and career-ready standards.

Discussion: We appreciate the commenters' support of the priority and recommendations for how it might be expanded. Regarding the suggestion that we include a subpart on professional development for educators, we note that subpart (a) of this priority supports the provision of professional development on Personalized Learning and the use of data as part of a project implementing Personalized Learning approaches. We do not think it would be appropriate to fund a project that provides professional development only on Personalized Learning, without implementing the approaches for which the professional development is being provided.

Regarding the recommendation that this priority include a focus on designing and implementing networks, we point the commenter to subpart (a) of *Priority 11—Leveraging Technology to Support Instructional Practice and Professional Development,* because it supports the infrastructure that schools and districts need to increase students' and educators' access to high-quality digital tools. Although subpart (a) of Priority 11 specifically references access to high-speed Internet and devices, the priority, as proposed, would not preclude an applicant from also supporting the development of networks that support the technology and dynamic learning environments that are necessary for students to experience ''anytime, anywhere'' Personalized Learning. Because the purpose of this priority is to implement Personalized Learning approaches that may or may not require the use of technology, we decline to revise this priority.

We agree with the commenter that Personalized Learning can be achieved through learning modalities other than technology. For that reason, the definition of Personalized Learning requires tailoring the pace of learning and instructional approaches to the needs of individual learners, but does not require that tailoring to be done through the use of technology. Although technology is commonly used to implement Personalized Learning, other approaches may also be used to address subpart (a) of Priority 3.

We agree with the commenter that, if an applicant is using technology to implement or deliver Personalized Learning services or resources, the applicant should consider how it will sustain its use of technology. However, because an applicant may address the priority in a manner that does not rely on technology, it is not appropriate to require applicants to develop a sustainability plan for leveraging technology. In a program using this priority the Department could use selection criteria from 34 CFR 75.210(c) (Quality of the project design) to encourage applicants to address their sustainability needs as part of their proposed projects or develop selection criteria under 34 CFR 75.209 to achieve the same purpose.

The Department's 2010 National Educational Technology Plan [2] discusses the importance of making learning experiences accessible and the use of UDL principles. Although the plan calls for the use of technology to empower Personalized Learning and provides examples of how to do it, we do not think that it is appropriate to prescribe a single approach or principle that all applicants must use when addressing this priority. We also note that Personalized Learning can be achieved through approaches other than competency-based learning. This priority does not prohibit an applicant from using the approach or principle that it determines to be most suitable for its project. As such, we decline to revise the priority to include explicit references to UDL or competency-based learning approaches.

Changes: None.

Comment: A few commenters suggested additional expected outcomes to be included in the priority. One commenter recommended that the Department emphasize that Personalized Learning should be used for developmental college reading and mathematics to reduce the number of students who need remedial coursework when they enter postsecondary programs. One commenter proposed adding increasing academic recovery as a required outcome for projects addressing the priority. Another commenter recommended including a focus on promoting knowledge and skills acquisition in subpart (a) of Priority 3. Similarly, another commenter requested that the adoption of social and emotional skills be added to subparts (a) and (b) of Priority 3.

Discussion: We do not want to limit or prescribe specific outcomes or performance measures that applicants could propose to use in their projects. The priority requires applicants to improve student academic outcomes and close academic opportunity or attainment gaps. These outcomes are broad and provide applicants the discretion to select and propose performance measures that are most appropriate for the students who are served by their projects. Priority 3 does not prohibit applicants from proposing performance measures for reducing the number of students who are participating in remedial coursework, increasing academic recovery, promoting skills and knowledge acquisition, or adopting social and

[2] Available at: *http://www.ed.gov/sites/default/files/netp2010.pdf.*

emotional skills, so long as the proposed project is implementing Personalized Learning and is designed to improve student academic outcomes and close academic opportunity and attainment gaps.

Additionally, we do not want to restrict the use of the priority. If we were, for example, to revise the priority to require a focus on reducing the number of students who are participating in remedial coursework when they enter postsecondary education, we could not use the priority in discretionary grant programs that focus on early grades because it may not be possible to measure the success of the outcome during the project period.

Changes: None.

Comment: One commenter noted that more information and research is needed on Personalized Learning and stated that the priority should require applicants to conduct a rigorous evaluation and make the findings and lessons learned from their evaluations publicly available.

Discussion: The Department can select factors from 34 CFR 75.210(h) (Quality of the project evaluation) to encourage applicants to design project evaluations that are appropriate for the areas of study and research goals for a particular program. Because the Department may promote rigorous evaluations as part of a program's selection criteria, it is not necessary to also include those requirements in the Supplemental Priorities.

Changes: None.

Comment: One commenter agreed that Digital Credentials support Personalized Learning, but cautioned that they should not be used as the only approach.

Discussion: We agree that Digital Credentials support, but are not the only approach to, Personalized Learning. For this reason, we included subpart (a), which focuses broadly on implementing Personalized Learning approaches without identifying a specific approach. However, with more students participating in online courses, and using digital learning resources to achieve their academic goals, we think that it is appropriate to include the award of Digital Credentials that are aligned with college- and career-ready standards and based on Personalized Learning.

Changes: None.

Priority 4—Supporting High-Need Students

Comment: Several commenters expressed support for this priority, including the expanded focus that allows applicants to propose projects that are designed to improve academic outcomes or learning environments for students. However, a few commenters asked that the Department define ''academic outcomes'' and ''learning environments.''

Many commenters also applauded the broader list of student groups that may be served under this priority. However, some commenters recommended that the Department include additional groups of students, such as students living in public housing, first-generation college students, adjudicated youth in residential sites, high-ability and gifted students, Native American students, Alaska native students, youth in alternative schools, and students who are served by schools that are highly segregated by race or ethnicity. One commenter suggested the Department distinguish between the different types of rural LEAs under the priority. Another commenter requested that the Department remove from Priority 4 the focus on students served by rural LEAs, or revise it to include students in both rural and urban LEAs.

Discussion: We appreciate the commenters' support for Priority 4. However, given the variety of programs in which the priority may be used, we do not think that it is appropriate to prescribe what would constitute an ''academic outcome'' or ''learning environment.'' Any definition would risk restricting the use of the priority.

Similarly, because one of the options for students who could be served under Priority 4 is High-need Students, defined broadly as students at risk of educational failure or otherwise in need of special assistance and support, it is not necessary to add most of the suggested groups to the list. However, upon review we think that it is appropriate to include a focus on students who are members of federally recognized Indian tribes in the list, as these tribes constitute distinct governmental entities with unique needs. We note that federally recognized Indian tribes include many Alaska native entities. We have made this change.

Regarding the recommendation that we remove the option to focus on students in Rural LEAs, or retain that focus but also include a focus on students in urban LEAs, we note that we include a specific focus on students who are served by rural LEAs because we acknowledge that the solutions to educational challenges may be different in rural communities than in urban and suburban communities and that there is a need for solutions that are unique to rural communities. For these reasons, we decline to remove the option or revise it to require a focus on students served by rural and urban LEAs.

Changes: We have revised Priority 4 so that it now includes ''Students who are members of federally recognized Indian tribes'' in the list of student subgroups that may be supported by projects addressing the priority.

Comment: One commenter requested that the Department define ''disconnected youth'' as used in Priority 4.

Discussion: We agree with the commenter and have added a definition of Disconnected Youth that is consistent with the Department's Performance Partnerships for Disconnected Youth Fact Sheet.[3] We note that this definition will apply to each priority in which the term Disconnected Youth is used.

Changes: We have defined Disconnected Youth to mean low-income individuals, ages 14–24, who are homeless, are in foster care, are involved in the justice system, or are not working or not enrolled in (or at risk of dropping out of) an educational institution.

Comment: One commenter expressed support for Priority 4, but noted that an effective method for improving outcomes for High-need Students is to increase salaries for teachers who work in urban LEAs where many students may live in poverty.

Discussion: We agree with the commenter that such methods may be effective, and include a subpart in *Priority 9—Improving Teacher Effectiveness and Promoting Equitable Access to Effective Teachers* that promotes equitable access to effective teachers for students from low-income families and minority students. An applicant could propose a project that provides incentives, through salary increases or other means, effective teachers to work in schools with high concentrations of such students.

Changes: None.

Priority 5—Increasing Postsecondary Access, Affordability, and Completion

Comment: Two commenters expressed concerns regarding the financial burden of the Supplemental Priorities on students. One commenter noted that we do not include a focus on reducing the cost burden for postsecondary students and another commenter indicated that the priorities would further burden individuals with student loan debt.

Discussion: We appreciate the commenters' concerns, but think that

[3] Available at: *http://www.ed.gov/blog/wp-content/uploads/2014/03/2014-PPPs-Fact-Sheet.pdf.*

there are several references in the priorities that address reducing the cost burden for postsecondary students. For example, subpart (a) of Priority 5 focuses on projects that will reduce the net cost and median student loan debt for High-need Students who enroll in college, other postsecondary education, or other career and technical education. In addition, we also include a priority focused on increasing academic outcomes for High-need Students, as well as a priority that focuses on developing and implementing college-ready standards and assessments, which help to reduce the number of students who arrive at college unprepared and in need of additional time to complete their degrees, and thereby reduce such students' postsecondary costs.

Changes: None.

Comment: One commenter suggested that we add a priority that would focus on four-year IHE applicants, stating that the Federal government invests large amounts in IHEs annually, but does not ask for reported outcomes in return. In addition, the commenter suggested that we give low-performing IHEs three to six years to improve and proposed definitions for ''low-performing college'' and ''low graduation rate college.'' The commenter also recommended that we recognize high-performing IHEs and award competitive preference priority points to those high-performing applicants that wish to implement projects that support colleges and universities with low graduation rates in improving their first-time, full-time student graduation rates.

Discussion: We do not specify who may be eligible to apply for grants under this, or any, priority. The focus of this priority is intentionally not limited to projects proposed by IHEs, as we are focused on the outcomes for students, irrespective of the type of applicant. The type of applicant will be specified by the eligibility requirements for the discretionary grant programs in which this priority is used and, therefore, we do not think that it is necessary to revise the priority in a manner that would limit its use.

Changes: None.

Comment: One commenter suggested that we further prioritize affordability by adding an additional subpart that would support projects that provide meaningful information about college to students and their families.

Discussion: We appreciate the commenters' suggestion and agree that it is important to support projects that provide meaningful information about college to students and their families. Subpart (c) of Priority 5, which supports projects that increase postsecondary enrollment or completion through college preparation, awareness, recruitment, application, and selection activities, would support this type of project.

Changes: None.

Comment: One commenter suggested that we include a subpart to support the development and implementation of an ongoing feedback process between IHEs and LEAs, and suggested a definition for ''ongoing feedback process.'' The commenter also recommended creating a new priority that focused on key secondary and postsecondary transition points. Another commenter also noted the importance of coordination between secondary and postsecondary leaders to ensure that coursework at the high school level adequately prepares students for college.

Discussion: We appreciate the commenters' suggestions and think that projects designed to improve those transitions or coordination fall within the scope of Priority 5.

Changes: None.

Comment: One commenter urged the Department to include the early childhood workforce in its initiatives related to student loans and teacher preparation program involvement.

Discussion: We appreciate the commenter's support for the Department's initiatives on the early childhood workforce and agree that this continued focus is important. We have included *Priority 1—Improving Early Learning and Development Outcomes,* which includes in subpart (b) a focus on the early childhood workforce.

Changes: None.

Comment: One commenter asked the Department to include a focus on K–12 in-school and out-of-school programs that provide students with appropriate support to enter college prepared.

Discussion: We appreciate the commenter's suggestions and think that these types of programs fall within the scope of Priority 5.

Changes: None.

Comment: One commenter asked the Department to prioritize underserved college students who are obtaining STEM degrees.

Discussion: We agree that it is important to prioritize underserved college students who are obtaining STEM degrees. Under *Priority 7—Promoting Science, Technology, Engineering, and Mathematics Education,* we include subpart (d), which addresses the commenter's request.

Changes: None.

Comment: Several commenters made suggestions to improve subpart (b) of Priority 5. Specifically, one commenter suggested we remove the reference to ''on time'' completion in subpart (b), noting that students with disabilities often need additional time to complete college. Another commenter asked that we prioritize projects that focus on preparing middle school students to be on a college path. A third commenter asked that we emphasize the role that IHEs can play in developing secondary programs designed to improve degree and certificate completion, noting that the goal must be to increase completion in programs that represent high-quality academic knowledge and understanding.

Discussion: We recognize that some groups of students struggle disproportionately to complete college on time. It is for this reason that we want to prioritize projects that could help these students to complete their degrees more quickly through better academic preparation.

Regarding the suggestion for preparation of middle school students, the priority does not preclude applicants who address subpart (b) of Priority 5 from proposing middle school interventions.

Finally, regarding the suggestion that we emphasize the role that IHEs can play in developing secondary programs designed to improve degree and certificate completion, this priority intentionally focuses on student outcomes. We think that projects designed to improve coordination between IHEs and high schools already fall within the scope of Priority 5.

Changes: None.

Comment: Several commenters made suggestions to the language in Priority 5 so that specific strategies could be included in the subparts. Specifically, one commenter suggested the inclusion of early college high schools in subpart (c). Two commenters suggested that we include dual enrollment and early college high school programs as strategies in subpart (f), while another commenter suggested that we include dual enrollment and early college high school programs as a separate subpart. In addition, one commenter asked that we revise the priority so that applicants could propose strategies that do not involve online or hybrid approaches. Another commenter suggested that we define ''hybrid learning opportunities.''

Discussion: We appreciate the commenters' suggestions and think that many of the suggestions made are within the scope of subparts (b) or (c) of Priority 5. We decline to revise Priority 5 in a manner that might limit its use.

We think that hybrid learning opportunities consist of a combination of online and in-person techniques. We

think that this term is commonly used and understood in the field and, therefore, do not think it is necessary to define it.

Changes: None.

Comment: One commenter suggested that we clarify that our use of the phrase ''regular high school diploma'' in subpart (d) of Priority 5 is aligned with the definition of that phrase in 34 CFR 200.19(b)(iv).

Discussion: We agree that our definition of the term Regular High School Diploma should be aligned with 34 CFR 200.19(b)(1)(iv). We have included the definition of Regular High School Diploma in this NFP.

Changes: We have indicated that applicants should refer to the definition for Regular High School Diploma included in this NFP. We have also added the definition of Regular High School Diploma in 34 CFR 200.19(b)(1)(iv) to the definitions section.

Comment: None.

Discussion: After review, we decided that subpart (a) of Priority 5 may be challenging for applicants to address, because it would be very difficult to obtain information about the student loan default rate for High-need Students.

Changes: We have revised subpart (a) so that it now reads: ''Reducing the net cost, median student loan debt, and likelihood of student loan default for High-need Students . . .''

Priority 6—Improving Job-Driven Training and Employment Outcomes

Comment: One commenter supported this priority and asked that we ensure that it is aligned with the U.S. Department of Labor's efforts and with the Workforce Innovation and Opportunity Act (WIOA), enacted on July 22, 2014. Another commenter noted that, while subpart (d) of Priority 6 includes a focus on providing Labor Market Information, we do not provide an incentive to applicants to use Labor Market Information to continuously improve training programs.

Discussion: We support the Department of Labor's efforts in this area and note that Priority 6 is fully aligned with WIOA. For example, WIOA promotes engagement with employers so that education and training programs supported by the Department can equip individuals with the education and skills sought by employers.

We agree that thoughtfully using Labor Market Information should be included in this priority, and note that such a change would further align Priority 6 with Vice President Biden's July 22, 2014 report to the President entitled *Ready to Work: Job-Driven Training and American Opportunity*.[4]

We also agree that using Labor Market Information effectively is important and have added a subpart to Priority 6 to encourage applicants to use it to inform their projects. We also define the term Labor Market Information in this NFP, and note that our definition aligns with the definition in the July 22, 2014 Office of Management and Budget memorandum entitled ''Ensuring that Employment and Training Programs are Job-Driven.'' [5]

Changes: We have added a subpart to Priority 6 so that it now reads: ''Using Labor Market Information to inform the focus of programs and to guide jobseekers in choosing the types of employment or fields of study, training, or credentials to pursue.'' This subpart is subpart (e), and the proposed subpart (e) is now subpart (f). We have also included a definition of Labor Market Information, and note that applicants should refer to that definition when proposing a project that addresses subpart (d) of Priority 6, in addition to subpart (e).

Comment: One commenter noted that the goals of Priority 6 could be achieved through community partnerships, internships, and career and technical courses in high school. Another commenter suggested that we include an additional subpart focused on career-based classroom learning, real-world workplace experiences, and wraparound supports for high school students.

A third commenter urged the Department to provide a clear focus on academic skill-building in Priority 6.

Discussion: We agree that the strategies listed by the first commenter could be used to address Priority 6. In general, we do not prescribe specific strategies because we think that applicants are best suited to propose appropriate strategies given the needs of their target populations. We do not want to limit the potential use of this priority. We therefore do not think that it is appropriate to incorporate into Priority 6 the strategies suggested by the first commenter or the subpart suggested by the second commenter.

We think that a project designed to improve academic skill-building would be well-aligned with subpart (c) of this priority, which seeks projects designed to improve job-driven training and employment outcomes by integrating education and training into a career pathways program through a variety of means. We also think that applicants proposing such a project would be well-positioned to address subpart (d) of *Priority 5—Increasing Postsecondary Access, Affordability, and Completion,* which includes an explicit focus on obtaining basic and academic skills.

Changes: None.

Comment: One commenter asked that we remove the focus in Priority 6 on Low-skilled Adults and High-need Students, because, by limiting the scope to projects that serve only these individuals, it would impede systemic organizational change.

Discussion: We appreciate the commenter's concern and agree that all students deserve appropriate support. While subparts (b) and (c) of Priority 6 do reference these groups specifically, a project could serve any other type of student so long as the project also serves Low-skilled Adults or other High-need Students. We think that it is important to focus on these groups because they may need more targeted assistance; however, applicants addressing Priority 6 have flexibility in choosing the populations they will serve.

Changes: None.

Comment: One commenter expressed support for ''ability to benefit.'' The commenter also suggested we focus on expanding research in the adult education and literacy field, and conduct a review of the historically low funding levels for adult education.

Discussion: In the Administration's FY 2015 budget request, we proposed to restore the ''ability to benefit'' provision for students who are enrolled in eligible career pathway programs to qualify for financial assistance. We note, however, that the ''ability to benefit'' requirement was eliminated by Congress in 2011.

To better understand the best strategies to improve reading skills for struggling adult learners, the Department has invested in research on adult education through the Center for the Study of Adult Literacy, funded by the Institute of Education Sciences (IES). In addition, the Department of Labor has recently launched the Clearinghouse for Labor Evaluation and Research [6] to make data on labor topics more readily accessible.

Changes: None.

Comment: One commenter supported Priority 6, but was concerned that rural applicants would struggle to implement projects addressing this priority due to a dearth of employment opportunities in their communities.

Discussion: We do not think that rural applicants would be disadvantaged by Priority 6, because its purpose is to

[4] Available at: *http://www.whitehouse.gov/sites/default/files/docs/skills_report.pdf.*

[5] Available at: *http://www.whitehouse.gov/sites/default/files/omb/memoranda/2014/m-14-15.pdf.*

[6] Available at: *http://clear.dol.gov/.*

support projects that narrow the gap between employment opportunities and workforce skills in every community, including rural communities.

To address such gaps in high-need communities, we note that in January 2014, President Obama announced the first five Promise Zones: The Choctaw Nation of Oklahoma, Los Angeles, Philadelphia, San Antonio, and Kentucky Highlands. On March 27, 2014, the Department published an NFP for the Promise Zones Initiative (79 FR 17035), which focuses Federal financial assistance on expanding the number of Department programs and projects that support activities in the above-mentioned Promise Zones. We may now include in our discretionary grant competitions an absolute or competitive preference priority for areas designated as Promise Zones, meaning that applicants would have the incentive to design projects that support these areas. While the designated Promise Zones include a mix of rural and urban communities, we think that use of the Promise Zones priority will provide an incentive to applicants to support rural communities such as those described by the commenter.

Changes: None.

Comment: One commenter asked that we emphasize collaboration with labor unions in subpart (b) of Priority 6 because they may already be providing work-based learning opportunities.

Discussion: We agree that collaboration with labor unions and other workers' organizations is important, and while we do not include an explicit focus on such collaboration in subpart (b), that collaboration is reflected in subpart (a) through the definition of Employer Engagement. We also note that the parenthetical list in subpart (b) is illustrative, and that applicants have flexibility in the types of opportunities they propose to provide. The strategies by which they propose to provide work-based learning opportunities are also at the applicant's discretion, so an applicant could deliberately include collaboration with labor unions as part of its proposed approach. We think that the commenter's suggestion is already within the scope of Priority 6.

Changes: None.

Comment: One commenter felt that the phrase ''stackable credentials'' in subpart (c) of Priority 6 was unclear, and suggested that we define the term. Two commenters recommended that we replace the term ''industry-relevant certification'' with ''industry-recognized credentials,'' as that term is more commonly used, and thus more commonly recognized, in the field. Another commenter asked that we explicitly include engagement with colleges, particularly community colleges, in subpart (c).

Discussion: We value clarity and the use of common terms, and agree with the first commenter that Stackable Credentials should be defined. We have included a definition in this notice, and also indicate in subpart (c) that this term has been defined. Our definition is aligned with a December 15, 2010 Department of Labor guidance document entitled ''Increasing Credential, Degree, and Certificate Attainment by Participants of the Public Workforce System.'' [7] We also agree with the commenters that ''industry-recognized credentials'' is a commonly used term, and have edited the subpart to reflect that.

In response to the commenter who suggested that we include a focus on engaging colleges, we agree that such engagement would be important to the success of projects addressing this priority. Therefore, we include in subpart (c) a parenthetical phrase to indicate that applicants may consider including engagement of community colleges or other IHEs in their proposed projects.

Changes: We have included a definition of Stackable Credentials, and note in subpart (c) of Priority 6 that applicants should refer to that definition. We also have replaced ''industry-relevant certification'' with ''industry-recognized credentials'' in subpart (c). Finally, we have included the following parenthetical phrase in subpart (c) to indicate that applicants may consider including engagement of community colleges or other IHEs in their proposed projects: ''(Such as education and training programs offered by community colleges or other institutions of higher education . . .''

Comment: One commenter identified a flaw in subpart (d) of proposed Priority 6. Specifically, the commenter noted that, as proposed, subpart (d) implies that all items listed after ''including'' would be mandatory for applicants to incorporate into their proposed projects, but that an applicant could also disregard the list and propose to provide a different support, because the list concluded with ''. . . or others as deemed appropriate.''

The commenter noted a similar flaw in subpart (e) of proposed Priority 6, where we reference both personnel and service providers, but do not clearly explain whether we consider the two groups to be fundamentally different.

Discussion: We appreciate the commenter's thoughtful review and note that, in both cases, the lack of clarity was not intended. In subpart (d), it is not our intent to require applicants to propose projects that would provide support in all the areas noted, and on review of the proposed subpart (e), which is now subpart (f), we think it is unnecessary to include both personnel and service providers. We have modified subparts (d) and (f) to clarify Priority 6.

Changes: In subpart (d), we have replaced ''including'' with ''such as.'' In subpart (f), we have removed ''personnel.''

Comment: One commenter asked that we include in proposed subpart (e), which is now subpart (f), instructors and students, in addition to service providers and customers, so that professional development could also be provided to teachers of career and technical education.

Discussion: This subpart is intended for vocational rehabilitation agencies and other providers who serve adults who may not be enrolled in an educational institution or program. As such, we do not think that it is appropriate to include instructors and students.

Changes: None.

Comment: One commenter recommended a number of changes to Priority 6. They include defining the terms ''employment outcomes,'' ''job-driven training,'' ''non-degree postsecondary credentials,'' and ''workforce and labor market information;'' establishing new subparts focused on Labor Market Information, counseling, training for counselors, and increasing the capacity of education and training institutions to use Labor Market Information; specifying that the career pathways programs referenced in subpart (c) should lead to ''a non-degree postsecondary credential;'' and specifying that the purpose of providing the support services outlined in subpart (d) of Priority 6 is to ''facilitate credential attainment, employability, and job tenure.''

Discussion: We decline to add the new definitions recommended by the commenter because we do not think that they are necessary to implement Priority 6. Most of the topics that the commenter recommended we include as subparts are already addressed adequately by the other subparts in Priority 6. We also do not agree with the commenter's recommendation that career pathway programs be limited to pathways that lead to non-degree postsecondary credentials; instead, we think that pathways should lead to the full range

[7] Available at: *http://wdr.doleta.gov/directives/attach/TEGL15-10.pdf.*

of postsecondary credentials, including associate's and baccalaureate degrees. Finally, we agree with the commenter's proposed clarification of the purpose of providing the support services described in subpart (d) and have modified the subpart accordingly.

Changes: We have added the phrase ''that facilitate credential attainment, employability, and job tenure'' to the end of subpart (d).

Priority 7—Promoting Science, Technology, Engineering, and Mathematics (STEM) Education

Comment: One commenter suggested that STEM education is supported by philanthropy and business, rendering Federal support unnecessary, and recommended that we remove Priority 7.

Discussion: Efforts to improve STEM education are often supported by a diverse group of funders. However, the Supplemental Priorities reflect our policy agenda, which includes, among other things, a focus on preparing students to meet the current demands of the labor market and on preparing teachers to effectively teach STEM subjects. We think that projects designed to address the distinct subparts listed in Priority 7 will help to achieve these goals.

Changes: None.

Comment: One commenter suggested that we enhance Priority 7 by asking applicants to provide internships as part of their proposed projects. Another commenter requested that we highlight in Priority 7 the importance of partnerships with industry organizations.

Discussion: We agree with both commenters and think that strategies similar to those described are already reflected in Priority 7. For example, an applicant could propose a project that included a focus on internships to address subparts (b), (c), (d), and (e) of Priority 7. We also note that an internship could be considered an Authentic STEM Experience. In addition, we note that local or regional partnerships are supported through subpart (e) of Priority 7.

Changes: None.

Comment: A few commenters asked that we include in Priority 7 a focus on early indicators of STEM success. One commenter suggested we use Priority 7 to focus on building research about early mathematics and science learning.

Discussion: We agree that it is important to identify indicators of STEM success for children and students. In *Priority 1—Improving Early Learning and Development Outcomes,* projects designed to address any of the subparts must improve outcomes across at least one of the Essential Domains of School Readiness, which include early mathematics and early scientific development. Early childhood educators may also benefit from projects that address Priority 7, and to clarify that, we remove the reference in subpart (a) to teachers of career and technical education, which may have been viewed as limiting the scope of the priority.

We appreciate the commenter's request that we use Priority 7 as a mechanism to build the evidence base supporting early mathematics and science learning. As discussed elsewhere in this notice, the Department currently supports evidence-based funding through several provisions in EDGAR, most notably 34 CFR 75.590 (Evaluation by the grantee). In addition, discretionary grant programs may use selection factors included in 34 CFR 75.210(h) (Quality of the project evaluation), as appropriate, to encourage applicants to design evaluations of their projects that accurately reflect the research questions most relevant to the field. Because the Department has discretion in choosing the types of evidence-building activities that are most appropriate for particular discretionary grant programs, we do not think that it is necessary to include a requirement that applicants addressing Priority 7 build the research base in a specific policy area.

Changes: We have revised subpart (a) of Priority 7 so that it now reads: ''Increasing the preparation of teachers or other educators in STEM subjects through activities that may include building content knowledge and pedagogical content knowledge, and increasing the number and quality of Authentic STEM Experiences.''

Comment: One commenter asked that the term ''teachers'' be replaced with ''educators'' in subpart (c) of Priority 7.

Discussion: We appreciate the commenter's suggestion, and note that, while teachers are not mentioned in subpart (c) of Priority 7, both teachers and educators are included in subpart (a).

Changes: None.

Comment: One commenter suggested the addition of several subparts to highlight the role that afterschool and summer programs can play in promoting STEM education, encouraging joint professional development for community educators and teachers, and increasing partnerships between LEAs and afterschool and expanded learning programs. Another commenter suggested that we include a focus on public-private partnerships that would align STEM labor market demands with a supply of well-prepared STEM workers.

Discussion: We agree with the first commenter and think that the areas of focus suggested are important; however, we do not think that it is appropriate to prescribe the specific types of programs, such as afterschool or summer programs, that should be supported through the Supplemental Priorities. We think that applicants are best-suited to propose projects that will meet the needs of the target populations they propose to serve, and those projects may include support for afterschool or summer programs. The main goal of the priority is to prepare students to meet the demands of the STEM labor market.

Finally, we note that our reference in subpart (a) of Priority 7 to ''other educators,'' as well as our reference to Authentic STEM Experiences, allows applicants to propose projects that include a focus on joint professional development. To further bolster this concept, we revise subpart (b) of Priority 7 to clarify that projects designed to provide students with increased access to STEM opportunities may be integrated across multiple settings.

Changes: We have revised subpart (b) of Priority 7 so that it ends with the phrase: ''. . . that may be integrated across multiple settings.''

Comment: One commenter urged the Department to include in Priority 7 a focus on arts education to improve students' creative thinking skills.

Discussion: We appreciate the commenter's suggestion, and note that Priority 7 includes ways for projects to address creative thinking skills. For example, subpart (b) of Priority 7 could be used to support projects that provide students with increased access to Authentic STEM Experiences, which could be laboratory, research-based, or experiential learning opportunities in informal or formal settings.

We also note that applicants could include a focus on arts education in a project designed to promote STEM education; and that elements of arts education can be particularly relevant to technology and engineering programs. In fact, we view arts education as a strategy that can touch several of the Supplemental Priorities.

Changes: None.

Comment: One commenter asked that we include a new subpart in Priority 7 that would support projects that engage parents and families in their children's STEM education.

Discussion: We agree that family engagement is important for student success in all subjects and reflect our

interest in supporting family engagement in *Priority 14—Improving Parent, Family, and Community Engagement.* As appropriate, we may combine elements of Priority 7 and Priority 14 to solicit applications that include both a focus on STEM and on family engagement.

Changes: None.

Comment: One commenter expressed concern that subpart (d) of Priority 7, which would support projects that are intended to increase the number of individuals from groups that have been historically under-represented in STEM who are provided with rigorous STEM coursework and prepared for postsecondary study and careers in STEM, is unconstitutional. The commenter asserts that the Federal government cannot use classifications based on race, ethnicity, or gender in its efforts to support the improvement of student outcomes.

Discussion: Subpart (d) of Priority 7 is designed to support investments in strategies that are most likely to increase access to rigorous STEM coursework, and preparation for postsecondary study and careers in STEM, for individuals from groups that have been historically under-represented in STEM fields. These individuals may include, but are not limited to, minorities, individuals with disabilities, and women. This priority does not encourage or require classifications based on race, ethnicity, or gender. Applicants may propose approaches that seek to increase participation by individuals from groups that have been historically under-represented and that serve all individuals. We further note that recipients of Department funding must comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975. For more information on these requirements, and other guidance related to diversity, please visit the Department's Office for Civil Rights (OCR) Web site at *http://www2.ed.gov/about/offices/list/ocr/index.html.*

Changes: None.

Priority 8—Implementing Internationally Benchmarked College- and Career-Ready Standards and Assessments

Comment: One commenter supported internationally benchmarked college- and career-ready standards, but noted that many States are already of developing and implementing those standards. Thus, the commenter argued that it was not necessary for the Federal government to support this type of work.

Discussion: Priority 8 is not focused on developing the standards themselves. Rather, this priority supports strategies for implementing college- and career-ready standards effectively, and projects designed to address Priority 8 would not be conducted at the Federal level. Rather, the Department would use this priority to support State, local, or regional entities carrying out this work and those entities would propose strategies that are best-suited to the populations they propose to serve and the particular college- and career-ready standards and assessments that are being implemented.

Changes: None.

Comment: One commenter expressed concern that the term ''performance-based tool,'' found in subpart (a) of Priority 8, is not a commonly understood term.

Discussion: We appreciate the commenter's concern. We think, however, that the text of subpart (a) provides the necessary context for the term ''performance-based tool.'' Our intent in this subpart is to broadly refer to performance-based tools, allowing applicants flexibility in developing and implementing the materials they need in order to effectively assess student progress.

Changes: None.

Comment: One commenter asked that we provide further incentives to States to broaden their accountability definitions and requirements to include a more comprehensive definition of student success. The commenter noted the importance of using multiple measures, formative assessments, non-test-based evidence of learning, and progress toward personal growth objectives.

Discussion: We agree that the elements listed by the commenter can be important and useful measures of student success, and we include formative assessments in subpart (a) of Priority 8. While we do not mention the commenter's other examples specifically in the subpart, we think that the phrase ''performance-based tools'' is broad and could encompass several types of measures.

Changes: None.

Comment: One commenter suggested that we revise subpart (a) so that it is clear that the focus of student assessments should be to improve and inform instruction and learning.

Discussion: We agree with the commenter that student assessments should be used to improve and inform instruction and learning, but we do not think that it is necessary to revise subpart (a) to require applicants to focus on those goals.

Changes: None.

Comment: Two commenters asked that we include in subpart (b) of Priority 8 a focus on professional development for principals, as well as teachers.

Discussion: We agree that supporting principals with professional development and training opportunities that are aligned with college- and career-ready standards is important, and have edited subpart (b) to reflect this goal.

Changes: We have revised subpart (b) to read: ''Developing and implementing teacher or principal professional development or preparation programs that are aligned with those standards.''

Comment: One commenter suggested several revisions to subparts (b) and (c) of Priority 8. The commenter suggested that we should encourage applicants to provide opportunities for deeper learning, improving content knowledge, communicating effectively, collaborating with peers, and participating in professional development that is self-directed. The commenter also asked that Priority 8 be revised to specifically support efforts to improve literacy instruction, and be tailored to meet the needs of middle and high school teachers.

Discussion: We appreciate the commenter's suggestions and agree that the elements outlined by the commenter are important. However we do not think that it is appropriate in these priorities to prescribe specific strategies, content areas, or grades on which projects should focus, because we think that applicants are best-suited to propose projects that meet the needs of the target populations they propose to serve.

Changes: None.

Comment: One commenter requested that we require that new assessments developed by applicants or grant recipients be licensed with an intellectual property license that allows for unrestricted reuse and modification.

Discussion: We appreciate the commenter's suggestion, but we do not believe that it is appropriate to impose this license requirement unilaterally, because making some types of assessments so broadly available could have implications for academic integrity. The Department's existing regulations relating to products produced with grant funds already provide that grantees may copyright intellectual property produced with Department grant funds per 34 CFR 75.261 (Copyright policy for grantees). However, under 34 CFR 74.36 (Intangible property) and 80.34 (Copyrights), the Department retains a

non-exclusive and irrevocable license to reproduce, publish, or otherwise use those project materials for government purposes.[8] This license gives the Department the authority we need to ensure that materials produced as part of Department-supported grant projects can be made available to the public.

Changes: None.

Comment: One commenter asked that we include a new subpart in Priority 8 focused on developing equitable conditions and resources to support the implementation of standards and improve students' academic skills and opportunities in a broad range of subjects and competencies, in order to prepare students for success in the globally interdependent world.

Conversely, one commenter objected to our reference to internationally benchmarked standards and assessments, explaining that students should not be focused on comparing themselves to their peers in other nations, but rather on their own academic achievement.

Discussion: We agree that students must be prepared for success in college, career, and life. We think that the proposed subparts could support a project designed to do what the commenter described, and also note that any project proposed to address Priority 8 would need to be relevant to internationally benchmarked standards and assessments. We also note that *Priority 12—Promoting Diversity* already provides an opportunity for a focus on preparing students to be successful in the increasingly diverse workforce.

Finally, we disagree with the commenter that students should not be prepared to be globally competitive and note that the Department's mission is to promote Student Achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. We think that projects designed to assess students against internationally benchmarked college- and career-ready standards will help to ensure those students are on track for future success in any context.

Changes: None.

Priority 9—Improving Teacher Effectiveness and Promoting Equitable Access to Effective Teachers

Comment: One commenter expressed support for proposed Priority 9 and proposed *Priority 10—Improving the Effectiveness of Principals*, and suggested several instances where we could better differentiate supports for teachers and principals in other priorities and definitions proposed in the NPP.

Discussion: We appreciate the commenter's suggestion, and note resulting changes to *Priority 1—Improving Early Learning and Development Outcomes.* We thought clearer differentiation was appropriate in subpart (b) of Priority 1, which focuses on improving the knowledge, skills, and abilities of the early learning workforce because, we think that it is crucial for administrators to be well-versed in methods of improving young children's health, social-emotional, and cognitive outcomes. However, we did not edit all the priorities suggested by the commenter, because we do not think that each priority identified by the commenter focused on a professional development or training need that is as meaningful for principals as it is for teachers. We also note that, in priorities in which we use the term ''educator,'' a project could be designed to support individuals, such as principals, who are not teachers.

Changes: We have revised Priority 1 to better reflect the needs of administrators and leaders. Further explanation of this change is included in relevant sections of this notice.

Comment: One commenter expressed general concern that the Department does not focus its efforts on encouraging teachers to be innovative, creative, and effective in the classroom. Another commenter stressed that we explicitly focus on balancing direct instruction with project-oriented methods, enhancing problem-solving through deep understanding of subject matter, improving critical thinking skills, and cultivating teachers' recognition of student learning styles.

Discussion: We agree that innovative, creative, and effective teachers are important to students' academic success. For this reason, we have included Priority 9, which focuses in part on supporting teachers to be effective in the classroom. Particularly, we note that subpart (a)(i) of Priority 9 focuses on preparing, recruiting, selecting, and developing teachers to be effective. We think that, to be effective, teachers also need to be innovative and creative. As such, a project designed to increase the number and percentage of effective teachers through the strategies outlined in subparts (a)(i) or (ii) of Priority 9 would likely support teachers to be innovative and creative.

In addition, we thank the commenter who suggested several specific foci for this priority. We agree that the skills suggested by the commenter are relevant, but also think that these skills are captured in Priority 9. *Priority 3—Promoting Personalized Learning,* can support projects that help teachers customize their instructional approaches to meet the needs of individual students.

Changes: None.

Comment: One commenter expressed general support for the proposed priorities, but suggested that we also support projects that reduce class sizes, particularly in secondary schools, and that we support paid teacher internships for new teachers that mirror the training that medical doctors receive.

Discussion: We think that there are several ways that our discretionary grant programs could use this priority to solicit projects that are designed to better prepare and support teachers, and to ensure that teachers have manageable workloads. In general, we do not wish to require applicants proposing projects under Priority 9 to support teachers through specific strategies. Rather, we think that applicants are generally best suited to propose specific strategies to support the target populations they propose to serve.

Changes: None.

Comment: One commenter asked that we expand proposed Priority 9 so that early learning providers could also benefit from the activities described in subparts (a) and (b).

Discussion: We agree that early learning providers should receive support so that they can be effective in their careers. Priority 9 does not preclude early learning and development teachers from benefiting from projects supported under Priority 9.

Changes: None.

Comments: A few commenters expressed support for Priority 9, but suggested that we include specific methods to support effective teachers. One commenter suggested that peer evaluations are helpful, and another stressed the importance of including strategies to support teachers to be effective in diverse classroom settings. In particular, the commenter asked that we encourage rural districts to implement ''grow your own'' strategies to improve teacher recruitment and retention.

Another commenter suggested that we revise the language in subpart (a) of Priority 9 to stress the importance and difficulty of staffing Lowest-performing Schools.

Discussion: We thank the commenters for suggesting specific strategies to support the preparation, recruitment, development, and retention of effective

[8] For grants awarded on or after the date on which the Department adopts and makes effective the Uniform Guidance in 2 CFR part 200 (expected on December 26, 2014), 2 CFR 200.315(b) would preserve the Federal government's license that exists under current §§ 74.36 and 80.34.

teachers, and agree that several strategies may be used to do this work successfully. We also agree that some strategies are better suited than others to effect positive change, depending on the needs of the community to be served by the proposed project. For these reasons, we do not want to limit the scope of Priority 9 by including or requiring the use of specific strategies. Rather, we expect applicants to propose appropriate strategies to increase the number and percentage of effective teachers in their schools and to promote equitable access to effective teachers.

We also agree with the commenter that rural schools, in addition to schools with high concentrations of students from low-income families and minority students, should be staffed by effective teachers. For this reason, we have revised Priority 9 to explicitly include ''schools in Rural Local Educational Agencies.''

Finally, we agree that teachers working in Lowest-performing Schools, schools in Rural LEAs, and schools with high concentrations of students from low-income families and minority students may face unique challenges. We therefore have added language to subpart (a) of Priority 9 to better support projects that will increase the number and percentage of effective teachers in schools where they are most needed.

Changes: We have revised subpart (a) of Priority 9 so that it now reads: ''Increasing the number and percentage of effective teachers in Lowest-performing Schools, schools in Rural Local Educational Agencies, or schools with high concentrations of students from low-income families and minority students . . .'' We have made a corresponding change to subpart (a) of *Priority 10—Improving the Effectiveness of Principals.*

Comment: One commenter suggested that we separate the concept of improving workplace conditions from subpart (a)(ii) because that strategy could not only improve the retention of effective teachers, but also increase successful teaching and learning. The commenter also noted the importance of tailoring professional development to meet the needs of new teachers, because they are typically assigned to classrooms and schools with greater needs, and suggested that we emphasize comprehensive teacher induction as an effective strategy for supporting those teachers. Another commenter suggested including, in subpart (a)(ii), a focus on relevant, effective, and outcome-oriented professional development to support teachers who work in challenging environments.

Discussion: We agree with the commenter that improving workplace conditions would not only improve retention of effective teachers, but also would support environments in which teachers and students can be successful. We note that subpart (a)(ii) of Priority 9 includes a focus on both retention and on creating opportunities for successful teaching and learning. For this priority, our focus is to support projects that are designed to retain effective teachers, and through such strategies as improving workplace conditions, improve outcomes for teachers and students.

We also agree with the commenter that teachers need differentiated support depending on the amount of time they have spent in the classroom. We think that, in order to implement the strategies outlined in subpart (a)(ii) well, an applicant would need to customize its approach to meet the needs of teachers in different stages of their careers. We also note that, in subpart (a)(i), we include a focus on early career teacher development. We therefore do not think it is necessary to edit Priority 9 to meet the needs of early career teachers.

We think that teachers working in Lowest-performing Schools, schools in Rural LEAs, and schools with high concentrations of students from low-income families and minority students may need differentiated support in order to be effective. We have changed subpart (a)(ii) of Priority 9 to more clearly communicate the expectations of the professional development to be delivered to teachers in these schools.

Changes: We have revised subpart (a)(ii) of Priority 9 so that it now reads: ''Improving the retention of effective teachers through such activities as creating or enhancing opportunities for teachers' professional growth; delivering professional development to teachers that is relevant, effective, and outcome-oriented; reforming compensation and advancement systems; and improving workplace conditions to create opportunities for successful teaching and learning.''

Comment: One commenter asked that we revise subpart (b) of proposed Priority 9 so that children with disabilities, in addition to students from low-income families and minority students, could benefit from projects designed to encourage equitable access to effective teachers.

Discussion: We appreciate the commenter's concern, and note that this subpart is intended to help SEAs and LEAs comply with requirements in 34 CFR 200.57(a)(2)(iii)(A) and (b)(2) that are designed to ensure that students from low-income families and minority students are not taught at higher rates than other students by inexperienced, out-of-field, or unqualified teachers.

Changes: None.

Comment: One commenter asked that we revise proposed Priority 9 to include a preference for nonprofit organizations that provide afterschool and extended learning programs, as well as nonprofit organizations that provide alternative routes to teacher certification.

Discussion: We agree that nonprofit organizations can play key roles in supporting and retaining effective teachers, and in providing students equitable access to effective teachers. Many, but not all, of our discretionary grant programs consider nonprofit organizations to be eligible to apply for funding. Because Priority 9 does not preclude nonprofit organizations and we do not want to revise the priority in a manner that would restrict the use of the priority by discretionary grant programs, we do not think that Priority 9 should be revised to specify their participation in projects to support effective teachers or to promote equitable access to effective teachers.

Changes: None.

Comment: One commenter noted that we refer to ''low-income students'' in Priority 9, but to ''students from low-income families'' in other priorities and definitions in the NPP.

Discussion: The use of two different phrases was unintentional and we thank the commenter for pointing out the discrepancy. We have revised this priority to ensure that we refer only to ''students from low-income families.''

Changes: In Priority 9, we have changed ''low-income students'' to ''students from low-income families.''

Comment: One commenter stressed the importance of understanding social and emotional competencies, and asked that we include in Priority 9 and *Priority 10—Improving the Effectiveness of Principals* projects that would support teacher and principal understanding of these competencies.

Discussion: While we agree that teachers and principals should fully understand the social and emotional needs of students at all grade levels, we do not think that changes to Priorities 9 or 10 are necessary to reflect this concept.

First, we include *Priority 2—Influencing the Development of Non-Cognitive Factors.* The inclusion of this priority represents a focus of the Department on improving students' mastery of skills and behaviors, such as perseverance, self-regulation, and social and emotional skills. Second, *Priority 1—Improving Early Learning and*

Development Outcomes supports projects that improve outcomes for early learners across one or more of the Essential Domains of School Readiness, which include, among other things, social and emotional development. For these reasons, we do not think that edits to Priorities 9 or 10 are necessary in response to this comment.

Changes: None.

Priority 10—Improving the Effectiveness of Principals

Comment: One commenter asked that we highlight the importance of preparing principals to be effective in leading rural schools.

Discussion: We agree that principals face unique challenges in rural schools, much like teachers in those schools. We think it is important to include an explicit focus on schools in Rural LEAs and to augment the priority to reflect this.

Changes: We have revised subpart (a) of Priority 10 to support principals in schools in Rural LEAs.

Comment: One commenter suggested that we use Priority 10 to support projects that would retain talented individuals to lead schools, in addition to recruiting, selecting, preparing, and supporting those individuals.

Discussion: We agree that retaining effective principals in schools where they are needed most is an important way to significantly improve instruction.

Changes: We have revised subpart (e) of Priority 10 so that it now reads: ''Implementing practices or strategies that support districts in hiring, evaluating, supporting, and retaining principals who effectively lead schools.''

Comment: One commenter suggested that we include a focus on district conditions, in addition to school conditions, in subpart (b) of proposed Priority 10, which seeks projects that identify, implement, and support policies and conditions to turn around Lowest-performing Schools.

Discussion: We agree with the commenter, and now include a focus on district conditions in subpart (b) of Priority 10.

Changes: We have revised subpart (b) of Priority 10 so that it now reads: ''Identifying, implementing, and supporting policies and school and district conditions that facilitate efforts by principals to turn around Lowest-performing Schools.''

Comment: One commenter asked that we include foci on boards of education and superintendents, in addition to principals, in proposed Priority 10. Another commenter expressed concern that early learning education leaders would not be included in projects designed under this priority; and a third commenter asked us to extend our focus on aligning principal preparation programs to college- and career-ready standards so that the coursework begins with subject matter for children at birth, rather than at pre-kindergarten. A fourth commenter suggested that we revise subpart (e) of Priority 10 to promote the creation of leadership pipelines and to include teacher leaders, assistant principals, and principal supervisors in the subpart.

Discussion: We think that support of superintendents, boards of education, principal supervisors, and other district leaders is an integral component of strategies to effectively prepare and support principals to lead schools. For this reason, we include subpart (e) of Priority 10, which incentivizes projects designed to support districts in hiring, evaluating, and supporting principals.

We agree with the commenter that early learning leaders should also be prepared and supported so they can be effective in the schools or programs they lead. We include in subpart (c) of Priority 10 an emphasis on aligning principal preparation programs with pre-K through grade 12 college- and-career ready standards. We do not think that it is appropriate to extend this focus to encompass college- and career-ready standards for children who are not yet three years old, because those standards are not in place in most States. We note, however, that we have made some changes to *Priority 1—Improving Early Learning and Development Outcomes* to more explicitly reference early learning and development program administrators. We think that the changes in Priority 1 will allow for more flexibility in terms of the supports available to program administrators.

Finally, we also agree that creating pathways for teachers to move into leadership roles can be an effective way to encourage continued professional learning and growth for teachers. In general, we think that projects designed to meet subparts (a), (c), and (e) of Priority 10, as well as subpart (a)(ii) of *Priority 9—Improving Teacher Effectiveness and Promoting Equitable Access to Effective Teachers,* could focus on leadership pipelines or career pathways for teacher leaders and assistant principals.

Changes: None.

Comment: One commenter suggested that we encourage improvement in principal preparation and licensure through subpart (c) of Priority 10, which supports the creation and expansion of principal preparation programs.

Discussion: We thank the commenter for the suggestion, but note that principal licensure is handled largely by State agencies. Although some of the Department's discretionary grant programs include SEAs as eligible applicants, many do not. As such, licensure is not an activity that could be conducted by most applicants. We do not want to revise the priority in a manner that might limit its use.

Changes: None.

Comment: One commenter stressed the importance of ensuring that principals are well-versed in early learning curricula so that they are able to effectively lead instruction in that area, and so that they are able to appropriately evaluate teachers at various grade levels.

Discussion: We agree that principals must fully understand the curricula being taught by the teachers they lead, and that many principals oversee early learning and development programs in addition to elementary or secondary education programs. We note that Priority 10 includes a focus in subpart (c) on aligning principal preparation programs with pre-kindergarten through grade 12 college- and career-ready standards. We also think that projects that are designed to meet subpart (d) of Priority 10, which focuses on supporting principals in their mastery of instructional and organizational leadership skills, could include strategies to ensure that principals understand the unique needs of preschool teachers and other early learning and development providers. Further, we include mechanisms in *Priority 1—Improving Early Learning and Development Outcomes* to support educators and administrators to improve young children's health, social-emotional, and cognitive outcomes. Because these priorities provide multiple options for bolstering principals' understanding of early learning curricula, we do not think revisions are necessary to address the commenter's concern.

Changes: None.

Comment: One commenter expressed support for proposed Priority 10, but encouraged us to further strengthen subpart (d) by including specific leadership skills, such as developing and managing talent and creating a strong organizational culture focused on high expectations for student and teacher performance. Another commenter suggested several edits throughout Priority 10 to highlight additional important skills that principals must master, including accessing and using data to make

decisions and improving the learning environment in addition to instruction.

Discussion: We thank the commenters for suggesting specific skills to prioritize. In general, we do not think that it is appropriate, through this NFP, to dictate specific strategies, methods, or activities beyond the broad areas of focus outlined in each priority. We think that applicants are generally best-suited to choose approaches that are most appropriate in their particular contexts.

Changes: None.

Priority 11—Leveraging Technology To Support Instructional Practice and Professional Development

Comment: Several commenters noted the benefits of education technology and expressed support for proposed Priority 11. Several of these commenters also provided suggestions for expanding the reach of the proposed priority. Two commenters suggested that the Department expand subpart (c) to support projects that offer a broader range of activities by including school leaders and technology leaders in addition to educators as staff that could earn professional development credit, certification, or continuing education and supporting online networks for peer collaboration or mentorship. One commenter also suggested adding a focus on teacher preparation coursework to build new teachers' capacity to engage in learning environments and use digital tools. Similarly, another commenter recommended adding professional development for educators on how to effectively use digital resources and student data. One commenter encouraged the Department to consider content and pedagogy as necessary elements to inform the development of high-quality digital materials, and another commenter suggested adding a subpart for projects that use technology to restructure the traditional pedagogical model to overcome traditional time, space, and fiscal constraints.

One commenter requested that the Department include a focus on school- and district-level activities, including the development and implementation of comprehensive plans for technology integration and data privacy policies. Another commenter suggested that research and evaluation be included as a required activity under the proposed priority.

Discussion: We appreciate the commenter's recommendations and note that many of the suggestions are covered under subpart (c) of Priority 11. For example, we think that ''educators'', as it appears in subpart (c), is a broad enough term to encompass school leaders, in addition to teachers. We also think that professional development on the use of digital resources, the use of student data, and privacy policies would be appropriate elements of a project that addresses subpart (c) of Priority 11. In general, we do not think that it is appropriate to prescribe the specific topic of the professional development, because applicants are best suited to identify the needs of the teachers and leaders they propose to serve. The purpose of this priority is for applicants to leverage the use of technology in supporting instructional practices and professional development; we do not intend to restrict the topics of the instructional practice or professional development. Further, we do not think that it is necessary to revise the priority to include a subpart for projects that use technology to restructure the traditional pedagogical model to overcome traditional time, space, and fiscal constraints because those projects may be supported under *Priority 3—Promoting Personalized Learning.*

We decline to list or prescribe specific types of learning communities. As proposed, we think that learning communities would allow for online networks for peer collaboration. However, we change ''including'' to ''such as'' in subpart (c) to clarify that projects addressing the priority may include online learning communities that do not result in awarding professional development or continuous learning units.

We agree with the commenter that applicants addressing this priority will benefit from the development and implementation of comprehensive plans for technology integration and data privacy policies. However, given the variety of programs and entities that may use or address this priority, we do not think that it is appropriate to include those requirements in Priority 11. We also note that recipients of Department funding are required to protect the privacy of student data. Additionally, a program using this priority could use factors from 34 CFR 75.210(c) (Quality of the project design) or 34 CFR 75.210(h) (Quality of the project evaluation) to encourage applicants to address their planning and sustainability needs, as well as their proposed project evaluations, as part of their proposed projects.

Changes: None.

Comment: One commenter recommended that proposed Priority 11 include language highlighting the value of technology in supporting improved outcomes for young children and their families.

Discussion: We agree with the commenter that technology can enhance the implementation of early learning projects and efforts to more effectively engage parents. In fact, we discussed the opportunities to leverage this priority with *Priority 1—Improving Early Learning and Development Outcomes* and *Priority 14—Improving Parent, Family, and Community Engagement* in the background provided in the NPP. We include the priority on leveraging technology as a separate priority so that discretionary grant programs have the flexibility to use the priority alone or in combination with other priorities.

We decline to revise the priority in a manner that would limit the types of students that could be served by projects that address the priority. As proposed, Priority 11 does not preclude projects with a focus on early learning or early grades. However, we have revised subpart (a) of *Priority 14—Improving Parent, Family, and Community Engagement* to include an explicit reference to technological tools as a means to expand and enhance the skill, strategies, and knowledge of parents and families.

Changes: In subpart (a) of Priority 14, we have revised the parenthetical list so that it now begins with: ''including techniques or use of technological tools . . .''

Comment: Several commenters suggested that the proposed priority be revised to require projects supported under it to be based on the principles of UDL.

Discussion: Although UDL is not explicitly discussed in Priority 11, an applicant could propose to develop and implement high-quality accessible digital tools, materials, and assessments that are based on UDL principles in response to subpart (b). Moreover, the priority, as proposed, does not preclude an applicant from using the approach or principle it determines to be most suitable for its project. We therefore decline to revise the priority.

Changes: None.

Comment: One commenter noted that the use of ''particularly'' in subpart (a), with respect to open educational resources, and ''including'' in subpart (c), with respect to certain types of online courses, learning communities, and simulations, may be too restrictive.

Discussion: The Department strongly encourages the use of Open Educational Resources (OER) and online courses, learning communities, or simulations that award professional development credit or continuing education units, but did not intend to restrict subparts (a)

and (c) so that only those projects could apply. We agree with the commenter that the use of ''including'' in subpart (c) may be too restrictive and we have revised the subpart to better reflect our intent. However, we do not think that the use of ''particularly'' in subpart (a) is too restrictive, because it appropriately reflects the Department's interest in promoting the development and use of OER.

Further, in our review of Priority 11, we concluded that subpart (a) could be better organized to ensure the clarity of our intent regarding OER. We have also revised subpart (c) to clarify that we intend the courses, learning communities, and simulations that are supported by projects under this priority to be high-quality, accessible, and online.

In addition, on reconsideration of Priority 11, we noticed that the phrasing of subparts (b) and (c) was unintentionally restrictive and would require applicants to both develop *and* implement the elements described in each subpart. We think that there are cases in which an applicant that may want to implement an already-developed product, but would be precluded from doing so by the proposed subpart language. As such, we have revised subparts (b) and (c) of Priority 11 to require that applicants only implement, with the clear understanding that some applicants may also develop, the products they propose to implement, as appropriate.

Changes: We have revised subparts (a), (b), and (c) of Priority 11 so that they now read:

(a) Using high-speed Internet access and devices to increase students' and educators' access to high-quality accessible digital tools, assessments, and materials, particularly Open Educational Resources.

(b) Implementing high-quality accessible digital tools, assessments, and materials that are aligned to rigorous college- and career-ready standards.

(c) Implementing high-quality, accessible online courses, online learning communities, or online simulations, such as those for which educators could earn professional development credit or continuing education units through Digital Credentials based on demonstrated mastery of competencies and performance-based outcomes, instead of traditional time-based metrics.

Comment: One commenter requested the Department to clarify in subpart (d) that data platforms can also be used to inform and improve learning outcomes.

Discussion: We agree that producing evidence on teaching and learning is not the sole purpose of data platforms, and also agree that the focus of subpart (d) should be to inform and improve learning outcomes.

Changes: We have revised subpart (d) so that it now reads: ''Using data platforms that enable the development, visualization, and rapid analysis of data to inform and improve learning outcomes, while also protecting privacy in accordance with applicable laws.''

Comment: One commenter expressed strong support for Priority 11, but stated that an applicant addressing subpart (a) alone should not be recognized as meeting the goal of the priority. Conversely, another commenter said that most schools are behind the technology curve and lack resources for the infrastructure, hardware, software, and professional development that are necessary for educators to incorporate technology into the classroom.

Discussion: We appreciate the commenters' concern. However, we note that, for some schools, projects designed to meet subpart (a) of Priority 11 could represent the first step in leveraging technology. Data provided to the Federal Communications Commission through the ConnectED initiative show a significant need for the types of projects that would be funded under subpart (a). Without access to high-speed Internet and devices, students and educators also do not have access to digital tools and materials in the classroom.

We also note that the Department considers a program's authorizing statute and the types of entities that are eligible to apply when determining whether it is appropriate to select and use a given priority. The Department will not use a priority for a program if it determined that the use of that priority is inconsistent with the program's purpose or would not result in meaningful projects.

Changes: None.

Comment: Multiple commenters expressed support for the Department's reference to, and definition of, OER. Two commenters stated that open licensing of publicly funded educational resources should be made a requirement in all Department programs. One commenter noted that OER can be used to effectively address many of the other proposed priorities, including proposed Priorities 3, 4, 5, and 7.

On the other hand, one commenter expressed concern about the Department giving preference to entities that provide OER, stating that one size does not fit all and that those entities may not understand the teaching and learning experience. The commenter requested that the Department let the market decide which tools are successful.

Discussion: We thank the commenters for their support of the OER definition. Although we encourage OER, its inclusion in these priorities does not require grant recipients to produce or use OER. Therefore, we do not agree with the commenter who suggested that our inclusion of OER would impede the market or result in entities selecting and using tools that are not appropriate for their particular teaching and learning experiences.

It should be noted that the Department has regulations related to products produced with grant funds. Specifically, under 34 CFR 75.621 (Copyright policy for grantees), grantees may copyright intellectual property that they produce with Department grant funds. However, under 34 CFR 74.36 (Intangible property) and 80.34 (Copyrights), the Department retains a non-exclusive and irrevocable license to reproduce, publish, or otherwise use those project materials for government purposes.[9] This license gives the Department the authority needed to ensure that materials produced as part of Department grant projects can be made available to the public.

Changes: None.

Comment: One commenter noted the importance of live-online proctoring and recommended that the Department require authentication procedures that ensure the integrity of online education.

Discussion: We agree that it is important to have methods in place to support the integrity and credibility of online education programs. However, given the variety of applicants and discretionary grant programs that may use this priority, we do not think that it is appropriate to prescribe those methods as part of Priority 11.

Changes: None.

Comment: One commenter stated that technology does not, in and of itself, improve instruction or learning, as it is only a tool used by educators and students. The commenter questioned whether this priority should be included.

Discussion: Although we agree that technology access alone may not improve instruction or learning, when used effectively, technology has the potential to engage students, empower teachers, and connect them to each

[9] For grants awarded on or after the date on which the Department adopts and makes effective the Uniform Guidance in 2 CFR part 200 (expected on December 26, 2014), 2 CFR 200.315(b) would preserve the Federal government's license that exists under current §§ 74.36 and 80.34.

other and to some of the best resources the world has to offer. These results do have the power to improve instruction and learning and, for that reason, we include this priority to support projects that would leverage technology.

Changes: None.

Priority 12—Promoting Diversity

Comment: One commenter expressed general support for Priority 12 and suggested that we integrate the priority into the other 14 priorities.

Discussion: We thank the commenter and agree that increasing diversity is an important strategy to prepare students to be successful in an increasingly diverse workforce. We note that programs have the flexibility to use several of these priorities in a single competition, as appropriate. The Department has discretion in choosing which priorities they use in a competition in any given year, and those decisions must be made with the program's statutory requirements in mind.

Changes: None.

Comment: One commenter was concerned that we are encouraging the selection and assignment of students based on race and ethnicity in proposed Priority 12. The commenter also indicated that the focus of the Department's 2011 and 2013 guidance on diversity (which was created in cooperation with the Department of Justice (DOJ)) is misplaced, and that we should not encourage schools to adopt diversity policies.

Discussion: We appreciate the commenter's concern, and note that we do not intend for this priority to be used to support projects that select and assign students based solely on race; nor are we requiring schools to adopt particular diversity policies. Rather, our intent for this priority is to promote strategies that prepare students to be successful in the increasingly diverse workforce. We currently support projects that would increase racial, ethnic, and socioeconomic diversity in schools and postsecondary programs; as well as projects that would decrease racial, ethnic, and socioeconomic isolation of students in preschool, elementary, or secondary programs, as appropriate. We intend to use this priority only in discretionary grant programs for which it is useful, relevant, and allowable under the program's authorizing statute.

We also note that the Department's 2011 and 2013 guidance [10] on diversity was reaffirmed by guidance issued in 2014 [11] by both the Department and DOJ and is consistent with Supreme Court decisions.

Changes: None.

Comment: One commenter expressed concern that the changes made to Priority 12 from the 2010 Supplemental Priorities, namely the inclusion of socioeconomic diversity, may lead applicants to avoid increasing racial and ethnic diversity. The commenter was also concerned that proposed Priority 12 is no longer aligned with the 2011 and 2013 joint guidance issued by the Department and DOJ. The commenter also noted that the 2010 version of the priority was rarely used in discretionary grant competitions, and asked that we ensure greater use of the proposed priority in the future.

Another commenter asked that we revise proposed Priority 12 so that applicants have greater flexibility to interpret ''diversity'' in terms of the specific needs of their communities; and a third commenter asked that we include in Priority 12 a focus on disability diversity.

Discussion: We agree that increasing racial and ethnic diversity is important for preparing students for success in an increasingly diverse workforce, and also acknowledge that the 2010 version of this priority was not widely used in the Department's discretionary grant programs. We therefore sought input from stakeholders on how to better frame the priority so that it could be used more broadly. We learned that including a focus on socioeconomic diversity, in addition to racial and ethnic diversity, may facilitate the use of the priority in more discretionary grant programs, and may have the corollary effect of also increasing racial and ethnic diversity in schools and postsecondary programs. Thus, we think that including socioeconomic diversity in Priority 12 may encourage broader use of the priority across our discretionary grant programs while maintaining the original focus on increasing racial and ethnic diversity. We note, however, that we have discretion in choosing which priorities to use in a competition in any given year, and that those decisions must be made in accordance with the program's authorizing statute.

We do not think that revising the priority so that ''diversity'' could be interpreted with the flexibility proposed by the commenter is appropriate. We think that the focus of the priority should be on increasing racial, ethnic, and socioeconomic diversity. Moreover, we do not think it is appropriate to add disability diversity to Priority 12, and note that we do include a mechanism to otherwise support students with disabilities through *Priority 4—Supporting High-Need Students.*

Priority 12 is fully consistent with the guidance on diversity issued by the Department and DOJ in 2011 and 2013. We also note that all recipients of Department funds must comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975.

Changes: None.

Comment: One commenter supported Priority 12, and suggested additional edits to further strengthen the priority. For example, the commenter thought that the priority should be structured so that applicants would need to decrease racial, ethnic, *and* socioeconomic isolation of students in preschool, elementary, or secondary programs, rather than choose one area of focus among the three. The commenter also suggested that we revise the priority so that increasing diversity and decreasing racial isolation would need to be a focus of any project under the priority, regardless of that project's focus on preschool, elementary, secondary, or postsecondary institutions. Finally, the commenter asked that we expand the priority to support projects that would maintain diversity in already diverse districts that may be experiencing demographic shifts.

Discussion: While we agree that increasing socioeconomic diversity may also be an effective strategy for increasing racial and ethnic diversity, we do not think that it is appropriate to require that applicants proposing projects under this priority include strategies for increasing all three types of diversity. We intend for Priority 12 to facilitate its broader use in our discretionary grant programs, so we do not wish to impose further requirements on applicants.

Similarly, we think that preschool and elementary and secondary schools face particular issues of racial, ethnic, and socioeconomic isolation. In an effort to focus the Department's investments in this respect on the areas in most need, we have not edited the priority to include a focus on decreasing racial, ethnic, and socioeconomic isolation in postsecondary programs.

We agree with the commenter that school districts that are already diverse may need support to maintain their diversity in the midst of shifting

[10] Available at: *http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201111.html* and *www.ed.gov/news/press-releases/new-guidance-supports-voluntary-use-race-achieve-diversity-higher-education.*

[11] Available at: *http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405-schuette-guidance.pdf.*

demographics. However, we do not think that Priority 12 would preclude such a project. We think that an applicant proposing a project of this nature could do so in the context of decreasing racial, ethnic, or socioeconomic isolation.

Changes: None.

Comment: One commenter expressed general support for proposed Priority 12, and suggested that we extend the reach of the priority so that increasing racial, ethnic, and socioeconomic diversity could be a mechanism for increasing secondary and postsecondary completion rates, in addition to increasing enrollment.

Discussion: While we agree with the commenter that completion of secondary and postsecondary programs is an important area, we do not think that Priority 12 is the appropriate place for such a focus. Our intent for Priority 12 is to facilitate a broader focus on diversity in our discretionary grant programs, so we do not wish to impose further limitations on applicants. In addition, we note that *Priority 5—Increasing Postsecondary Access, Affordability, and Completion* includes two subparts focused on completion of college, other postsecondary programs, or other career and technical education.

Changes: None.

Comment: One commenter requested that we include a focus on supporting the diversity of the teaching workforce.

Discussion: We agree with the commenter that exposing students to teachers from a variety of backgrounds may be an effective way to prepare students for a diverse world of work. However, we do not think that it is appropriate to expand the areas of focus in Priority 12.

Changes: None.

Comment: None.

Discussion: Upon review, we recognized that the language of Priority 12 did not clearly reflect our intention that the increase in diversity needs to occur at the school or program level in order to address the priority. We have made that clarification.

Changes: We have revised Priority 12 so that it now refers to ''individual schools or postsecondary programs.''

Priority 13—Improving School Climate, Behavioral Supports, and Correctional Education

Comment: One commenter expressed support for Priority 13, but suggested that we expand it to recognize the causal connection that links poor instruction to inappropriate student behavior.

Discussion: The commenter's hypothesis is reasonable and a project focused on improving instruction to improve student behavior could fall under subpart (a) of Priority 13, which supports projects that improve school climate through strategies that may include Tiered Behavioral Supports. Moreover, we note that the definition of Tiered Behavioral Supports refers to evidence-based supports and data-based strategies. Thus, a strategy that is based on a causal connection to student behavior could be appropriate under this priority.

Changes: None.

Comment: One commenter asked that we include in Priority 13 a focus on youth mentoring as an effective strategy for improving school climate. Two commenters suggested that we focus specifically on increasing student engagement and connectedness. Another commenter asked that we highlight arts programs, citing examples of how they have been shown to improve school climate.

In addition, a few commenters suggested that we include subparts with a wider range of strategies under Priority 13. One commenter suggested that we include a subpart for projects that are designed to improve student outcomes through school-based health clinics and social services, and another asked that we include support for school-based addiction treatment. A third commenter urged the Department to incentivize learning environments that provide real-world experience through project-based or other applied work.

Discussion: We agree that each of the strategies suggested by commenters may be effective in improving school climate. In general, we do not think that it is appropriate to include specific strategies in this priority because we do not want to limit those that applicants could propose to use in their projects. As noted elsewhere, we think that applicants are best-suited to propose appropriate strategies for improving school climate, behavioral supports, and correctional education, with their target populations in mind.

We also note that our definition of Tiered Behavioral Supports now includes a reference to external partners, which may provide some flexibility under subpart (a) of Priority 13 for applicants that propose the strategies described by the commenters. We make this change in order to recognize the unique supports that these partners can offer and note that the rationale for this change to the definition of Tiered Behavioral Supports is set out later in the *Analysis of Comments and Changes* section of this document.

Finally, regarding the suggestion we address learning environments under this priority, we note that *Priority 7—Promoting Science, Technology, Engineering, and Mathematics (STEM) Education* includes a focus on Authentic STEM Experiences, which can be laboratory, research-based, or experiential learning opportunities in informal or formal settings. We think that this provision in Priority 7 would allow for project-based and other applied work strategies. Because those learning environments are supported in Priority 7, we do not think it is necessary to revise this priority.

Changes: None.

Comment: A few commenters noted the important role external partners, particularly organizations that provide afterschool and extended learning programs, can play in improving school climate.

Discussion: We agree that coordination between LEAs and external partners can be an effective strategy for improving school climate. We note, however, that these partnerships are often eligible applicants, in their own right, under our discretionary grant programs. It is not necessary to include language that specifically allows for partnerships with community organizations that provide afterschool, extended learning, or other relevant programs, because the priority does not preclude those partnerships from participating in this work.

Changes: None.

Comment: One commenter suggested that we include language in Priority 13 to allow for children in early learning and development programs to benefit from projects addressing this priority.

Discussion: We think that applicants proposing to serve young children could address Priority 13. We also note that we include in *Priority 1—Improving Early Learning and Development Outcomes* a clear focus on improving outcomes across the Essential Domains of School Readiness, which includes social and emotional development. Projects that are designed to improve such development in young children could likely do so through strategies that are similar to those described in Priority 13. We decline to revise Priority 13 in a manner that would set clear age-group parameters because we think that it could limit the use of the priority.

Changes: None.

Comment: One commenter stressed that we should include in Priority 13 strategies that use family engagement as a mechanism for improving student behavior and strengthening student social, emotional, and behavioral skills.

Discussion: We agree that engaging parents and families in their students' education is important, which is why we include *Priority 14—Improving Parent, Family, and Community Engagement.* As noted elsewhere, these priorities are intended as a menu of options from which we may choose in administering our discretionary grant programs. We may choose which, if any, of the priorities or subparts are appropriate for competitions under those programs. Thus, we may combine elements of Priority 14 with elements of Priority 13 in one competition, if appropriate and relevant to that program's goals.

Changes: None.

Comment: One commenter expressed support for subpart (b) of Priority 13, which supports projects that reduce or eliminate school discipline disparities between student subgroups, reduce or eliminate the use of exclusionary discipline, and address the causes of those disparities. The commenter suggested that we add to subpart (b) an additional activity that would require applicants to also promote disciplinary practices that are alternatives to exclusionary discipline. Another commenter suggested that we emphasize in subpart (b) the importance of training school personnel to address underlying causes of disparities in school discipline.

Discussion: We agree that it is important for applicants to promote alternative disciplinary practices in addition to reducing or eliminating exclusionary practices. We have therefore edited subpart (b) to include this additional focus.

While we agree with the other commenter that school personnel must have the appropriate knowledge and skills to address disparities in school discipline practices, we think that projects that are designed to address subpart (b) of Priority 13, as proposed, could include a focus on training school personnel in these matters.

Changes: We have revised subpart (b) of Priority 13 to conclude with: ''. . . and promoting alternative disciplinary practices that address the disparities.''

Comment: One commenter expressed concern with subpart (b) of Priority 13, which supports projects that reduce or eliminate disparities in school discipline practices for particular groups of students by identifying and addressing the root causes of those disparities. The commenter asserted that disparities exist because some groups of students commit more violations than others.

Discussion: We disagree with the commenter, and note that the Civil Rights Data Collection Issue Brief No. 1 [12] reported extensively on these disparities. Research suggests that the substantial racial disparities of the kind reflected in the CRDC data are not explained by more frequent or more serious misbehavior by students of color. [13] We also want to clarify the purpose of this subpart, which is to better understand the root causes of disparate disciplinary practices and, through that improved understanding, reduce or eliminate disparities in disciplinary practices among student subgroups.

Changes: None.

Comment: One commenter felt that our focus in subpart (c) of Priority 13 was misplaced, and suggested that we restructure the subpart so that projects designed to address it would more clearly support the re-entry process after release from juvenile justice facilities or adult correctional facilities.

Discussion: We thank the commenter for this suggestion and agree that re-entry should be a more prominent focus of subpart (c).

Changes: We have revised subpart (c) of Priority 13 so that it now reads: ''Improving the quality of educational programs in juvenile justice facilities (such as detention facilities and secure and non-secure placements) or adult correctional facilities, or supporting re-entry after release, by linking the youth or adults to education or job-training programs.''

Comment: None.

Discussion: Upon review, we determined that subpart (b) should be clarified to acknowledge that efforts to either reduce or eliminate disparities in school disciplinary practices or to reduce or eliminate the use of exclusionary discipline may be alternative goals for projects designed to address Priority 13, and that an individual project need not be designed to achieve both of those goals in order to address the priority. We have made that clarification.

Changes: We have revised subpart (b) so that it now reads: ''Reducing or eliminating disparities in school disciplinary practices for particular groups of students, including minority students and students with disabilities, or reducing or eliminating the use of exclusionary discipline (such as suspensions, expulsions, and unnecessary placements in alternative education programs) by identifying and addressing the root causes of those disparities or uses and promoting alternative disciplinary practices that address the disparities or uses.''

Priority 14—Improving Parent, Family, and Community Engagement

Comment: One commenter supported proposed Priority 14, noting that family engagement is important in fostering language and literacy development in young children. A second commenter echoed this idea by asking that we include in subpart (c) of Priority 14 a focus on reducing language barriers between parents or families and school staff. Another commenter also expressed support for this priority and asked that we further strengthen the priority to pay particular attention to the needs of students from low-income families, English learners, and other High-need Students. One commenter noted that Community Engagement and Parent and Family Engagement are very important for student success, and said that it should be ranked higher in the final list of priorities.

Discussion: We thank the commenters for their support for Priority 14. We think that language and literacy outcomes for children and students may be improved through strategies that also improve Parent and Family Engagement in schools. We also agree that language barriers between parents or families and school staff can be difficult to overcome when attempting to engage parents or families in their students' education. However, we do not think that changes to the priority are necessary to allow support for projects that are designed to address these needs. Applicants are best suited to propose projects to address the specific needs of their communities, and we therefore decline to revise the priority in a manner that might limit its use to those applicants that identify language barriers as a prevalent issue.

We also agree that High-need Students may need additional support, and that their parents may be uncomfortable entering their children's schools. Because several of our discretionary grant programs are already targeted on High-need Students, and because we include *Priority 4—Supporting High-Need Students,* we do not think that adding an additional focus to Priority 14 on High-need Students, is necessary.

Finally, we note that the priorities are not ranked in any particular order. None of the priorities will be used more frequently than others in our discretionary grant programs as a result of where they fall in this list; the Department has discretion in choosing which priorities to use in competitions.

[12] Available at: *http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf.*

[13] Available at: *http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi-sp.pdf.* (*See* Footnote 7)

Changes: None.

Comment: A few commenters suggested that we include a more explicit focus in proposed Priority 14 on linking learning in school to learning at home. One commenter noted that including the concept of Systemic Initiatives in subpart (b) of Priority 14 would further emphasize the need to develop and implement systems for promoting family engagement in schools. In addition, two commenters expressed support for proposed Priority 14 and suggested several places—in Priority 14, in the other priorities, and in some definitions—where the Dual Capacity-Building Framework for Family and Community Engagement could be better represented.

Discussion: We agree that an important outcome of improving parent, family, and community engagement is to connect what students learn at school to the resources and support that are available for them at home. We also agree that, in order to do this work well, it is helpful for schools to have systems in place to effectively engage parents and families. For these reasons, we amend subpart (b) of Priority 14.

Changes: We have revised subpart (b) of Priority 14 so that it reads: ''. . . to build meaningful relationships with students' parents or families through Systemic Initiatives that may also support students' learning at home.''

Comments: One commenter urged us to restructure Priority 14 to better reflect the Community Engagement or Parent and Family Engagement needs of children beginning at birth. A few other commenters suggested edits to the priority to be more inclusive of early childhood programs.

Discussion: We agree that young children, in addition to students in kindergarten and above, benefit from improved Community Engagement and Parent and Family Engagement, and note that we have made some changes to *Priority 1—Improving Early Learning and Development Outcomes,* to improve coordination between parents, families, and early childhood educators. We have revised subparts (b) and (c) to allow for support for community-based early learning and development programs.

Changes: In subpart (b), we have included references to ''program leaders'' in addition to school leaders, and also have included ''practitioners'' in addition to teachers. In subpart (c), we have included ''program staff'' in addition to school staff. We have made similar changes to the definitions of Community Engagement and Parent and Family Engagement to include both school and program staff.

Comment: One commenter suggested that we add an additional subpart to Priority 14 that would support opportunities for parents, families, and communities to, among other things, build meaningful relationships with professionals, understand fiscal processes, and understand how to use data to drive decision-making. Another commenter suggested specific edits to subpart (a) of Priority 14 to encourage parents' use of technological tools to improve communication.

Discussion: We think that the elements suggested by the first commenter are important, and note that any of these elements could be supported by projects that are designed under subpart (a) of Priority 14. We also note that subpart (c) of Priority 14 allows for broad improvement of Community Engagement. In general, we do not think that it is appropriate to list specific areas of focus beyond what is already discussed in Priority 14, because applicants for discretionary grant programs may wish to propose projects that are designed to support the particular needs of their target populations. We decline to revise the priority in a manner that might limit its use.

We appreciate the second commenter's suggestion to include a focus on technological tools, and have edited subpart (a) to reflect the suggestion.

Changes: In subpart (a) of Priority 14, we have revised the parenthetical list so that it now begins with ''including techniques or use of technological tools . . .''

Comments: One commenter expressed support for proposed Priority 14, and noted the important role that afterschool programs can play in improving engagement. Another commenter asked that use of technology be explicitly included as an innovative tool to improve communication with parents and families.

Discussion: We thank the commenters for offering approaches to this work that may be effective. In general, we do not think that it is appropriate to list specific strategies or approaches beyond what is already discussed in Priority 14, because applicants for discretionary grant programs may wish to propose projects designed to support the particular needs of their target populations. We decline to revise the priority in a manner that might limit its potential use.

We note that both afterschool programs and the use of technology could be central elements to a project designed to meet Priority 14, and we think our inclusion of ''program,'' in addition to ''school,'' in some subparts and definitions, as discussed above, may facilitate the inclusion of afterschool programs.

Changes: None.

Comment: None.

Discussion: After reviewing Priority 14, we conclude that projects that are designed to address this priority can focus on student outcomes in general, rather than purely academic outcomes. We think that this is appropriate given the types of projects we seek to support under Priority 14, and note that any project that is designed to address this priority could focus on improving student academic outcomes.

Changes: We have removed ''academic'' from the introductory language of Priority 14.

Priority 15—Supporting Military Families and Veterans

Comment: A few commenters expressed support for proposed Priority 15.

Response: We appreciate the commenters' support.

Changes: None.

Definitions. We discuss and respond to comments received on the proposed definitions in alphabetical order.

Comment: One commenter suggested that we define the term ''adult learners'' and noted that they make up almost 40 percent of the college-going population.

Discussion: We agree that adult learners are an important group, and note that *Priority 5—Increasing Postsecondary Access, Affordability, and Completion* includes several mechanisms for supporting adult learners. For example, subpart (d) of Priority 5 focuses on increasing the number of individuals who return to the educational system to obtain a Regular High School Diploma, enroll in and complete postsecondary education, or obtain basic and academic skills. We do not define ''adult learners'' because we do not include the term in the NFP, but we note that our definitions of both High-need Students and Low-skilled Adult would include the subgroup about which the commenter is concerned.

Changes: None.

Comment: One commenter suggested that we revise the proposed definition of Authentic STEM Experiences to include teacher-led integration of STEM fields within the K–12 setting. Another commenter suggested that we include out-of-school time programs and summer camp programs in the definition.

Discussion: While we think that each commenter's suggestion is important and could be useful for some applicants,

we do not think that the definition of Authentic STEM Experiences precludes an applicant from using any of the strategies or programs discussed above.

Changes: None.

Comment: A few commenters expressed support for the proposed definition of Community Engagement and asked that we include specific types of organizations in the definition. One commenter noted the important role that public media can play in fostering engagement, and another asked that museums, cultural organizations, and other art venues be highlighted in the definitions of Community Engagement and Sustained Partnerships.

Another commenter suggested that we revise the proposed definition of Community Engagement to include examples of systematic inclusion.

Discussion: We agree that several types of organizations, in addition to those listed in the definitions of Community Engagement and Sustained Partnerships, may play integral roles in projects to improve Community Engagement or Parent and Family Engagement. We note that our definition of Community Engagement includes an illustrative list of organizations that may partner with SEAs, LEAs, or other educational institutions, and that other organizations not specifically listed in the definition could also be appropriate partners, depending on the scope of a proposed project. Our definition of Sustained Partnerships includes a similar list, but is not structured in a way that provides for flexible interpretation. We therefore restructure that definition to reflect the structure of the Community Engagement definition, so that applicants may include other organizations in addition to those listed as examples in the definition.

Finally, we agree with the commenter that including examples of systematic inclusion may be helpful, and have revised the definition of Community Engagement to include an illustrative list of possible ways to systematically include community organizations as partners with SEAs, LEAs, or other educational institutions, or their school or program staff.

Changes: We have included in the definition of Community Engagement the following strategies as possible ways to achieve systemic inclusion: ''Developing a shared community vision, establishing a shared accountability agreement, participating in shared data collection and analysis, or establishing community networks that are focused on shared community-level outcomes.'' We have also revised the definition of Sustained Partnerships to make the list of possible partner organizations illustrative rather than complete.

Comment: One commenter identified technical errors in the proposed definitions of Community Engagement and Sustained Partnerships. First, the commenter asserted that Title III of the Higher Education Act of 1965 (HEA) does not authorize grants to IHEs generally; rather, it authorizes Federal assistance to certain types of institutions. Second, the commenter noted that Hispanic-serving institutions are eligible for assistance under Title V, not Title III, of the HEA and that, without specific mention of Title V in our definitions of Community Engagement and Sustained Partnerships, those institutions would not be included. Finally, the commenter stated that historically black colleges and universities (HBCUs) are a type of minority-serving institution (MSI), and are eligible for assistance under Title III of the HEA. Because HBCUs are a type of MSI that is authorized to receive assistance under Title III, it is not necessary to mention them in addition to MSIs.

Discussion: We thank the commenter for pointing out these errors. We have revised the definitions of Community Engagement and Sustained Partnerships to ensure that the HEA is cited properly, that Hispanic-serving institutions are included, and that we do not include redundant references to specific types of MSIs.

Changes: In the definitions of Community Engagement and Sustained Partnerships, we have amended our reference to the HEA so that it includes Title III and Title V. We have also deleted specific reference to HBCUs.

Comment: One commenter suggested that we add language to the proposed definitions of Community Engagement and Parent and Family Engagement to indicate that the goal of such engagement must be to improve student academic and other related outcomes. Another commenter asked that our definitions of Community Engagement and Parent and Family Engagement require that inclusion of community organizations be not only systematic, but sustained over time.

Discussion: We think that it is important that projects supported by the Department generally be designed to support students. As proposed, any project addressing Priority 14 must be designed to improve student academic outcomes through strategies supporting Community Engagement or Parent and Family Engagement. Therefore, we do not think that it is necessary to include an additional focus on improving student academic outcomes in the definitions of Community Engagement and Parent and Family Engagement.

We think that the issue of sustaining strong partnerships is an important one. However, we think that by requiring grantees to systematically include community organizations in their work, through the definitions, sustainable partnerships could happen organically. We also think that requiring a focus on sustained inclusion may disadvantage an applicant that is implementing those strategies for the first time.

Changes: None.

Comment: One commenter suggested that we include ''validating credentials'' in the definition of Employer Engagement to signal the importance of ensuring that credentials provided by training programs are those needed for in-demand jobs. Another commenter suggested that we include, in the definition of Employer Engagement, a focus on encouraging employers to actively recruit Low-skilled Adults and High-need Students. A third commenter thought that it was important to include potential employers in the definition to more fully reflect the economic challenges that rural communities face.

Discussion: We agree that validating credentials is an important part of Employer Engagement and we have edited the definition to reflect that. We decline to make the change recommended by the second commenter because the definition of Employer Engagement is focused on ways in which employers can be involved in the design and delivery of education and training programs, rather than activities that seek to influence how and who employers hire. One intended result of greater Employer Engagement, however, is that education and training programs will be more successful in preparing and placing Low-skilled Adults and High-need Students in employment.

With regard to the third commenter's suggestion, we decline to make the change because the goal of subpart (a) of Priority 6, which is increasing Employer Engagement, is to encourage education and training programs to engage with entities that hire workers so that these programs can prepare individuals for in-demand jobs. Engaging with an entity that merely has the ''potential'' to hire workers sometime in the future would not advance this goal.

Changes: We have included in the definition of Employer Engagement the phrase ''validating credentials'' as a way in which employers may demonstrate active involvement.

Comment: One commenter asked that creative arts expression be included in the definition of Essential Domains of School Readiness, so that the definition

would align with the Strong Start for America's Children Act of 2013.

Discussion: We appreciate the commenter's suggestion and have edited the definition of Essential Domains of School Readiness to align with the Strong Start for America's Children Act of 2013 and with the Department's Preschool Development Grants program.

Changes: We have edited the definition of Essential Domains of School Readiness so that it is aligned with the Strong Start for America's Children Act of 2013 and with the Department's Preschool Development Grants program.

Comment: One commenter asked that we include a definition of ''graduation rate,'' and suggested that it be consistent with the definition in 34 CFR 200.19(b)(1).

Discussion: The term ''graduation rate'' is not included in the Supplemental Priorities so we think it is unnecessary to define it.

Changes: None.

Comment: Several commenters requested that the Department add more student groups to the illustrative list that is included in the definition of High-need Students. Specifically, commenters asked that vulnerable students, students with multiple disciplinary incidents, chronically absent students, students with low-level literacy achievement, and new immigrants be explicitly listed as examples in the definition of High-need Students. One commenter suggested that the Department change ''such as'' to ''and'' so that, in order to meet the definition of High-need Students, the students would need to be among one of the listed groups.

Discussion: So long as the students are at risk of educational failure or otherwise in need of special assistance, the definition of High-need Students could include the groups of students suggested by the commenters. Applicants are not limited by the examples provided in the definition. We think that it is important that an applicant have the discretion to determine which students are at risk of educational failure, and to discuss how the proposed project will meet the needs of those students.

Also, it should be noted that this definition is consistent with the existing definition of this term that is used by Department programs, such as the Investing in Innovation Fund. Although we agree with the commenters that additional groups of students may be considered High-need Students, we think that it is important for the Department to be consistent in defining this term.

Changes: None.

Comment: Two commenters questioned the differences between the definitions of Children with High Needs and High-need Students. One commenter suggested defining ''low income'' in the definition of Children with High-needs and suggested using ''children from low-income families'' in both definitions.

Discussion: Because Children with High Needs, as we define that term, are not yet in school, an exact alignment between these two terms is not appropriate (for example, Children with High Needs do not attend school and, thus, cannot attend High-minority Schools). Further, we note that the terms Children with High Needs and High-need Students are currently used in other Department programs (such as Race to the Top—Early Learning Challenge and the Investing in Innovation Fund); and we think that it is important for the Department to be consistent in defining these terms.

Changes: None.

Comment: Several commenters expressed concerns with the definitions of High-quality Teacher Evaluation and Support System and High-quality Principal Evaluation and Support system.

Specifically, one commenter was concerned that the definition of High-quality Teacher Evaluation and Support System would not allow for fair and appropriate assessment of early career teachers, for whom there may not be sufficient Student Growth data available. One commenter thought that we did not include a formative assessment component, teacher buy-in and collective bargaining rights were not adequately reflected, our use of the phrase ''significant factor'' with respect to using Student Growth to inform assessments of teacher performance was unclear, and that States may unfavorably interpret the term ''significant'' when measuring Student Growth. Another commenter asked that we clarify that, under the proposed definition, teachers would be evaluated only for subjects they teach.

Commenters expressed similar concerns about the definition of High-quality Principal Evaluation and Support System. In particular, one commenter was concerned with using Student Growth as a significant factor in evaluating principal performance, because teachers have a larger impact on student performance than principals.

Discussion: We thank the commenters for their thoughtful consideration of both definitions. These definitions are aligned with Department guidance to States on ESEA flexibility waivers, which we think is appropriate.

To address some of the specific concerns of the commenters, we note that both definitions refer to regularly scheduled evaluations and clear and timely feedback. We think that these provisions speak clearly to the need for formative assessments. We also note that both high-quality teacher and principal evaluation and support systems must, as defined, be developed with teacher and principal involvement. We think that teacher buy-in is an integral piece in developing and implementing high-quality evaluation and support systems, and the definitions do not affect collective bargaining rights or agreements.

Changes: None.

Comment: Two commenters suggested that we expand the definition of Low-skilled Adult. One commenter asked that we include adults who are not fluent in English and who may also be illiterate in their native language. Another commenter suggested that we include adults who do not have a high school diploma (or its recognized equivalent) or the postsecondary credential or degree necessary to obtain employment.

Discussion: We agree that the groups of individuals described by the commenters may need targeted support to succeed in the workforce. We note, however, that these groups would be included in our definition of High-need Students, and that Low-skilled Adults and High-need Students are referenced specifically in subparts (b) and (c) of *Priority 6—Improving Job-Driven Training and Employment Outcomes.* The Department does not need to amend the definition of Low-skilled Adult in order for those groups identified by the commenters to be incorporated under the priorities because those groups would be appropriately categorized as High-need Students and could be supported by projects designed to address those subparts.

Changes: None.

Comment: Two commenters suggested edits to the definition of Military- or Veteran-connected Student. One commenter suggested that we revise the definition to include children of military families who do not reside on military bases and children of veterans. Another commenter asked that we include a focus on children with high needs, including children with disabilities.

Discussion: The definition of Military- or Veteran-connected Student encompasses all of the groups described by the commenters. The definition does not prescribe where students must live

in order to be categorized as military- or veteran-connected. A High-need Student could be included in the definition as long as that student has a parent or guardian who is a member of the uniformed services, the student is a member of the uniformed services, or the student has a parent or guardian who is a veteran. Children of veterans are clearly included in subpart (c) of the definition.

Changes: None.

Comment: One commenter suggested revisions to the definition of Parent and Family Engagement so that it would include activities that take place prior to school entry, beginning at the prenatal period. Another commenter suggested that we include in the definition a focus on engaging parents and families as their children transition from early learning and development programs to kindergarten, and connecting those parents and families to appropriate social services.

Discussion: We appreciate the commenter's suggestions, and edit the definition to include a focus on program staff, in addition to school staff, which significantly broadens the scope of the definition. We do not think it is appropriate to further broaden the definition.

We appreciate the commenter's suggestion to include supports for parents and families as their children transition from early learning and development programs to kindergarten. We note that we have revised subpart (c) of *Priority 1—Improving Early Learning and Development Outcomes* so that applicants addressing this subpart must weave Parent and Family Engagement into a project designed to improve transitions for children across the birth-through-third-grade continuum. Therefore, we do not think that the changes suggested by the commenter are necessary.

Changes: We have revised the definition of Parent and Family Engagement to include program staff, in addition to school staff.

Comment: One commenter suggested edits to the definition of Persistently-lowest Achieving School.

Discussion: This definition is widely used across the Department, and amendments to the definition would have implications for any discretionary grant program that wishes to use the priorities that include this definition.

Changes: None.

Comment: A few commenters suggested revisions to the proposed definition of Personalized Learning. One commenter suggested clarifying the term so that both scope and sequence of instruction can be tailored to individual learners. One commenter stated that the second sentence in the proposed definition be deleted, because the objectives and content of the instruction should not vary from college- and career-ready standards.

One commenter stated that the definition is too broad, and requested the Department to identify the specific interventions that would be included or excluded. Another commenter recommended that the definition be strengthened through the specific inclusion of supports for student engagement in Personalized Learning environments.

One commenter suggested that we amend the definition to clarify that the role of digital tools and technology is to use data and student engagement as the driving forces in Personalized Learning. One commenter recommended explaining in the definition that data from Personalized Learning should be used to create a feedback loop between students, their parents, and their teachers. Another commenter stated that data should always be used to improve learning and instruction in Personalized Learning.

Discussion: Many of the commenters' suggestions are captured in the definition of Personalized Learning. For example, ''scope'' and ''sequence'' are consistent with the definition's reference to learning objectives, content, learning activities, and pace varying depending on a learner's needs. Regarding the comment that learning objectives and content should not vary by learner, we note that learning objectives differ from standards. A learning objective is aligned with college- and career-ready standards, but the specific learning objective or content in which a learner focuses in a given lesson may vary based on that learner's needs and mastery at a given point in time. Thus, we decline to remove the references to learning objectives and content.

We do not want to revise the definition in a manner that would prescribe specific approaches to Personalized Learning. For that reason, we decline to list specific interventions or supports that may or may not be used to implement Personalized Learning approaches. Also, although we agree that digital tools and technology are valuable tools, we do not want to prescribe or limit the types of tools that may be used under the definition of Personalized Learning.

We agree with commenters that available data should be used in Personalized Learning approaches and that data are most helpful when supporting a feedback loop between students, their parents, and their teachers. We think that the definition of Personalized Learning is consistent with these activities and that a revision is not necessary.

Changes: None.

Comment: One commenter suggested that we include ''relevant external partners'' as part of the definition of Tiered Behavioral Supports, noting that external partners can play an important role in matching intensive supports to student needs.

Discussion: We agree with the commenter and have included the suggested phrase in the definition.

Changes: We have revised the definition of Tiered Behavioral Supports so that it now reads: ''. . . a continuum of increasingly intensive and evidence-based social, emotional, and behavioral supports, including a framework of universal strategies for students, school staff, and relevant external partners to promote positive behavior and data-based strategies for matching more intensive supports to individual student needs.''

Comment: None.

Discussion: After review, we determined that the definition of Student Achievement was not fully aligned with the definition of that term included in the Race to the Top (RTT) program. Specifically, the definition in the NPP would require applicants to measure student achievement for grades and subjects that require assessment under the ESEA through both student scores and other measures of student learning. The RTT program, however, requires only that student scores be used to inform student achievement. Other measures may be used as appropriate.

Changes: We have revised the definition of Student Achievement to clarify that other measures of student learning may be used, as appropriate, to determine student achievement in grades and subjects for which assessments are required under the ESEA.

Final Priorities

The Secretary establishes the following priorities and related definitions for use in any appropriate discretionary grant competitions in FY 2015 and future years. These priorities and definitions replace the supplemental priorities and definitions that were published in 2010.

Priority 1—Improving Early Learning and Development Outcomes

Projects that are designed to improve early learning and development outcomes across one or more of the

Essential Domains of School Readiness for children from birth through third grade (or for any age group within this range) through a focus on one or more of the following:

(a) Increasing access to high-quality early learning and development programs and comprehensive services, particularly for Children with High Needs.

(b) Improving the quality and effectiveness of the early learning workforce so that early childhood educators, including administrators, have the knowledge, skills, and abilities necessary to improve young children's health, social-emotional, and cognitive outcomes.

(c) Improving the coordination and alignment among early learning and development systems and between such systems and elementary education systems, including coordination and alignment in engaging and supporting families and improving transitions for children along the birth-through-third-grade continuum, in accordance with applicable privacy laws.

(d) Including preschool, whether offered in school or community-based settings, as part of elementary education programs and systems in order to expand opportunities for preschool students and teachers.

(e) Sustaining improved early learning and development outcomes throughout the early elementary school years.

Priority 2—Influencing the Development of Non-Cognitive Factors

Projects that are designed to improve students' mastery of non-cognitive skills and behaviors (such as academic behaviors, academic mindset, perseverance, self-regulation, social and emotional skills, and approaches toward learning strategies) and enhance student motivation and engagement in learning.

Priority 3—Promoting Personalized Learning

Projects that are designed to improve student academic outcomes and close academic opportunity or attainment gaps through one or both of the following:

(a) Implementing Personalized Learning approaches that will ensure appropriate support and produce academic excellence for all students.

(b) Awarding credit or Digital Credentials based on Personalized Learning or adaptive assessments of academic performance, cognitive growth, or behavioral improvements and aligned with college- and career-ready standards.

Priority 4—Supporting High-Need Students

(a) Projects that are designed to improve:

(i) Academic outcomes;

(ii) Learning environments; or

(iii) Both,

(b) For one or more of the following groups of students:

(i) High-need Students.

(ii) Students served by Rural Local Educational Agencies.

(iii) Students with disabilities.

(iv) English learners.

(v) Students in Lowest-performing Schools.

(vi) Students who are living in poverty and are served by schools with high concentrations of students living in poverty.

(vii) Disconnected Youth or migrant youth.

(viii) Low-skilled Adults.

(ix) Students who are members of federally recognized Indian tribes.

Priority 5—Increasing Postsecondary Access, Affordability, and Completion

Projects that are designed to address one or more of the following:

(a) Reducing the net cost, median student loan debt, and likelihood of student loan default for High-need Students who enroll in college, other postsecondary education, or other career and technical education.

(b) Increasing the number and proportion of High-need Students who are academically prepared for, enroll in, or complete on time college, other postsecondary education, or other career and technical education.

(c) Increasing the number and proportion of High-need Students who, through college preparation, awareness, recruitment, application, selection, and other activities and strategies, enroll in or complete college, other postsecondary education, or other career and technical education.

(d) Increasing the number of individuals who return to the educational system to obtain a Regular High School Diploma or its recognized equivalent; enroll in and complete college, other postsecondary education, or career and technical training; or obtain basic and academic skills that they need to succeed in college, other postsecondary education, other career and technical education, or the workforce.

(e) Increasing the number and proportion of High-need Students, particularly Low-skilled Adults, individuals with disabilities, and Disconnected Youth or youth who are at risk of becoming disconnected, who enroll in and complete postsecondary programs.

(f) Supporting the development and implementation of high-quality online or hybrid credit-bearing and accessible learning opportunities that reduce the cost of higher education, reduce time to degree completion, or allow students to progress at their own pace.

Priority 6—Improving Job-Driven Training and Employment Outcomes

Projects that are designed to improve job-driven training and employment outcomes through a focus on one or more of the following:

(a) Increasing Employer Engagement.

(b) Providing work-based learning opportunities (such as Registered Apprenticeships, other apprenticeships, internships, externships, on-the-job training, co-operative learning, practica, and work experience) for Low-skilled Adults or other High-need Students.

(c) Integrating education and training into a career pathways program or system that offers connected education and training (such as education and training programs offered by community colleges or other institutions of higher education), related Stackable Credentials, and support services that enable Low-skilled Adults or other High-need Students to obtain industry-recognized credentials and obtain employment within an occupational area with the potential to advance to higher levels of education and employment in that area.[14]

(d) Providing Labor Market Information, career information, advising, counseling, job search assistance, and other supports, such as performance-based or other income supports or stipends, transportation and child care assistance and information, that facilitate credential attainment, employability, and job tenure.

(e) Using Labor Market Information to inform the focus of programs and to guide jobseekers in choosing the types of employment or fields of study, training, or credentials to pursue.

(f) Improving the knowledge and skills of service providers that will enable the providers to better assist their customers to obtain the competencies and job skills that are needed in the competitive labor market.

[14] Examples of such integration include partnering or coordinating with other programs that provide job training and employment services, including American Job Centers and other programs authorized by the Workforce Investment Act or the Workforce Innovation and Opportunity Act.

Priority 7—Promoting Science, Technology, Engineering, and Mathematics (STEM) Education

Projects that are designed to improve Student Achievement or other related outcomes by addressing one or more of the following:

(a) Increasing the preparation of teachers or other educators in STEM subjects through activities that may include building content knowledge and pedagogical content knowledge, and increasing the number and quality of Authentic STEM Experiences.

(b) Providing students with increased access to rigorous and engaging STEM coursework and Authentic STEM Experiences that may be integrated across multiple settings.

(c) Identifying and implementing instructional strategies, systems, and structures that improve postsecondary learning and retention, resulting in completion of a degree in a STEM field.

(d) Increasing the number of individuals from groups that have been historically under-represented in STEM, including minorities, individuals with disabilities, and women, who are provided with access to rigorous and engaging coursework in STEM or who are prepared for postsecondary study and careers in STEM.

(e) Supporting local or regional partnerships to give students access to real-world STEM experiences and to give educators access to high-quality STEM-related professional learning.

Priority 8—Implementing Internationally Benchmarked College- and Career-Ready Standards and Assessments

Projects that are designed to support the implementation of, and transition to, internationally benchmarked college- and career-ready standards and assessments, including projects in one or more of the following:

(a) Developing and implementing student assessments (such as formative assessments, interim assessments, and summative assessments) or performance-based tools that are aligned with those standards, that are accessible to all students.

(b) Developing and implementing teacher or principal professional development or preparation programs that are aligned with those standards.

(c) Developing and implementing strategies that use the standards and information from assessments to inform classroom practices that meet the needs of all students.

Priority 9—Improving Teacher Effectiveness and Promoting Equitable Access to Effective Teachers

Projects that are designed to address one or more of the following:

(a) Increasing the number and percentage of effective teachers in Lowest-performing Schools, schools in Rural Local Educational Agencies, or schools with high concentrations of students from low-income families and minority students, through such activities as:

(i) Improving the preparation, recruitment, selection, and early career development of teachers; implementing performance-based certification systems; reforming compensation and advancement systems; and reforming hiring timelines and systems.

(ii) Improving the retention of effective teachers through such activities as creating or enhancing opportunities for teachers' professional growth; delivering professional development to teachers that is relevant, effective, and outcome-oriented; reforming compensation and advancement systems; and improving workplace conditions to create opportunities for successful teaching and learning.

(b) Promoting equitable access to effective teachers for students from low-income families and minority students across and within schools and districts.

For the purposes of this priority, teacher effectiveness must be measured using a High-quality Teacher Evaluation and Support System.

Priority 10—Improving the Effectiveness of Principals [15]

Projects that are designed to increase the number and percentage of highly effective principals by addressing one or more of the following:

(a) Creating or expanding practices and strategies to recruit, select, prepare, and support talented individuals to lead and significantly improve instruction in Lowest-performing Schools, schools in Rural Local Educational Agencies, or schools with high concentrations of High-need Students.

(b) Identifying, implementing, and supporting policies and school and district conditions that facilitate efforts by principals to turn around Lowest-performing Schools.

(c) Creating or expanding principal preparation programs that include clinical experiences, induction and other supports for program participants, strategies for tracking the effect that program graduates have on teaching and learning, and coursework that is aligned with pre-kindergarten through grade 12 college- and career-ready standards.

(d) Implementing professional development for current principals, especially in Lowest-performing Schools, that is designed to improve teacher and student learning by supporting principals in their mastery of essential instructional and organizational leadership skills.

(e) Implementing practices or strategies that support districts in hiring, evaluating, supporting, and retaining effective principals.

For the purposes of this priority, principal effectiveness must be measured using a High-quality Principal Evaluation and Support System.

Priority 11—Leveraging Technology To Support Instructional Practice and Professional Development

Projects that are designed to leverage technology through one or more of the following:

(a) Using high-speed Internet access and devices to increase students' and educators' access to high-quality accessible digital tools, assessments, and materials, particularly Open Educational Resources.

(b) Implementing high-quality accessible digital tools, assessments, and materials that are aligned with rigorous college- and career-ready standards.

(c) Implementing high-quality, accessible online courses, online learning communities, or online simulations, such as those for which educators could earn professional development credit or continuing education units through Digital Credentials based on demonstrated mastery of competencies and performance-based outcomes, instead of traditional time-based metrics.

(d) Using data platforms that enable the development, visualization, and rapid analysis of data to inform and improve learning outcomes, while also protecting privacy in accordance with applicable laws.

Priority 12—Promoting Diversity

Projects that are designed to prepare students for success in an increasingly diverse workforce and society by increasing the diversity, including racial, ethnic, and socioeconomic diversity, of students enrolled in individual schools or postsecondary programs; or, in the case of preschool, elementary, or secondary programs, decreasing the racial, ethnic, or socioeconomic isolation of students who are served by the project.

[15] For the purpose of this priority, the term ''principal'' also refers to an assistant principal.

Priority 13—Improving School Climate, Behavioral Supports, and Correctional Education

Projects that are designed to improve student outcomes through one or more of the following:

(a) Improving school climate through strategies that may include establishing Tiered Behavioral Supports or strengthening student social, emotional, and behavioral skills.

(b) Reducing or eliminating disparities in school disciplinary practices for particular groups of students, including minority students and students with disabilities, or reducing or eliminating the use of exclusionary discipline (such as suspensions, expulsions, and unnecessary placements in alternative education programs) by identifying and addressing the root causes of those disparities or uses and promoting alternative disciplinary practices that address the disparities or uses.

(c) Improving the quality of educational programs in juvenile justice facilities (such as detention facilities and secure and non-secure placements) or adult correctional facilities, or supporting re-entry after release, by linking the youth or adults to education or job training programs.

Priority 14—Improving Parent, Family, and Community Engagement

Projects that are designed to improve student outcomes through one or more of the following:

(a) Developing and implementing Systemic Initiatives to improve Parent and Family Engagement by expanding and enhancing the skills, strategies, and knowledge (including techniques or use of technological tools needed to effectively communicate, advocate, support, and make informed decisions about the student's education) of parents and families.

(b) Providing professional development that enhances the skills and competencies of school or program leaders, principals, teachers, practitioners, or other administrative and support staff to build meaningful relationships with students' parents or families through Systemic Initiatives that may also support students' learning at home.

(c) Implementing initiatives that improve Community Engagement, the relationships between parents or families and school or program staff by cultivating Sustained Partnerships.

Priority 15—Supporting Military Families and Veterans

Projects that are designed to address the needs of Military- or Veteran-connected Students.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Definitions

Authentic STEM experiences means laboratory, research-based, or experiential learning opportunities in a STEM (science, technology, engineering, and mathematics) subject in informal or formal settings.

Children with high needs means children from birth through kindergarten entry who are from low-income families or otherwise in need of special assistance and support, including children who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the Elementary and Secondary Education Act of 1965, as amended (ESEA); who are migrant, homeless, or in foster care; and who are other children as identified by the State.

Community engagement means the systematic inclusion of community organizations as partners with State educational agencies, local educational agencies, or other educational institutions, or their school or program staff to accomplish activities that may include developing a shared community vision, establishing a shared accountability agreement, participating in shared data-collection and analysis, or establishing community networks that are focused on shared community-level outcomes. These organizations may include faith- and community-based organizations, institutions of higher education (including minority-serving institutions eligible to receive aid under Title III or Title V of the Higher Education Act of 1965), businesses and industries, labor organizations, State and local government entities, or Federal entities other than the Department.

Digital credentials means evidence of mastery of specific competencies or performance-based abilities, provided in digital rather than physical medium (such as through digital badges). These digital credentials may then be used to supplement or satisfy continuing education or professional development requirements.

Disconnected youth means low-income individuals, ages 14–24, who are homeless, are in foster care, are involved in the justice system, or are not working or not enrolled in (or at risk of dropping out of) an educational institution.

Employer engagement means the active involvement of employers, employer associations, and labor organizations in identifying skills and competencies, validating credentials, designing programs, offering real workplace problem sets, facilitating access to leading-edge equipment and facilities, providing ''return to work''-type professional development opportunities for faculty, and providing work-based learning and mentoring opportunities for participants.

Essential domains of school readiness means the domains of language and literacy development, cognition and general knowledge (including early mathematics and early scientific development), approaches toward learning (including the utilization of the arts), physical well-being and motor development (including adaptive skills), and social and emotional development.

High-minority school means a school as that term is defined by a local educational agency (LEA), which must define the term in a manner consistent with its State's Teacher Equity Plan, as required by section 1111(b)(8)(C) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The applicant must provide the definition(s) of High-minority Schools used in its application.

High-need students means students who are at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend High-

minority Schools, who are far below grade level, who have left school before receiving a Regular High School Diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English learners.

High-quality teacher evaluation and support system means a system that provides for continuous improvement of instruction; differentiates performance using at least three performance levels; uses multiple valid measures to determine performance levels, including data on Student Growth as a significant factor and other measures of professional practice; evaluates teachers on a regular basis; provides clear and timely feedback that identifies needs and guides professional development; is developed with teacher and principal involvement; and is used to inform personnel decisions.

High-quality principal evaluation and support system means a system that provides for continuous improvement of instruction; differentiates performance using at least three performance levels; uses multiple valid measures to determine performance levels, including data on Student Growth as a significant factor and other measures of professional practice; evaluates principals on a regular basis; provides clear and timely feedback that identifies needs and guides professional development; is developed with teacher and principal involvement; and is used to inform personnel decisions.

Labor market information means data on current and projected local, regional, State, and national labor markets, such as the number and type of available jobs, future demand, job characteristics, training and skills requirements, and the composition, characteristics, and skills of the labor force.

Low-skilled adult means an adult with low literacy and numeracy skills.

Lowest-performing schools means—

For a State with an approved request for flexibility under the Elementary and Secondary Education Act of 1965, as amended (ESEA, Priority Schools or Tier I and Tier II Schools that have been identified under the School Improvement Grants program.

For any other State, Tier I and Tier II Schools that have been identified under the School Improvement Grants program.

Military- or veteran-connected student means—

(a) A child participating in an early learning and development program, a student enrolled in preschool through grade 12, or a student enrolled in postsecondary education or career and technical training who has a parent or guardian who is a member of the uniformed services (as defined by 37 U.S.C. 101, in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, National Oceanic and Atmospheric Administration, or Public Health Service);

(b) A student who is a member of the uniformed services, a veteran of the uniformed services, or the spouse of a service member or veteran; or

(c) A child participating in an early learning and development program or a student enrolled in preschool through grade 12 who has a parent or guardian who is a veteran of the uniformed services (as defined by 37 U.S.C. 101).

Open educational resources means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and repurposing by others.

Parent and family engagement means the systematic inclusion of parents and families, working in partnership with State educational agencies (SEAs), State lead agencies (under Part C of the Individuals with Disabilities Education Act (IDEA) or the State's Race to the Top-Early Learning Challenge grant), local educational agencies (LEAs), or other educational institutions, or their staff, in their child's education, which may include strengthening the ability of (a) parents and families to support their child's education; and (b) school or program staff to work with parents and families.

Persistently-lowest achieving school means, as determined by the State—

(a)(1) Any Title I school that has been identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and that—

(i) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate, as defined in 34 CFR 200.19(b), that is less than 60 percent over a number of years; and

(2) Any secondary school that is eligible for, but does not receive, Title I funds that—

(i) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate, as defined in 34 CFR 200.19(b), that is less than 60 percent over a number of years.

(b) To identify the lowest-achieving schools, a State must take into account both—

(i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), in reading/language arts and mathematics combined; and

(ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

Personalized learning means instruction that is aligned with rigorous college- and career-ready standards so that the pace of learning and the instructional approach are tailored to the needs of individual learners. Learning objectives and content, as well as the pace, may all vary depending on a learner's needs. In addition, learning activities are aligned with specific interests of each learner. Data from a variety of sources (including formative assessments, student feedback, and progress in digital learning activities), along with teacher recommendations, are often used to personalize learning.

Priority schools means schools that, based on the most recent data available, have been identified as among the lowest-performing schools in the State. The total number of Priority Schools in a State must be at least five percent of the Title I schools in the State. A priority school is—

(a) A school among the lowest five percent of Title I schools in the State based on the achievement of the ''all students'' group in terms of proficiency on the statewide assessments that are part of the SEA's differentiated recognition, accountability, and support system, combined, and has demonstrated a lack of progress on those assessments over a number of years in the ''all students'' group;

(b) A Title I-participating or Title I-eligible high school with a graduation rate that is less than 60 percent over a number of years; or

(c) A Tier I or Tier II school under the School Improvement Grant (SIG) program that is using SIG funds to implement a school intervention model.

Regular high school diploma means the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards or a higher diploma and does not include a General

Education Development (GED) credential, certificate of attendance, or any alternative award.

Rural local educational agency means a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the Elementary and Secondary Education Act of 1965, as amended (ESEA). Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's Web site at *www2.ed.gov/nclb/freedom/local/reap.html.*

Stackable credentials means credentials that are part of a sequence of credentials that can be accumulated over time to increase an individual's qualifications and help him or her to advance along a career pathway to different and potentially higher-paying jobs.

Student achievement means—

For grades and subjects in which assessments are required under section 1111(b)(3) of the Elementary and Secondary Act of 1965, as amended (ESEA): (1) A student's score on such assessments; and, as appropriate (2) other measures of student learning, such as those described in the subsequent paragraph, provided that they are rigorous and comparable across schools within a local educational agency (LEA).

For grades and subjects in which assessments are not required under section 1111(b)(3) of the ESEA: (1) Alternative measures of student learning and performance, such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; (2) student learning objectives; (3) student performance on English language proficiency assessments; and (4) other measures of student achievement that are rigorous and comparable across schools within an LEA.

Student growth means the change in Student Achievement for an individual student between two or more points in time.

Sustained partnership means a relationship that has demonstrably adequate resources and other support to continue beyond the funding period and that consist of community organizations as partners with a local educational agency and one or more of its schools. These organizations may include faith- and community-based organizations, institutions of higher education (including minority-serving institutions eligible to receive aid under Title III or Title V of the Higher Education Act of 1965 (HEA)), businesses and industries, labor organizations, State and local government entities, or Federal entities other than the Department.

Systemic initiative means a policy, program, or activity that includes Parent and Family Engagement as a core component and is designed to meet critical educational goals, such as school readiness, Student Achievement, and school turnaround.

Tier I schools means—

(a) A Title I school that has been identified as in improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and that is identified by the SEA under paragraph (a)(1) of the definition of Persistently-lowest Achieving School.

(b) An elementary school that is eligible for Title I, Part A funds that—

(1)(i) Has not made adequate yearly progress for at least two consecutive years; or

(ii) Is in the State's lowest quintile of performance based on proficiency rates on the State's assessments under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) in reading/language arts and mathematics combined; and

(2) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(1)(i) of the definition of Persistently-lowest Achieving School.

Tier II schools means—

(a) A secondary school that is eligible for, but does not receive, Title I, Part A funds and is identified by the State educational agency (SEA) under paragraph (a)(2) of the definition of Persistently-lowest Achieving Schools.

(b) A secondary school that is eligible for Title I, Part A funds that—

(1)(i) Has not made adequate yearly progress for at least two consecutive years; or

(ii) Is in the State's lowest quintile of performance based on proficiency rates on the State's assessments under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), in reading/language arts and mathematics combined; and

(2)(i) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(2)(i) of the definition of Persistently-lowest Achieving School; or

(ii) Is a high school that has had a graduation rate, as defined in 34 CFR 200.19(b), that is less than 60 percent over a number of years.

Tiered behavioral supports means a continuum of increasingly intensive and evidence-based social, emotional, and behavioral supports, including a framework of universal strategies for students, school staff, and relevant external partners to promote positive behavior and data-based strategies to match more intensive supports to individual student needs.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities and definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with

obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from regulatory requirements and those we have determined as necessary for administering the Department's programs and activities.

Discussion of Costs and Benefits

The final priorities and definitions do not impose significant costs on entities that receive assistance through the Department's discretionary grant programs. Additionally, the benefits of implementing the priorities contained in this document outweigh any associated costs because they result in the Department's discretionary grant programs selecting high-quality applications to implement activities that are most likely to have a significant national effect on educational reform and improvement.

Application submission and participation in a discretionary grant program are voluntary. The Secretary believes that the costs imposed on applicants by the final priorities and definitions are to be limited to paperwork burden related to preparing an application for a discretionary grant program that is using one or more of the final priorities and definitions in its competition. Because the costs of carrying out activities will be paid for with program funds, the costs of implementation will not be a burden for any eligible applicants, including small entities.

Regulatory Flexibility Act Certification

For these reasons as well, the Secretary certifies that these final priorities and definitions do not have a significant economic impact on a substantial number of small entities.

Intergovernmental Review: Some of the programs affected by these final priorities and definitions are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (such as braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

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Dated: December 4, 2014.

Arne Duncan,

Secretary of Education.

[FR Doc. 2014–28911 Filed 12–9–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Wednesday,
No. 237 December 10, 2014

Part IV

The President

Executive Order 13682—Closing of Executive Departments and Agencies of the Federal Government on Friday, December 26, 2014

Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 13682 of December 5, 2014

Closing of Executive Departments and Agencies of the Federal Government on Friday, December 26, 2014

By the authority vested in me as President of the United States of America, by the Constitution and the laws of the United States, it is hereby ordered as follows:

Section 1. All executive branch departments and agencies of the Federal Government shall be closed and their employees excused from duty on Friday, December 26, 2014, the day after Christmas Day, except as provided in section 2 of this order.

Sec. 2. The heads of executive branch departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 26, 2014, for reasons of national security, defense, or other public need.

Sec. 3. Friday, December 26, 2014, shall be considered as falling within the scope of Executive Order 11582 of February 11, 1971, and of 5 U.S.C. 5546 and 6103(b) and other similar statutes insofar as they relate to the pay and leave of employees of the United States.

Sec. 4. The Director of the Office of Personnel Management shall take such actions as may be necessary to implement this order.

Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
December 5, 2014.

[FR Doc. 2014–29121
Filed 12–9–14; 11:15 am]
Billing code 3295–F5

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

CFR PARTS AFFECTED DURING DECEMBER

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.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 4067/P.L. 113–198

To provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014. (Dec. 4, 2014; 128 Stat. 2057)

H.R. 5441/P.L. 113–199

To amend the Federal charter of the Veterans of Foreign Wars of the United States to reflect the service of women in the Armed Forces of the United States. (Dec. 4, 2014; 128 Stat. 2058)

H.R. 5728/P.L. 113–200

STELA Reauthorization Act of 2014 (Dec. 4, 2014; 128 Stat. 2059)

H.J. Res. 129/P.L. 113–201

Appointing the day for the convening of the first session of the One Hundred Fourteenth Congress. (Dec. 4, 2014; 128 Stat. 2068)

Last List December 3, 2014

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