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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

**[NRC–2014–0058]**

**RIN–3150–AJ39**

# List of Approved Spent Fuel Storage Casks: NAC International MAGNASTOR® System; Certificate of Compliance No. 1031, Amendment No. 4

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations to add Amendment No. 4 to the Certificate of Compliance (CoC) No. 1031 for the NAC International MAGNASTOR® System. Amendment No. 4 changes a limiting condition for operation (LCO) in the technical specifications for transportable storage canister (TSC) vacuum drying and helium backfill times, and corrects a typographical error. The NRC approval of this Amendment would not authorize transportation.

**DATES:** The direct final rule is effective April 14, 2015, unless significant adverse comments are received by March 2, 2015. If the direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Please refer to Docket ID NRC–2014–0058 when contacting the NRC about the availability of information for this direct final rule. You may access publicly-available information related to this direct final rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0058. 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 notice (if that document is available in ADAMS) is provided the first time that a document is referenced and in Section XIII, Availability of Documents.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Robert D. MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5175, email: *Robert.MacDougall@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

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## I. Procedural Background

This direct final rule is limited to the changes contained in Amendment No. 4 to CoC No. 1031 and does not include other aspects of the MAGNASTOR® System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this direct final rule concurrently with a proposed rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. This amendment to the rule will become effective on April 14, 2015. If the NRC receives significant adverse comments on this direct final rule by March 2, 2015, however, it will publish a document that withdraws the direct final rule and notifies the public that the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions that would require republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is one in which the commenter explains why the rule would be inappropriate. This could include challenging the rule's underlying premise or approach, or explaining why the rule would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications.

For detailed instructions on submitting comments, please see the companion proposed rule published in the Proposed Rule section of this issue of the **Federal Register**.

## II. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the U.S. Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [U.S. Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' which added a new subpart K within 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule (73 FR 70587; November 21, 2008) that approved the MAGNASTOR® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214, ''List of approved spent fuel storage casks,'' as CoC No.1031.

## III. Discussion of Changes

By letter dated June 18, 2013 (ADAMS Accession No. ML13171A031), as supplemented September 6, 2013 (ADAMS Accession No. ML13261A278), September 19, 2013 (ADAMS Accession No. ML13268A051 proprietary information—not for public disclosure), June 13, 2014 (ADAMS Accession No. ML14170A063), June 17, 2014 (ADAMS Accession No. ML14170A022), and July 17, 2014 (ADAMS Accession No. ML14199A501), NAC International (NAC) submitted an application for Amendment No. 4 of CoC No. 1031. The amendment makes changes to LCO 3.1.1 in Technical Specification Appendix A (ADAMS Accession No. ML14272A479). Specifically, in the first table in section 1 of LCO 3.1.1:

- The table title is revised from ''PWR Drying with 8 Hours TSC Transfer'' to ''PWR TSC Transfer with Reduced Helium Backfill Time;''
- In row 1, 4th column, the cask transfer time is changed from 8 to 600 hours;
- In row 2, 3rd column, the helium backfill time is changed from 0 to 7 hours; and
- In row 2, 4th column, the cask transfer time is changed from 8 to 70.5 hours.

Amendment No. 4 also corrects a typographical error in two required minimum actual areal boron densities in Technical Specification Appendix A, Section 4.1.1(a). In addition, Technical Specification Appendix B (ADAMS Accession No. ML14272A484), Table B2–5, provides new minimum additional decay times required before loading when the spent fuel contains nonfuel hardware. The revised technical specifications are identified in the preliminary Safety Evaluation Report (SER) (ADAMS Accession No. ML14272A487).

As documented in the preliminary SER, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request. There are no significant changes to cask design requirements in the proposed CoC amendment. Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. If there is no loss of containment, shielding, or criticality control, the environmental impacts would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 4 would remain well within the applicable limits of 10 CFR part 20, ''Standards for Protection Against Radiation.'' Therefore, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule (55 FR 29181) that amended 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. There will be no significant change in the types or amounts of any effluent released, no significant increase in individual or cumulative radiation exposure, and no significant increase in the potential for or consequences of radiological accidents from those analyzed in that environmental assessment.

This direct final rule revises the MAGNASTOR® System listing in 10 CFR 72.214 by adding Amendment No. 4 to CoC No. 1031. The amendment consists of the changes previously described, as set forth in the revised CoC and technical specifications. The revised technical specifications are identified in the preliminary SER.

The amended MAGNASTOR® System design, when used under the conditions specified in the CoC, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210, ''General license issued,'' may load spent nuclear fuel into MAGNASTOR® Storage Systems that meet the criteria of Amendment No. 4 to CoC No. 1031 under 10 CFR 72.212, ''Conditions of general license issued under § 72.212.''

## IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards developed or adopted by voluntary consensus standards bodies, unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the MAGNASTOR® System design listed in 10 CFR 72.214. This action does not constitute the establishment of a standard subject to Public Law 104–113.

## V. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this direct final rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements via a mechanism

that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

## VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

## VII. Environmental Assessment and Finding of No Significant Environmental Impact: Availability

### *A. The Action*

The action is to amend 10 CFR 72.214 to revise the NAC International, Inc. MAGNASTOR® System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 4 to CoC No. 1031. Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is therefore not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

### *B. The Need for the Action*

This direct final rule amends the CoC for the NAC International, Inc. MAGNASTOR® System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Amendment No. 4 changes the LCOs in the technical specifications for canister vacuum drying and helium backfill times. Amendment No. 4 also corrects a typographical error in two required minimum actual areal boron densities in Technical Specification Appendix A, Section 4.1.1(a). In addition, Technical Specification Appendix B, Table B2–5, provides new minimum additional decay times required before loading when the spent fuel contains nonfuel hardware. The revised technical specifications are identified in the preliminary SER.

### *C. Environmental Impacts of the Action*

On July 18,1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 4 tiers off of the environmental assessment for the July 18, 1990, final rule.

The MAGNASTOR® System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an Independent Spent Fuel Storage Installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fires, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. If there is no loss of confinement, shielding, or criticality control, the environmental impacts would be insignificant.

This amendment does not reflect a significant change in design or fabrication of the cask. There are no significant changes to cask design requirements in the proposed CoC amendment. In addition, because there are no significant process changes, any resulting occupational exposures or offsite dose rates from the implementation of Amendment No. 4 would remain well within 10 CFR part 20 radiation safety limits. Therefore, the proposed CoC changes will not result in either radiological or non-radiological environmental impacts that differ significantly from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or amounts of any effluent released, no significant increase in individual or cumulative radiation exposures, and no significant increase in the potential for or consequences of radiological accidents. The staff documented these safety findings in the preliminary SER for this amendment.

### *D. Alternative to the Action*

The alternative to this action is to deny approval of Amendment No. 4 and end the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into MAGNASTOR® System casks in accordance with the changes described in proposed Amendment No. 4 would have to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden on the NRC and the cost to each licensee. Because licensees could still receive approval for use of this cask through a different and more burdensome administrative process, environmental impacts of the proposed action would be the same as or less than the no-action alternative.

### *E. Alternative Use of Resources*

Approval of Amendment No. 4 to CoC No. 1031 would result in no significant irreversible commitments of resources.

### *F. Agencies and Persons Contacted*

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

### *G. Finding of No Significant Impact*

The environmental impacts of the action have been reviewed under the requirements of 10 CFR part 51. Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled, ''List of Approved Spent Fuel Storage Casks: NAC International MAGNASTOR® System; Certificate of Compliance No. 1031, Amendment No. 4,'' will not have a significant effect on the quality of the human environment. The NRC has therefore determined that an environmental impact statement for this direct final rule is not necessary.

## VIII. Paperwork Reduction Act Statement

This direct final rule does not contain any information collection requirements, and is therefore not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), Approval Number 3150–0132.

### *Public Protection Notification*

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement, unless the requesting document displays a currently valid OMB control number.

## IX. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in casks with designs approved by the NRC. Any nuclear power reactor licensee can use casks with NRC-approved designs to store spent nuclear fuel if the licensee notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is codified in 10 CFR 72.214. The NRC issued a final rule (73 FR 70687; November 21, 2008) that approved the MAGNASTOR® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 ''List of approved spent fuel storage casks,'' as CoC No. 1031.

On June 18, 2013, and as supplemented on September 6, 2013, June 13, 2014, June 17, 2014, and July 17, 2014, NAC International, Inc. submitted an application to amend the MAGNASTOR® Cask System as described in Section III, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 4 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the MAGNASTOR® System cask under the changes described in Amendment No. 4 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden on the NRC and the costs to each interested licensee.

Issuance of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary SER and the environmental assessment, the direct final rule will ensure protection of public health and safety, and have no significant impact on the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

## X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and NAC International, Inc. These entities do not fall within the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

## XI. Backfitting and Issue Finality

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises the CoC No. 1031 for the NAC International MAGNASTOR® System, as currently listed in 10 CFR 72.214, ''List of Approved Spent Fuel Storage Casks.'' The revision consists of Amendment No. 4, which changes the title and specified numerical values of LCO 3.1.1, Section 1, first table entitled ''PWR Drying with 8 Hours TSC Transfer.'' Amendment No. 4 also corrects a typographical error in two required minimum actual areal boron densities in Technical Specification Appendix A, Section 4.1.1(a). In addition, Technical Specification Appendix B, Table B2–5, provides new minimum additional decay times required before loading when the spent fuel contains nonfuel hardware. The revised technical specifications are identified in the preliminary SER.

Amendment No. 4 to CoC No. 1031 for the MAGNASTOR® System was initiated by NAC International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 4 applies only to new casks fabricated and used under Amendment No. 4. These changes do not affect existing users of the NAC International MAGNASTOR® System, and the current Amendment No. 3 continues to be effective for existing users. While current CoC users may comply with the new requirements in Amendment No. 4, this would be a voluntary decision on their part. For these reasons, Amendment No. 4 to CoC No. 1031 does not constitute backfitting under 10 CFR 72.62 or 10 CFR 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, no backfit analysis or additional documentation addressing the issue finality criteria in 10 CFR part 52 has been prepared by the staff.

## XII. Congressional Review Act

The Office of Management and Budget has not found this to be a major rule as defined in the Congressional Review Act.

## XIII. Availability of Documents

The documents referenced in this direct final rule are available in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Main Library (ML) accession numbers for the documents listed in the table below:

TABLE 1

| Document title | ADAMS Accession No. |
|---|---|
| Proposed CoC (for Certificate of Compliance #1031) | ML14272A472 |
| Technical Specifications Appendix A | ML14272A479 |
| Technical Specifications Appendix B | ML14272A484 |
| Preliminary Safety Evaluation Report (SER) | ML14272A487 |
| ''Submission of a Request to Amend the NRC Certificate of Compliance No. 1031 for the NAC International MAGNASTOR Cask System,'' June 18, 2013. | ML13171A031 |
| ''Submission of NAC's Response to the U.S. Nuclear Regulatory Commission's Request for Supplemental Information for NAC's Request to Amend the Certificate of Compliance No. 1031 for the NAC International MAGNASTOR Cask System,'' September 6, 2013. | ML13261A278 |
| ''Final Safety Analysis Report Amendment 4 Application Supplement, Rev. 13C,'' September 19, 2013. (Proprietary information—not for public disclosure).. | ML13268A051 |
| ''Submission of a Supplement to NAC's Request to Amend the U.S. Nuclear Regulatory Commission Certificate of Compliance No. 1031 for the NAC International MAGNASTOR Cask System,'' June 13, 2014. | ML14170A063 |

TABLE 1—Continued

| Document title | ADAMS Accession No. |
|---|---|
| "Submission of a Supplement to NAC's Request to Amend the U.S. Nuclear Regulatory Commission Certificate of Compliance No. 1031 for the NAC International MAGNASTOR Cask System," June 17, 2014. | ML14170A022 |
| "Submission of a Supplement to NAC's Request to Amend the U.S. Nuclear Regulatory Commission Certificate of Compliance No. 1031 for the NAC International MAGNASTOR Cask System," July 17, 2014. | ML14199A501 |

**List of Subjects in 10 CFR Part 72**

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

**Authority:** Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282, 2021); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs. 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K also issued under Nuclear Waste Policy Act sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance No. 1031 is revised to read as follows:

**§ 72.214 List of approved spent fuel storage casks.**

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009.

Amendment Number 1 Effective Date: August 30, 2010.

Amendment Number 2 Effective Date: January 30, 2012.

Amendment Number 3 Effective date: July 25, 2013.

Amendment Number 4 Effective Date: April 14, 2015.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029. Model Number: MAGNASTOR®.

Dated at Rockville, Maryland, this 15th day of January 2015.

For the Nuclear Regulatory Commission.

**Mark A. Satorius,**

*Executive Director for Operations.*

[FR Doc. 2015–01693 Filed 1–28–15; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 25

**[Docket No. FAA–2013–0142; Amdt. No. 25–141]**

**RIN 2120–AK12**

## Harmonization of Airworthiness Standards—Gust and Maneuver Load Requirements; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting the final rule, "Harmonization of Airworthiness Standards—Gust and Maneuver Load Requirements" (79 FR 73462), published December 11, 2014. In the rule, the FAA amended certain airworthiness regulations for transport category airplanes to eliminate regulatory differences between the airworthiness standards of the FAA and European Aviation Safety Agency (EASA). It does not add new requirements beyond what manufacturers currently meet for EASA certification and does not affect current industry design practices. This final rule revises the pitch maneuver design loads criteria; revises the gust and turbulence design loads criteria; revises the application of gust loads to engine mounts, high lift devices, and other control surfaces; adds a "round-the-clock" discrete gust criterion and a multi-axis discrete gust criterion for airplanes equipped with wing-mounted engines; revises the engine torque loads criteria; adds an engine failure dynamic load condition; revises the ground gust design loads criteria; revises the criteria used to establish the rough air design speed; and requires the establishment of a rough air Mach number. This document corrects errors in the rule by ensuring that certain letters in the included equations have the right formatting and therefore the correct meaning.

**DATES:** This correction is effective February 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Todd Martin, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1178; facsimile (425) 227–1232; email *Todd.Martin@faa.gov.*

For legal questions concerning this action, contact Sean Howe, Office of the Regional Counsel, ANM–7, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2591; facsimile (425) 227–1007; email *Sean.Howe@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On December 11, 2014, the FAA published the final rule entitled, "Harmonization of Airworthiness Standards—Gust and Maneuver Load Requirements" (79 FR 73462).

In the rule, the FAA amended certain airworthiness regulations for transport category airplanes to eliminate regulatory differences between the airworthiness standards of the FAA and European Aviation Safety Agency (EASA). It does not add new requirements beyond what manufacturers currently meet for EASA certification and does not affect current industry design practices. This final rule revises the pitch maneuver design loads criteria; revises the gust and turbulence design loads criteria; revises the application of gust loads to engine mounts, high lift devices, and other control surfaces; adds a ''round-the-clock'' discrete gust criterion and a multi-axis discrete gust criterion for airplanes equipped with wing-mounted engines; revises the engine torque loads criteria; adds an engine failure dynamic load condition; revises the ground gust design loads criteria; revises the criteria used to establish the rough air design speed; and requires the establishment of a rough air Mach number.

This document corrects three errors in the Greek letters and subscripts contained in various equations in the regulatory text. In one case, the ''U'' in the equation is changed from subscript to regular, uppercase text. In another case, instead of ''$P_L = P_{L-1g} \pm {}_U\sigma\bar{A}$'', the equation should be ''$P_L = P_{L-1g} \pm U\sigma\bar{A}$''. In two cases, the three Greek letters ''ρεφ'' after sigma ''σ'' in the subscript of ''U'' are changed to ''ref''. In these cases, ''$U\sigma\rho\varepsilon\varphi$'' should be ''$U\sigma_{ref}$''.

This correction also corrects the statement in the rule's preamble that the FAA received 33 comments to the Advisory Circulars, rather than none.

**Corrections**

In FR Doc. 2014–28938, beginning on page 73464, in the **Federal Register** of December 11, 2014, make the following corrections:

1. On Page 73464, second column, under the heading ''C. Advisory Material'', the sentence, ''The FAA did not receive any comments on the proposed ACs'' is corrected to read ''The FAA received 33 comments on the proposed ACs. These comments did not have an impact on the regulatory requirements''.

2. On page 73467, second column, line 11, the equation ''$P_L = P_{L-1g} \pm {}_U\sigma\bar{A}$'' is corrected to read ''$P_L = P_{L-1g} \pm U\sigma\bar{A}$''.

3. On page 73467, second column, fifth line from the bottom, the equation ''$U\sigma = U\sigma\rho\varepsilon\varphi F_g$'' is corrected to read ''$U\sigma = U\sigma_{ref} F_g$''.

4. On page 73467, second column, third line from the bottom, the text ''$U\sigma\rho\varepsilon\varphi$'' is corrected to read ''$U\sigma_{ref}$''.

Issued in Washington, DC, on January 16, 2015.

**Lirio Liu,**

*Director, Office of Rulemaking.*

[FR Doc. 2015–01205 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0078; Directorate Identifier 2014–NM–235–AD; Amendment 39–18084; AD 2015–02–17]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes. This AD requires revising the electrical emergency configuration procedure in the Emergency Procedures section of the airplane flight manual (AFM) to include procedures for deploying the ram air turbine manually to provide sufficient hydraulic power and avoid constant speed motor/generator (CSM/G) shedding. This AD was prompted by an electrical load analysis that revealed that hydraulic power might not be sufficient to supply the CSM/G during slat/flap extension when only one engine is running. We are issuing this AD to prevent such a condition which, in conjunction with the loss of the main electrical system, could lead to the scenario where the flightcrew is not clearly warned that the electrical system has switched on the battery and thus has a limited duration that would allow a safe landing.

**DATES:** This AD becomes effective February 13, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 13, 2015.

We must receive comments on this AD by March 16, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.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–2015–0078; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0281, dated December 22, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes. The MCAI states:

The Constant Speed Motor/Generator (CSM/G), as installed on Airbus A330

aeroplanes, is qualified for an overload condition of 9.5kVA [kilovolt-ampere] for 30 minutes. This duration is sufficient to perform safe landing and a GO–AROUND. However, electrical load analysis revealed that the hydraulic power might not be sufficient to supply the CSM/G during slat/flap extension when only one engine is running.

This condition, if not corrected, and in conjunction with the loss of main electrical system, could lead to the scenario where the crew is not clearly warned that the electrical system has switched on the battery and thus has a limited duration that would allow a safe landing.

To address this potential unsafe condition, Airbus issued an Aircraft Flight Manual (AFM) Temporary Revision (TR) on A330 aeroplane to update the electrical emergency configuration ''ELEC EMER CONFIG'' procedure to require the pilot to deploy the ram air turbine manually before setting the Landing Recovery to ON position to provide sufficient hydraulic power and avoid CSM/G shedding under worst-case operational conditions.

Consequently, EASA issued AD 2014–0273 (*http://ad.easa.europa.eu/blob/easa_ad_2014_0273_superseded.pdf/AD_2014-0273_1*) to require amendment of the AFM by incorporating the applicable Airbus TR.

After that [EASA] AD was issued, EASA became aware that the reference to Airbus modification (mod) 47930 was insufficient to define which AFM TR is applicable to which aeroplane (configuration), as this mod can be embodied in service with Airbus Service Bulletin (SB) A330–28–3067.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2014–0273, which is superseded, and corrects the information included in Table 1.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0078.

**Related Service Information**

Airbus has issued A330/A340 Airplane Flight Manual (AFM) Temporary Revision (TR) TR427, UPDATE OF ELEC—EMER CONFIG PROCEDURE, Issue 1.0, dated November 7, 2014 (for airplanes in Airbus pre-modification 47930 configuration or pre-Airbus Service Bulletin A330–28–3067 configuration); and A330/A340 AFM TR TR428, UPDATE OF ELEC—EMER CONFIG PROCEDURE, Issue 1.0, dated November 7, 2014 (for airplanes in Airbus post-modification 47930 configuration or post-Airbus Service Bulletin A330–28–3067 configuration). This service information describes updated electrical emergency configuration procedures in the AFM. You can find this information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0078.

**FAA's Determination and Requirements of This AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

**FAA's Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because hydraulic power might not be sufficient to supply the CSM/G during slat/flap extension when only one engine is running. This condition, in conjunction with the loss of the main electrical system, could lead to the scenario where the flightcrew is not clearly warned that the electrical system has switched on the battery and thus has a limited duration that would allow a safe landing. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0078; Directorate Identifier 2014–NM–235–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

**Costs of Compliance**

We estimate that this AD affects 91 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $7,735, or $85 per product.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify that this AD:

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.

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2015–02–17 Airbus:** Amendment 39–18084. Docket No. FAA–2015–0078; Directorate Identifier 2014–NM–235–AD.

**(a) Effective Date**

This AD becomes effective February 13, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, and –243F airplanes.

(2) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 24, Electrical Power.

**(e) Reason**

This AD was prompted by an electrical load analysis that revealed that hydraulic power might not be sufficient to supply the constant speed motor/generator (CSM/G) during slat/flap extension when only one engine is running. We are issuing this AD to prevent such a condition which, in conjunction with the loss of the main electrical system, could lead to the scenario where the flightcrew is not clearly warned that the electrical system has switched on the battery and thus has a limited duration that would allow a safe landing.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Revise Airplane Flight Manual (AFM)**

Within 15 days after the effective date of this AD, revise the Emergency Procedures section of the Airbus A330 AFM to include the information in the applicable Airbus temporary revision (TR) specified in paragraph (g)(1) or (g)(2) of this AD. This may be done by inserting a copy of the applicable TR specified in paragraph (g)(1) or (g)(2) of this AD into the AFM. Operate the airplane according to the procedures in the applicable TR. When the information in the applicable TR has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, provided the relevant information in the general revision is identical to that in the TR, and the TR may be removed.

(1) For airplanes in Airbus pre-modification 47930 configuration and pre-Airbus Service Bulletin A330–28–3067 configuration: Airbus A330/A340 AFM TR TR427, UPDATE OF ELEC—EMER CONFIG PROCEDURE, Issue 1.0, dated November 7, 2014.

(2) For airplanes in Airbus post-modification 47930 configuration or post-Airbus Service Bulletin A330–28–3067 configuration: Airbus A330/A340 AFM TR TR428, UPDATE OF ELEC—EMER CONFIG PROCEDURE, Issue 1.0, dated November 7, 2014.

**(h) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(i) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0281, dated December 22, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0078.

**(j) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus A330/A340 Airplane Flight Manual (AFM) Temporary Revision TR427, UPDATE OF ELEC—EMER CONFIG PROCEDURE, Issue 1.0, dated November 7, 2014.

(ii) Airbus A330/A340 AFM Temporary Revision TR428, UPDATE OF ELEC—EMER CONFIG PROCEDURE, Issue 1.0, dated November 7, 2014.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; Internet *http://www.airbus.com*.

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on January 9, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–01178 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2010–0683; Directorate Identifier 2010–NE–25–AD; Amendment 39–18065; AD 2015–02–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Technify Motors GmbH (Type Certificate Previously Held by Thielert Aircraft Engines GmbH) Reciprocating Engines

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding airworthiness directive (AD) 2011–23–01 for all Technify Motors GmbH (TMG) models TAE 125–01 and TAE 125–02–99 reciprocating engines with certain part number (P/N) and serial number (S/N) clutch assemblies installed. AD 2011–23–01 required replacement of certain P/N and S/N clutch assemblies. This AD requires the same actions but

expands the population of affected P/N and S/N clutch assemblies. This AD was prompted by an additional report of a clutch assembly that malfunctioned due to disk springs that received a nonconforming heat treatment process. We are issuing this AD to prevent failure of the clutch assembly, which could lead to failure of the engine, in-flight shutdown, and loss of control of the airplane.

**DATES:** This AD is effective February 13, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 13, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of November 22, 2011 (76 FR 68636, November 7, 2011).

We must receive any comments on this AD by March 16, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Technify Motors GmbH, Platanenstrasse 14, D–09356 Sankt Egidien, Germany; phone: +49–37204–696–0; fax: +49–37204–696–55; email: *info@centurion-engines.com*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

**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–2010–0683; 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 AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The 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:** Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7120; fax: (781) 238–7199; email: *Chris.McGuire@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2010–0683; Directorate Identifier 2010–NE–25–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

**Discussion**

On August 16, 2010, we issued AD 2010–18–02, Amendment 39–16415 (75 FR 52240, August 25, 2010), (''AD 2010–18–02''), for certain Thielert Aircraft Engines GmbH (TAE) (previous certificate holder) models TAE 125–01 and TAE 125–02–99 reciprocating engines. AD 2010–18–02 resulted from reports of engine in-flight shutdowns. Preliminary investigation showed that nonconforming disc springs used in a certain production batch of the clutch caused the shutdowns. AD 2010–18–02 required replacement of certain clutch assemblies.

On October 19, 2011, we superseded AD 2010–18–02, issuing AD 2011–23–01, Amendment 39–16852 (76 FR 68636, November 7, 2011), for certain TAE models TAE 125–01 and TAE 125–02–99 reciprocating engines. AD 2011–23–01 required replacement of certain P/N and S/N clutch assemblies due to clutch failure. AD 2011–23–01 resulted from TAE identifying additional clutch assemblies with nonconforming disc springs.

**Actions Since AD 2011–23–01 Was Issued**

Since we issued AD 2011–23–01, Amendment 39–16852 (76 FR 68636, November 7, 2011), we received an additional report of a malfunctioning clutch assembly. Investigation found that the same unsafe condition exists on approximately 40 additional S/N clutch assemblies that have nonconforming disk springs. Those additional nonconforming disc springs are identified in TMG Service Bulletin No. TM TAE 125–0021, Revision 2, dated October 13, 2014.

**FAA's Determination**

We are issuing 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 these same type designs.

**AD Requirements**

This AD requires, for engines with affected clutch assemblies with more than 100 hours time since new (TSN), replacement of affected clutch assemblies before further flight. This AD also requires, for those engines with affected clutch assemblies that have accumulated less than 100 hours TSN, replacement of affected clutch assemblies before accumulating 100 hours TSN.

**FAA's Justification and Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because TMG identified additional clutch assemblies with nonconforming disc springs and the need for operators to comply with some of the AD actions before further flight. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

**Costs of Compliance**

We estimate that this AD will affect about 111 engines installed on airplanes of U.S. registry. We also estimate that it will take about 16 hours per engine to perform the clutch assembly replacement. The average labor rate is $85 per hour. Required parts will cost about $1,796. Based on these figures, we

estimate the cost of the AD on U.S. operators to be $350,316.

**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**

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

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

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

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

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–23–01, Amendment 39–16852 (76 FR 68636, November 7, 2011), and adding the following new AD:

**2015–02–01 Technify Motors GmbH (Type Certificate previously held by Thielert Aircraft Engines GmbH):** Amendment 39–18065; Docket No. FAA–2010–0683; Directorate Identifier 2010–NE–25–AD.

**(a) Effective Date**

This AD is effective February 13, 2015.

**(b) Affected ADs**

This AD supersedes AD 2011–23–01, Amendment 39–16852 (76 FR 68636, November 7, 2011).

**(c) Applicability**

This AD applies to Technify Motors GmbH (TMG) models TAE 125–01 and TAE 125–02–99 reciprocating engines, with a clutch assembly part number (P/N) listed in paragraphs (c)(i) through (c)(v) of this AD, and with a serial number (S/N) listed in either TMG Service Bulletin (SB) No. TM TAE 125–0021, Revision 2, dated October 13, 2014, or Thielert Aircraft Engines GmbH (TAE) SB No. TM TAE 125–1011 P1, Revision 2, dated August 31, 2011, installed.

(i) P/N 02–7210–11001R11
(ii) P/N 02–7210–11001R11–AT
(iii) P/N 02–7210–11001R13
(iv) P/N 05–7211–K006001
(v) P/N 05–7211–K006002

**(d) Unsafe Condition**

This AD was prompted by TMG identifying 40 additional S/N clutch assemblies with nonconforming disk springs for TMG TAE 125–01 reciprocating engines. We are issuing this AD to prevent failure of the clutch assembly, which could lead to failure of the engine, in-flight shutdown, and loss of control of the airplane.

**(e) Compliance**

Comply with this AD within the compliance times specified, unless already done.

After the effective date of this AD:

(1) For engines with affected clutch assemblies that have accumulated 100 hours time since new (TSN) or more, replace the clutch assembly before further flight.

(2) For engines with affected clutch assemblies that have accumulated less than 100 hours TSN, replace the clutch assembly before accumulating 100 hours TSN.

**(f) Installation Prohibition**

After the effective date of this AD, do not install onto any airplane any engine having a clutch assembly, P/N 02–7210–11001R11, P/N 02–7210–11001R11–AT, P/N 02–7210–11001R13, P/N 05–7211–K006001, or P/N 05–7211–K006002, installed, that has an S/N listed in TMG SB No. TM TAE 125–0021, Revision 2, dated October 13, 2014, or in TAE SB No. TM TAE 125–1011 P1, Revision 2, dated August 31, 2011.

**(g) Credit for Previous Actions**

If before the effective date of this AD you replaced an affected clutch assembly with a clutch assembly not listed in this AD, or with one not listed in either TMG SB No. TM TAE 125–0021, Revision 2, dated October 13, 2014, or TAE SB No. TM TAE 125–1011 P1, Revision 2, dated August 31, 2011, then you met the requirements of paragraph (e) of this AD and no further action is required to comply with this AD.

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

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

**(i) Related Information**

(1) For more information about this AD, contact Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7120; fax: (781) 238–7199; email: *Chris.McGuire@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0232, dated October 22, 2014 and corrected on November 4, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2010–0683.

**(j) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on February 13, 2015.

(i) Technify Motors GmbH (TMG) Service Bulletin (SB) No. TM TAE 125–0021, Revision 2, dated October 13, 2014.

(ii) Reserved.

(4) The following service information was approved for IBR on November 22, 2011.

(i) Thielert Aircraft Engines GmbH (TAE) SB No. TM TAE 125–1011 P1, Revision 2, dated August 31, 2011.

(ii) Reserved.

(5) For TMG and TAE service information identified in this AD, contact Technify Motors GmbH, Platanenstrasse 14, D–09356 Sankt Egidien, Germany; phone: +49–37204–696–0; fax: +49–37204–696–55; email: *info@centurion-engines.com.*

(6) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(7) You may view this service information at the National Archives and Records

Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on January 8, 2015.

**Colleen M. D'Alessandro,**

*Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2015–00991 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0876; Directorate Identifier 2014–CE–032–AD; Amendment 39–18076; AD 2015–02–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Costruzioni Aeronautiche Tecnam srl Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking found in the engine exhaust pipe. We are issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective March 5, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 5, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0876; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Costruzioni Aeronautiche Tecnam Airworthiness Office, Via Maiorise–81043 Capua (CE) Italy; telephone: +39 0823 997538; fax: +39 0823 622899; email: *technical.support@tecnam.com;* Internet: *http://www.tecnam.com/Customer-Care/Service-Bulletins.aspx.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

**FOR FURTHER INFORMATION CONTACT:** Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes. The NPRM was published in the **Federal Register** on October 29, 2014 (79 FR 64347). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> During a pre-flight inspection of a P2006T aeroplane, which included the opening of engine nacelle, a crack was found on the engine exhaust pipe Part Number (P/N) 26–7–1800–1.
>
> This condition, if not detected and corrected, could lead to engine damage, possibly resulting in damage to the aeroplane and injury to the occupants.
>
> To address this potential unsafe condition, Costruzioni Aeronautiche TECNAM issued Service Bulletin (SB) SB 170–CS–Ed 1 Rev1.
>
> For the reason described above, this AD requires a one-time inspection of the affected engine exhaust pipes and, depending on findings, replacement.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0876-0002.*

### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

### Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 64347, October 29, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

### Relative Service Information

We reviewed Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 170–CS-Ed 1, Rev 1, dated September 25, 2014. The service bulletin describes procedures for inspecting and replacing (as necessary) the engine exhaust pipes. You can find this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0876.

### Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $425, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions would take about .5 work-hour and require parts costing $343, for a cost of $385.50 per product. We have no way of determining the number of products that may need these actions.

### Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

**Regulatory Findings**

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

For the reasons discussed above, I certify this AD:

(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.

**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–2014–0876; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new AD:

**2015–02–09 Costruzioni Aeronautiche Tecnam srl:** Amendment 39–18076; Docket No. FAA–2014–0876; Directorate Identifier 2014–CE–032–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective March 5, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Costruzioni Aeronautiche Tecnam srl P2006T airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 78: Engine Exhaust.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking found in the engine exhaust pipe. We are issuing this AD to detect and correct cracked engine exhaust pipes, which could lead to engine damage, possibly resulting in damage to the airplane and injury to the occupants.

**(f) Actions and Compliance**

Unless already done, do the following actions as specified in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within 25 hours time-in-service (TIS) after March 5, 2015 (the effective date of this AD) or within the next 30 days after March 5, 2015 (the effective date of this AD), whichever occurs first, do a detailed inspection of all engine exhaust pipes following the inspection instructions in Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 170–CS–Ed 1, Rev 1, dated September 25, 2014.

(2) If any deformation, cracks, or any other defects are detected during the inspection as required by paragraph (f)(1) of this AD, before further flight, replace the affected pipe with an airworthy part or contact Costruzioni Aeronautiche TECNAM for FAA-approved repair instructions approved specifically for compliance with this AD and incorporate those instructions. Use the information in paragraph (i)(3) of this AD to contact Costruzioni Aeronautiche TECNAM.

(3) Within 30 days after the inspection required by paragraph (f)(1) of this AD or within 30 days after March 5, 2015 (the effective date of this AD), whichever occurs later, report the results (including no findings) by using the occurrence report in Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 170–CS–Ed 1, Rev 1, dated September 25, 2014.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(h) Related Information**

Refer to European Aviation Safety Agency (EASA) AD No.: 2014–0220, dated September 30, 2014, for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0876-0002.*

**(i) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Costruzioni Aeronautiche TECNAM Service Bulletin No. SB 170–CS–Ed 1, Rev 1, dated September 25, 2014.

(ii) Reserved.

(3) For Costruzioni Aeronautiche TECNAM service information identified in this AD, contact Costruzioni Aeronautiche Tecnam Airworthiness Office, Via Maiorise–81043 Capua (CE) Italy; telephone: +39 0823 997538; fax: +39 0823 622899; email: *technical.support@tecnam.com;* Internet: *http://www.tecnam.com/Customer-Care/Service-Bulletins.aspx.*

(4) You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0876.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on January 14, 2015.

**Kelly A. Broadway,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–00992 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0230; Directorate Identifier 2013–NM–242–AD; Amendment 39–18070; AD 2015–02–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Airbus Model A300 B4–601, B4–603, B4–605R, F4–605R, and C4–605R Variant F airplanes. This AD was prompted by reports of cracking found in the pylon box, which was due to the stresses resulting from the pressure applied by the thrust reverser cowl bumpers. This AD requires repetitive high frequency eddy current (HFEC) inspections for cracking; and replacement of all fittings if necessary, which terminates the repetitive HFEC inspections for the modified side only. We are issuing this AD to detect and correct cracks of the pylon rib 5, which could result in reduced structural integrity of the airplane.

**DATES:** This AD becomes effective March 5, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 5, 2015.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0230;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2125; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A300 B4–601, B4–603, B4–605R, F4–605R, and C4–605R Variant F airplanes. The NPRM published in the **Federal Register** on April 14, 2014 (79 FR 20837).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0286R1, dated June 6, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A300 B4–601, B4–603, B4–605R, F4–605R, and C4–605R Variant F airplanes. The MCAI states:

> Cracks were found on the lower side of rib 5 in the pylon box on A300 aeroplanes powered with General Electric engines.
>
> Investigations revealed that these cracks were due to the stresses resulting from the pressure applied by the thrust reverser cowl bumpers.
>
> This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.
>
> Airbus developed an inspection programme to detect the cracks and associated actions to correct them.
>
> For the reasons described above, EASA issued AD 2013–0286 [*http://ad.easa.europa.eu/blob/easa_ad_2013_0286_R1.pdf/AD_2013-0286R1_2*] to require repetitive [HFEC] inspections of the pylon rib 5 on the left hand side (LH) and right hand (RH) side and, when cracks are detected, replacement of the affected structural part(s). [Replacement of all fittings terminates the repetitive HFEC inspections.]
>
> Since that [EASA] AD was issued, it was found that the [EASA] AD has inadvertently been made applicable to all A300–600 Models, which is incorrect. This [EASA] AD has been revised to reduce the Applicability to only the affected Models.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0230-0004.*

### Revision to Applicability

Since the NPRM (79 FR 20837, April 14, 2014), was issued, we have determined that paragraph (c), ''Applicability,'' of this AD should not include Airbus Model A300 B4–620, B4–622, B4–622R, and F4–622R airplanes. We have removed these airplanes from paragraph (c) of this AD, and have revised the **SUMMARY** section and Costs of Compliance section of this final rule accordingly.

### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 20837, April 14, 2014) and the FAA's response to each comment.

### Request for Credit for Modification

FedEx requested that we revise paragraph (i) of the NPRM (79 FR 20837, April 14, 2014) to indicate that prior incorporation of the modification specified in Airbus Service Bulletin A300–54–6031, dated May 30, 1996, provides credit as a terminating action for the repetitive HFEC inspections specified in the NPRM.

We find that clarification is necessary. Paragraph (h) of this AD already specifies that accomplishment of the

referenced modification is terminating action for the repetitive HFEC inspections required by paragraph (g)(1) of this AD for the modified side only. We have made no change to this AD in this regard.

**Request for Clarification**

UPS requested that we revise paragraphs (g)(2) and (h) of the NPRM (79 FR 20837, April 14, 2014) to clarify that replacement of fittings is to be done on the affected pylon or on the modified side only. UPS reasoned that one interpretation of the phrase ''all the fittings'' would be to replace the fittings in the left and right pylons, even though cracking was found in only one of the pylons.

We agree to clarify. We have revised paragraphs (g)(2) and (h) of this AD to include the clarifications requested by the commenter.

**''Contacting the Manufacturer'' Paragraph in This AD**

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

We have become aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the EASA, or Airbus's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH.

**Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 20837, April 14, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 20837, April 14, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

**Related Service Information**

We reviewed Airbus Service Bulletin A300–54–6031, dated May 30, 1996; and Airbus Service Bulletin A300–54–6034, Revision 02, dated August 26, 2013. The service information describes procedures for repetitive HFEC inspections for cracking of the lower side of rib 5 in the LH and RH pylon box and replacing certain fittings. You can find this information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0230.

**Costs of Compliance**

We estimate that this AD affects 54 airplanes of U.S. registry.

We also estimate that it will take about 9 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $41,310, or $765 per product.

In addition, we estimate that any necessary follow-on actions will take about 32 work-hours and require parts costing $2,450, for a cost of $5,170 per product. We have no way of determining the number of aircraft that might need this action.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify that this AD:

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.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0230;* 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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2015–02–03 Airbus:** Amendment 39–18070. Docket No. FAA–2014–0230; Directorate Identifier 2013–NM–242–AD.

**(a) Effective Date**

This AD becomes effective March 5, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Model A300 B4–601, B4–603, B4–605R, F4–605R, and C4–605R Variant F airplanes, certificated in any category, all manufacturer serial numbers, except those on which Airbus Modification 11110 has been embodied in production, or that have been modified in service as specified in Airbus Service Bulletin A300–54–6031, dated May 30, 1996.

**(d) Subject**

Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

**(e) Reason**

This AD was prompted by reports of cracking found in the pylon box, which was due to the stresses resulting from the pressure applied by the thrust reverser cowl bumpers. We are issuing this AD to detect and correct cracks of the pylon rib 5, which could result in reduced structural integrity of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Inspection and Replacement**

(1) Before the accumulation of 15,000 total flight hours since the airplane's first flight, or within 6,000 flight hours after the effective date of this AD, whichever occurs later: Do a high frequency eddy current (HFEC) inspection for cracking on the lower area of rib 5 on the left-hand and right-hand side pylons, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–54–6034, Revision 02, dated August 26, 2013. Repeat the inspection thereafter at intervals not to exceed 15,000 flight hours.

(2) If any crack is found during any inspection required by paragraph (g)(1) of this AD, before further flight, replace all the fittings—on the affected pylon only—with new standard fittings, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–54–6031, dated May 30, 1996.

**(h) Terminating Action**

Replacement of all fittings as required by paragraph (g)(2) of this AD; or modification of pylons in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–54–6031, dated May 30, 1996; terminates the repetitive HFEC inspections required by paragraph (g)(1) of this AD for the modified side only.

**(i) Credit for Previous Actions**

This paragraph provides credit for the inspections required by paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A300–54–6034, Revision 01, dated September 14, 1999, which is not incorporated by reference in this AD.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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 International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(k) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0286R1, dated June 6, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0230-0004.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

**(l) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A300–54–6031, dated May 30, 1996.

(ii) Airbus Service Bulletin A300–54–6034, Revision 02, dated August 26, 2013.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on January 12, 2015.

**John P. Piccola, Jr.,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–00997 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0096; Directorate Identifier 2014–CE–040–AD; Amendment 39–18077; AD 2015–02–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Viking Air Limited Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Viking Air Limited Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failed locknuts on the horizontal stabilizer attach bracket. We are issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective February 18, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of February 18, 2015.

We must receive comments on this AD by March 16, 2015.

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

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

For service information identified in this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; Fax: 250–656–0673; telephone: (North America) 1–800–663–8444; email: *technical.support@vikingair.com;* Internet: *http://www.vikingair.com/support/service-bulletins.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0096; 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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Aziz Ahmed, Aerospace Safety Engineer, FAA, New York Aircraft Certification Office (ACO), 1600 Steward Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7329; fax: (516) 794–5531; email: *aziz.ahmed@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

Transport Canada, which is the aviation authority for Canada, has issued AD No. CF–2014–38, dated October 20, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for Viking Air Limited Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes. The MCAI states:

> There has been an in-service report of failed MS21042 locknuts on the horizontal stabilizer attach bracket of a DHC–2 Mk. I aeroplane. Laboratory examinations of these nuts found intergranular fractures typical of hydrogen embrittlement possibly due to the introduction of hydrogen during the manufacturing process.
>
> Failure of these nuts could result in detachment of the horizontal stabilizer and loss of control of the aeroplane.
>
> This AD mandates the inspection and replacement, of the horizontal stabilizer attach bracket MS21042 locknuts.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0096.

### Relevant Service Information

Viking Air Limited has issued Viking Alert Service Bulletin No. V2/0007, Revision 'NC', dated April 29, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. The service bulletin describes procedures to inspect and replace the horizontal stabilizer attach bracket locknuts. You can find this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0096.

### FAA's Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

### FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure of any locknut on the horizontal stabilizer attach bracket could result in detachment of the horizontal stabilizer and consequent loss of control. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0096; Directorate Identifier 2014–CE–040–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may

amend this 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 AD.

**Costs of Compliance**

We estimate that this AD will affect 35 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $2,975, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 12 work-hours and require parts costing $2 per locknut, or $12 for a maximum of 6 locknuts, for a cost of $1,032 per product. We have no way of determining the number of products that may need these actions.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

*For the reasons discussed above, I certify that this AD:*

(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.

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new AD:

**2015–10–02 Viking Air Limited:** Amendment 39–18077; Docket No. FAA–2015–0096; Directorate Identifier 2014–CE–040–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective February 18, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Viking Air Limited Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 27: Flight Controls.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failed locknuts on the horizontal stabilizer attach bracket. We are issuing this AD to detect and replace suspect horizontal stabilizer attach bracket locknuts, which could result in detachment of the horizontal stabilizer and consequent loss of control.

**(f) Actions and Compliance**

Unless already done, do the following actions in paragraphs (f)(1) and (f)(2).

(1) Within the next 50 hours time-in-service after February 18, 2015 (the effective date of this AD), inspect the six locknuts of the horizontal stabilizer attach brackets to determine their type following the Accomplishment Instructions in Viking Alert Service Bulletin No. V2/0007, Revision 'NC', dated April 29, 2013.

(2) If during the inspection required in paragraph (f)(1) of this AD any of the installed locknuts is of the part number (P/N) MS21042 type, before further flight, remove the locknut and replace with a new P/N MS21044 type locknut following the Accomplishment Instructions in Viking Alert Service Bulletin No. V2/0007, Revision 'NC', dated April 29, 2013.

(3) After February 18, 2015 (the effective date of this AD), do not install P/N MS21042 type locknuts on the horizontal stabilizer attach bracket.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Aziz Ahmed, Aerospace Safety Engineer, FAA, New York Aircraft Certification Office (ACO), 1600 Steward Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228–7329; fax: (516) 794–5531; email: *aziz.ahmed@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(h) Related Information**

Refer to MCAI, Transport Canada AD No. CF–2014–38, dated October 20, 2014, for

related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0096.

**(i) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Viking Alert Service Bulletin No. V2/0007, Revision 'NC', dated April 29, 2013.

(ii) Reserved.

(3) For Viking Air Limited service information identified in this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; Fax: 250–656–0673; telephone: (North America) 1–800–663–8444; email: *technical.support@vikingair.com;* Internet: *http://www.vikingair.com/support/service-bulletins.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri on January 14, 2015.

**Kelly A. Broadway,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–00990 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0624; Directorate Identifier 2014–NM–005–AD; Amendment 39–18072; AD 2015–02–05]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 717–200 airplanes; Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40 and DC–10–40F airplanes; Model MD–10–10F and MD–10–30F airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes. This AD was prompted by reports of latent air data transducer degradation. This AD requires revising the maintenance or inspection program, as applicable, to incorporate special compliance items (SCIs). We are issuing this AD to prevent erroneous air data information, which could lead to a mid-air collision within reduced vertical separation minimum (RVSM) airspace.

**DATES:** This AD is effective March 5, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 5, 2015.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; 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–2014–0624; 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office (ACO), FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; fax: 562–627–5210; email: *jeffrey.w.palmer@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 717–200 airplanes; Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40 and DC–10–40F airplanes; Model MD–10–10F and MD–10–30F airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes. The NPRM published in the **Federal Register** on September 12, 2014 (79 FR 54672). The NPRM was prompted by reports of latent air data transducer degradation. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate SCIs. We are issuing this AD to correct the unsafe condition on these products.

**Comments**

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. Boeing stated that it concurred with the NPRM (79 FR 54672, September 12, 2014).

**Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 54672, September 12, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 54672, September 12, 2014).

**Related Service Information**

We reviewed Boeing Report No. MDC–02K1003, Trijet Special Compliance Item (SCI) Report 34–4, ''Functional Test of the Captain and First Officer's Altimeter,'' Revision K, dated February 1, 2013; and Boeing Report No. MDC–92K9145, Twinjet SCI Report 34–1—''Functional Test of the Captain and First Officer's Altimeter,'' Revision M, dated February 5, 2013. The service information describes procedures for a functional test of the captain and first officer's altimeters. You can find this information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0624.

**Costs of Compliance**

We estimate that this AD affects 716 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Maintenance or inspection program revision .. | 1 work-hour × $85 per hour = $85 ..... | $0 | $85 | $60,860 |

**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**

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

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska, and

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

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2015–02–05 The Boeing Company:** Amendment 39–18072; Docket No. FAA–2014–0624; Directorate Identifier 2014–NM–005–AD.

**(a) Effective Date**

This AD is effective March 5, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all The Boeing Company airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) The Boeing Company Model 717–200 airplanes.

(2) The Boeing Company Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes; and Model MD–10–10F and MD–10–30F airplanes.

(3) The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 34, Navigation.

**(e) Unsafe Condition**

This AD was prompted by reports of latent air data transducer degradation. We are issuing this AD to prevent erroneous air data information, which could lead to a mid-air collision within reduced vertical separation minimum (RVSM) airspace.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Maintenance or Operations Program Revision**

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating the information specified in paragraphs (g)(1), (g)(2), or (g)(3) of this AD, as applicable. The initial compliance time for the tasks is within 18 months after the effective date of this AD.

(1) For Model 717–200 airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes: Incorporate Special Compliance Item (SCI) 34–1, ''Functional Test of the Captain and First Officer's Altimeter, of Appendix A—''SCIs'' to Boeing Report No. MDC–92K9145, ''Twinjet Special Compliance Items Report,'' Revision M, dated February 5, 2013.

(2) For Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40 and DC–10–40F airplanes: Incorporate SCI 34–4, ''Functional Test of the Captain and First Officer's Altimeter,'' of Appendix A—''SCIs'' to Boeing Report No. MDC–02K1003, ''Trijet Special Compliance Item Report,'' Revision K, dated February 1, 2013.

(3) For Model MD–10–10F and MD–10–30F airplanes: Incorporate SCI 34–4, ''Functional Test of the Captain and First Officer's Altimeter, of Appendix A—''SCIs'' to Boeing Report No. MDC–02K1003, ''Trijet Special Compliance Item Report,'' Revision K, dated February 1, 2013.

**(h) No Alternative Actions and Intervals**

After accomplishment of the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i) of this AD.

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

(1) The Manager, Los Angeles 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 (j) of this AD. Information may be emailed to: *9-ANM-LAACO-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, Los Angeles 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.

**(j) Related Information**

For more information about this AD, contact Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, Los Angeles ACO, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; fax: 562–627–5210; email: *jeffrey.w.palmer@faa.gov.*

**(k) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Special Compliance Item (SCI) 34–4, ''Functional Test of the Captain and First Officer's Altimeter,'' of Appendix A—''SCIs,'' to Boeing Report No. MDC–02K1003, ''Trijet Special Compliance Item Report,'' Revision K, dated February 1, 2013. There is no page ''i'' identified in this document.

(ii) Special Compliance Item (SCI) 34–1—''Functional Test of the Captain and First Officer's Altimeter,'' of Appendix A ''SCIs,'' to Boeing Report No. MDC–92K9145, Twinjet Special Compliance Item Report, Revision M, dated February 5, 2013.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.*

(4) 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.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on January 11, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–00999 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Parts 738, 740, 746, and 772

**[Docket No. 141218999–4999–01]**

**RIN 0694–AG43**

## Russian Sanctions: Licensing Policy for the Crimea Region of Ukraine

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) issues this final rule to amend the Export Administration Regulations (EAR) to impose additional sanctions that implement U.S. policy toward Russia. Specifically, in this rule BIS amends the EAR by imposing a license requirement for the export and reexport to the Crimea region of Ukraine, and the transfer within the Crimea region of Ukraine, of all items subject to the EAR, other than food and medicine designated as EAR99. The rule establishes a presumption of denial for all such exports or reexports to the Crimea region of Ukraine and transfers within the Crimea region of Ukraine, except with respect to items authorized under the Department of the Treasury's Office of Foreign Assets Control (OFAC) General License No. 4, which BIS will review on a case-by-case basis. This action is consistent with the goals and objectives of Executive Order 13685 of December 19, 2014.

**DATES:** This rule is effective January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–0092, Fax: (202) 482–482–3355, Email: *rpd2@bis.doc.gov.* For emails, include ''Russia'' in the subject line.

**SUPPLEMENTARY INFORMATION:** The Bureau of Industry and Security (BIS) issues this final rule to amend the Export Administration Regulations (EAR) to impose additional sanctions that implement U.S. policy toward Russia. Specifically, in this rule BIS amends the EAR by imposing a license requirement for the export and reexport to the Crimea region of Ukraine, and the transfer within the Crimea region of Ukraine, of all items subject to the EAR, other than food and medicine designated as EAR99. For purposes of this final rule, the term ''Crimea region of Ukraine'' includes the land territory in that region as well as any maritime area over which sovereignty, sovereign rights, or jurisdiction is claimed based on purported sovereignty over that land territory. The rule establishes a presumption of denial for all such exports and reexports to the Crimea region of Ukraine or transfers within the Crimea region of Ukraine, except with respect to items authorized under OFAC General License No. 4 which BIS will review on a case-by-case basis.

**Licensing Requirements and Policy Consistent With Executive Order [Crimea E.O. 13685]**

BIS is imposing licensing requirements with respect to exports and reexports to the Crimea region of Ukraine and transfers within the Crimea region of Ukraine. BIS also is adopting a presumption of denial for the review of license applications for such transactions, with certain exceptions described below, consistent with the prohibitions described in Executive Order 13685 (79 FR 77357), *Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to the Crimea Region of Ukraine,* issued by the President on December 19, 2014. This Order took additional steps to address the national emergency declared in Executive Order 13660 of March 6, 2014 (as expanded by Executive Order 13661 of March 16, 2014 and Executive Order 13662 of March 20, 2014), finding that the actions and policies of the Government of the Russian Federation with respect to Ukraine—including the deployment of Russian Federation military forces in the Crimea region of Ukraine—undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

Specifically, Executive Order 13685 blocks the property and interests in property of persons determined to meet the blocking criteria and prohibits specified transactions, including exports, reexports, sales or supply, directly or indirectly, from the United States, or by a United States person, of any goods, services or technology to the Crimea region of Ukraine. Under Section 10 of Executive Order 13685, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order.

Consistent with the Executive Order's prohibitions, the Department of

Commerce imposes a license requirement for exports or reexports to the Crimea region of Ukraine, or transfers within the Crimea region of Ukraine, of all items subject to the EAR, other than food and medicine designated as EAR99. The rule establishes a presumption of denial for all such exports or reexports to the Crimea region of Ukraine and transfers within the Crimea region of Ukraine, except with respect to items not exempt from the license requirement but authorized under the Department of the Treasury's Office of Foreign Assets Control (OFAC) General License No. 4 (discussed in greater detail in the next paragraph) which BIS will review on a case-by-case basis. This license requirement implements an appropriate measure within the authority of BIS consistent with the provisions of Executive Order 13685. Certain license exceptions are available for exports or reexports to the Crimea region of Ukraine or transfers within the Crimea region of Ukraine.

The Department of Commerce's new license requirement does not apply to exports and reexports to the Crimea region of Ukraine or to transfers within the Crimea region of Ukraine of food and medicine designated as EAR99. On December 19, 2014, in conjunction with the issuance of Executive Order 13685, OFAC issued General License No. 4, Authorizing the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Supplies, and Replacement Parts and on December 30, 2014, it issued General License No. 5, Authorizing Certain Activities Necessary to Wind Down Operations Involving the Crimea Region of Ukraine. See *http://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_gl4.pdf* and *http://www.treasury.gov/resource-center/sanctions/Programs/Documents/ukraine_gl5.pdf.*

This final rule includes a savings clause as described below. If an export, reexport or transfer (in-country) does not qualify for the savings clause described below but falls within the scope of OFAC's General License No. 5, an applicant may note this fact in its BIS license application either under block 24 or in a separate attachment. BIS will consider this fact as part of the license review process.

**Revisions to the Export Administration Regulations**

To implement the changes described above, this final rule adds a new § 746.6 (Crimea region of Ukraine) to part 746 (Embargoes and Other Special Controls) of the EAR. The new § 746.6 consists of three paragraphs. Paragraph (a) imposes a license requirement for exports and reexports to the Crimea region of Ukraine, and the transfer within the Crimea region of Ukraine, of all items subject to the EAR, other than food and medicine designated as EAR99. Paragraph (a) also includes a definition of the term 'Crimea region of Ukraine,' which specifies that 'Crimea region of Ukraine' includes the land territory in that region as well as any maritime area over which sovereignty, sovereign rights, or jurisdiction is claimed based on purported sovereignty over that land territory. Paragraph (b) of the new section specifies that the license review policy is a presumption of denial, except for items authorized under OFAC General License No. 4 which will be reviewed on a case-by-case basis. Paragraph (c) includes an exhaustive listing of the license exceptions that are available to overcome the license requirements in this new section. No license exceptions other than those license exceptions or paragraphs of license exceptions specified in paragraph (c), are available to overcome the license requirements of this new § 746.6.

The license requirements imposed under part 746 of the EAR are independent of the Commerce Control List (CCL)-based license requirements. However, this rule adds a new cross reference to § 746.6 by adding new footnote 8 to the Commerce Country Chart in Supplement No. 1 to part 738. This footnote 8 makes persons aware of the additional part 746 license requirements under § 746.6 that apply for the 'Crimea region of Ukraine.' The new footnote also includes the same definition of 'Crimea region of Ukraine' that this rule adds to § 746.6. When applying for a license to the Crimea region of Ukraine, applicants should select 'Crimea region' in the drop down menu option under the country of Ukraine in the Simplified Network Application Processing System (SNAP–R).

This final rule, as a conforming change to the addition of § 746.6 and the restrictions under paragraph (c), adds 'Crimea region of Ukraine' to the general restriction on the use of license exceptions in § 740.2 of the EAR for sanctioned countries by revising the parenthetical phrase ''(Cuba, Iran, North Korea, and Syria).'' This final rule adds 'Crimea region of Ukraine' to this parenthetical phrase because the license requirements under § 746.6 apply to all items subject to the EAR and the only license exceptions available to overcome the license requirement are those specified in § 746.6.

Lastly, this final rule revises the definition of ''food'' in § 772.1 to include a reference to 'Crimea region of Ukraine' along with North Korea and Syria, the two countries that are referenced in the definition.

**Foreign Policy Report**

The expansion of license requirements for exports, reexports or transfers within the Crimea region of Ukraine in this rule is the imposition of a foreign policy control. Section 6(f) of the Export Administration Act requires that a report be delivered to Congress before imposing such controls. The report was delivered to Congress on January 26, 2015.

**Savings Clause**

Shipments of items removed from eligibility for a License Exception or export, or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on January 29, 2015, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before February 1, 2015. Any such items not actually exported or reexported before midnight, on February 1, 2015, require a license in accordance with this rule.

**Export Administration Act**

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

**Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to significantly increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to advance U.S. policy toward Russia and therefore promote U.S. national security or foreign policy objectives by immediately preventing items from being exported, reexported, or transferred within the Crimea region of Ukraine. Delay in publication and the rule's effective date to allow for notice and comment would frustrate those objectives. For example, prior to publication of this final rule, items controlled on the Commerce Control List for Chemical & Biological Weapons (CB2 and CB3) reasons that required a BIS license to be exported or reexported to Russia could have been exported to the Crimea region of Ukraine under the no license required (NLR) designation. BIS also imposes end use and end user controls under part 744 and part 746 of the EAR on certain exports and reexports to Russia. A delay in publishing this final rule to obtain public comments would create an incentive for persons to export CB2 and CB3 items to the Crimea region of Ukraine to circumvent license requirements for the export of such items to Russia and for persons to use the Crimea region of Ukraine to circumvent part 744 and part 746 end use and end user license requirements that apply to Russia. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

**List of Subjects**

*15 CFR Parts 738 and 772*

Exports.

*15 CFR Part 740*

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

*15 CFR Part 746*

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 738, 740, 746, and 772 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

## PART 738—[AMENDED]

■ 1. The authority citation for 15 CFR part 738 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 2. Supplement No. 1 to part 738 is amended by:

■ a. Adding footnote designation ''8'' to ''Ukraine''; and

■ b. Adding footnote 8.

The addition reads as follows:

**Supplement No. 1 to Part 738—Commerce Country Chart**

* * * * *

[8] See § 746.6 for additional license requirements for all items subject to the EAR, other than food and medicine designated as EAR99, for the Crimea region of Ukraine. The Crimea region of Ukraine includes the land territory in that region as well as any maritime area over which sovereignty, sovereign rights, or jurisdiction is claimed based on purported sovereignty over that land territory.

## PART 740—[AMENDED]

■ 3. The authority citation for 15 CFR part 740 continues to read as follows:

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

■ 4. Section 740.2 is amended by revising paragraph (a)(6) to read as follows:

**§ 740.2 Restrictions on all license exceptions.**

(a) * * *

(6) The export or reexport is to a sanctioned destination (Cuba, Iran, North Korea, Syria, and Crimea region of Ukraine) or a license is required based on a limited sanction (Russia) unless a license exception or portion thereof is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country in part 746 of the EAR.

* * * * *

## PART 746—[AMENDED]

■ 5. The authority citation for 15 CFR part 738 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007–7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 6. Add § 746.6 to read as follows:

**§ 746.6 Crimea region of Ukraine.**

(a) *License requirements*—(1) *General prohibition.* As authorized by Section 6 of the Export Administration Act of 1979, a license is required to export or reexport any item subject to the EAR, other than food and medicine designated as EAR99, to the Crimea region of Ukraine. The 'Crimea region of Ukraine' includes the land territory in that region as well as any maritime area over which sovereignty, sovereign rights, or jurisdiction is claimed based on purported sovereignty over that land territory. This license requirement includes transfers within the Crimea region.

(b) *License review policy.* Applications will be reviewed with a presumption of denial, except for items authorized under OFAC Ukraine-Related General License No. 4 which will be reviewed on a case-by-case basis.

(c) *License exceptions.* You may export, reexport or transfer (in-country) without a license if your transaction meets all the applicable terms and conditions of any of the license exception paragraphs specified in this paragraph (c). To determine scope and eligibility requirements, you will need to refer to the sections or specific paragraphs of part 740 (License Exceptions). Read each license exception carefully, as the provisions available for countries subject to sanctions are generally narrow.

(1) TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(2) GOV for items for personal or official use by personnel and agencies of the U.S. Government, the International Atomic Energy Agency (IAEA), or the European Atomic Energy Community (Euratom) as set forth in § 740.11(a) and (b)(2) of the EAR.

(3) GFT for gift parcels and humanitarian donations as set forth in § 740.12.

(4) TSU for operation technology and software for lawfully exported commodities as set forth in § 740.13(a) and sales technology as set forth in § 740.13 (b) of the EAR.

(5) BAG for exports of items by individuals leaving the United States as personal baggage as set forth in § 740.14(a) through (d) of the EAR.

(6) AVS for civil aircraft and vessels as set forth in § 740.15(a)(4) and (d) of the EAR.

## PART 772—[AMENDED]

■ 7. The authority citation for 15 CFR part 738 continues to read as follows:

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

■ 8. Section 772.1 is amended by revising the definition for the term ''Food'' to read as follows:

**§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).**

* * * * *

*Food.* Specific to exports and reexports to North Korea, Syria and Crimea region of Ukraine, food means items that are consumed by and provide nutrition to humans and animals, and seeds, with the exception of castor bean seeds, that germinate into items that will be consumed by and provide nutrition to humans and animals. (Food does not include alcoholic beverages.)

* * * * *

Dated: January 23, 2015.

**Eric L. Hirschhorn,**

*Under Secretary of Commerce for Industry and Security.*

[FR Doc. 2015–01638 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Part 744

**[Docket No. 141104925–4925–01]**

**RIN 0694–AG35**

## Revisions to the Unverified List (UVL)

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by adding fourteen (14) persons, removing one person, and updating the addresses of other persons listed on the Unverified List (the ''Unverified List'' or UVL). The 14 persons are being added to the UVL on the basis that BIS could not verify their *bona fides* because an end-use check could not be completed satisfactorily for reasons outside the U.S. Government's control. One person is removed from the UVL based on BIS's ability to verify that person's *bona fides* through the successful completion of an end-use check. Also, new addresses are added for two listed persons on the UVL.

**DATES:** *Effective date:* This rule is effective: January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Kevin Kurland, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–4255 or by email at *UVLRequest@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

Supplement No. 6 to Part 744 (''the UVL'') contains the names and addresses of foreign persons who are or have been parties to a transaction, as that term is described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* BIS has been unable to verify through an end-use check. BIS may add persons to the UVL when BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's *bona fides* (*i.e.,* legitimacy and reliability relating to the end use and end user of items subject to the EAR) because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for such purposes for reasons outside the U.S. Government's control.

End-use checks cannot be completed for a number of reasons, including reasons unrelated to the cooperation of the foreign party subject to the end-use check. For example, BIS sometimes initiates end-use checks and cannot find a foreign party at the address indicated on export documents, and cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks, are prevented from scheduling such checks by a party to the transaction other than the foreign party that is the proposed subject of the end-use check, or refuse to schedule them in a timely manner. Under these circumstances, although BIS has an interest in informing the public of its inability to verify the foreign party's *bona fides,* there may not be sufficient information to add the foreign persons at issue to the Entity List under § 744.11 of the EAR (Criteria for revising the Entity List). In such circumstances, BIS may add the foreign persons to the UVL.

Furthermore, BIS sometimes conducts end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if during the conduct of an end-use check a recipient of items subject to the EAR is unable to produce those items for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of those items. The inability of foreign persons subject to end-use checks to demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future

exports, reexports, or transfers (in-country) and indicates a risk that items subject to the EAR may be diverted to prohibited end uses and/or end users. However, BIS may not have sufficient information to establish that such persons are involved in activities described in part 744 of the EAR, preventing the placement of the persons on the Entity List. In such circumstances, the foreign persons may be added to the Unverified List.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and keep a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement.

Requests for removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL listings will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides.*

**Changes to the EAR**

*Supplement No. 6 to Part 744 (''the Unverified List'' or ''UVL'')*

Among other things, this rule adds fourteen (14) persons to the UVL by amending Supplement No. 6 to Part 744 of the EAR to include their names and addresses. BIS adds these persons in accordance with the criteria for revising the UVL set forth in § 744.15(c) of the EAR. The new entries consist of eleven persons located in Hong Kong, two persons located in Pakistan, and one person located in the United Arab Emirates. Each listing is grouped within the UVL by country, and accompanied by the party's name(s), available alias(es), and address(es), as well as the **Federal Register** citation and the date the person was added to the UVL. The UVL is included in the Consolidated Screening List, available at *www.export.gov.*

This rule also adds new addresses for two current UVL persons, Narpel Technologies, Ltd. and Powersun Electronics, both located in Hong Kong. BIS has determined that these persons are receiving U.S. exports at addresses other than those originally included in their UVL entries.

Lastly, this rule removes from the UVL one company, Dynasense Photonics Co., Ltd. in Hong Kong, based on BIS's ability to confirm its *bona fides* through the successful completion of an end-use check. The removal of the above referenced person from the UVL eliminates the restrictions against the use of license exceptions and the requirements specific to exports, reexports and transfers (in-country) not otherwise requiring a license to the person, as described in § 744.15 of the EAR. However, the removal of this person from the UVL does not relieve persons proposing to export, reexport or transfer (in-country) items subject to the EAR to the removed person of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of a person from the UVL nor the removal of UVL-based restrictions and requirements relieves a person of the obligation to obtain a license if the person knows that an export or reexport of any item subject to the EAR is destined to an end user or end use set forth in part 744 other than § 744.15 of the EAR. Additionally, this removal does not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BIS's 'Know Your Customer' Guidance and Red Flags,'' when persons are involved in transactions that are subject to the EAR.

Savings Clause

Shipments (1) removed from license exception eligibility or that are now subject to requirements in § 744.15 of the EAR as a result of this regulatory action, (2) eligible for export, reexport, or transfer (in-country) without a license before this regulatory action, and (3) on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on January 29, 2015, pursuant to actual orders, may proceed to that UVL listed person under the previous license exception eligibility or without a license so long as the items have been exported from the United States, reexported or transferred (in-country) before March 2, 2015. Any such items not actually exported, reexported or transferred (in-country) before midnight, on March 2, 2015, are subject to the requirements in § 744.15 of the EAR in accordance with this regulation.

**Export Administration Act**

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

**Rulemaking Requirements**

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

2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable to this rule, which is adding 14 persons, removing one person, and updating the addresses of two other persons listed on the UVL, because this regulation involves military or foreign affairs. BIS implements this rule to protect U.S. national security or foreign policy interests by requiring a license for items being exported, reexported, or transferred (in country) involving a party or parties to the transaction who are listed on the UVL. If this rule were delayed to allow for notice and comment and a delay in effective date, the entities being added to the UVL by this action and those entities operating at previously unlisted addresses would continue to be able to receive items without additional oversight by BIS and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties

notice of the U.S. Government's intention to place them on the UVL, and would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing once a final rule was published.

The Department finds there is good cause under 5 U.S.C. 553(b)(3)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment to the provision of this rule removing one person from the UVL because doing so is contrary to the public interest and unnecessary. The removal is being made following the completion of a successful end-use check. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales because the customer remained a listed person on the UVL even after BIS was able to verify that entity's *bona fides* through an end-use check. By publishing without prior notice and comment, BIS allows the entity to receive U.S. exports as quickly as possible following their cooperation in a successful end-use check. By quickly removing entities from the UVL following the successful completion of an end-use check, BIS encourages other entities to cooperate in end-use checks requested by BIS. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

3. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under the following control numbers: 0694–0088, 0694–0122, 0694–0134, and 0694–0137.

This rule slightly increases public burden in a collection of information approved by OMB under control number 0694–0088, which authorizes, among other things, export license applications. The removal of license exceptions for listed persons on the Unverified List will result in increased license applications being submitted to BIS by exporters. Total burden hours associated with the Paperwork Reduction Act and OMB control number 0694–0088 are expected to increase minimally, as the suspension of license exceptions will only affect transactions involving persons listed on the Unverified List and not all export transactions. Because license exceptions are restricted from use, this rule decreases public burden in a collection of information approved by OMB under control number 0694–0137 minimally, as this will only affect specific individual listed persons. The increased burden under 0694–0088 is reciprocal to the decrease of burden under 0694–0137, and results in no change of burden to the public. This rule also increases public burden in a collection of information under OMB control number 0694–0122, as a result of the exchange of UVL statements between private parties, and under OMB control number 0694–0134, as a result of appeals from persons listed on the UVL for removal of their listing. The total increase in burden hours associated with both of these collections is expected to be minimal, as they involve a limited number of persons listed on the UVL.

4. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

**List of Subjects in 15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

## PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 21, 2014, 79 FR 3721 (January 22, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of September 17, 2014, 79 FR 56475 (September 19, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014).

■ 2. Supplement No. 6 to Part 744 is amended by:

■ a. Removing the entry for ''Dynasense Photonics Co., Limited'';

■ b. Revising the entry for ''Narpel Technology Co., Limited'';

■ c. Revising the entry for ''Powersun Electronics'';

■ d. Adding an entry for ''Pakistan''; and

■ e. Adding 11 entries, in alphabetical order, under ''Hong Kong''; and

■ f. Adding an entry, in alphabetical order, under the ''United Arab Emirates''.

The revisions and additions read as follows:

**Supplement No. 6 to Part 744—Unverified List**

* * * * *

| Country | Listed person and address | **Federal Register** citation and date of publication |
|---|---|---|
| * | * * * * * | * |
| HONG KONG | AST Technology Group (HK) Ltd., Flat 6, 20/F, Mega Trade Centre, 1–9 Mei Wan Street, Tsuen Wan, Hong Kong; *and* Unit 2209, 22/F, Wu Chung House, 213, Queen's Road East, Wan Chai, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * | * |
| | Daystar Electric (HK) Ltd., Flat D, 19/F, Waylee Industrial Centre, 30–38 Tsuen King Circuit, Tsuen Wan, New Territories, Hong Kong; *and* 9/F Kam Chung Commercial Building, 19–21 Hennessy Road, Wanchai, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |

| Country | Listed person and address | **Federal Register** citation and date of publication |
|---|---|---|
| | Ditis Hong Kong Ltd., Room 227–228, 2/F, Metre Centre II, 21 Lam Hing Street, Kowloon Bay, Kowloon, Hong Kong; *and* Rooms 1318–1320, Hollywood Plaza, 610 Nathan Road, Mong Kok, Kowloon, Hong Kong; *and* Room 205, 2/F, Sunley Centre, 9 Wing Yin Street, Kwai Chung, New Territories, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | E-Chips Technology, Unit 4, 7/F, Bright Way Tower, No. 33 Mong Kok Road, Mong Kok, Kowloon, Hong Kong. | 80 FR [INSERT FR PAGE] January 29, 2015. |
| | GS Technology Ltd., a.k.a. GS Technology Group Ltd., Flat 6, 20/F, Mega Trade Centre, 1–9 Mei Wan Street, Tsuen Wan, New Territories, Hong Kong; *and* Unit D, 16/F, Cheuk Nang Plaza, 250 Hennessy Road, Wanchai, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | Hong Kong U.Star Electronics Technology Co., Ltd., Room 28, 8/F, Shing Yip Industrial Building, 19–21 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Unit 5, 27/F, Richmond Commercial Building, 109 Argyle Street, Mong Kok, Kowloon, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| | Hongbo Industrial Technology, Unit 3, 9/F, Shing Yip Industrial Building, 19–21 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Unit 04, 7/F, Bright Way Tower, No. 33, Mong Kok Road, Kowloon, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | Ling Ao Electronic Technology Co. Ltd., a.k.a. Voyage Technology (HK) Co. Ltd., Room 17, 7/F, Metro Centre Phase 1, No. 32 Lamhing St., Kowloon Bay, Hong Kong; *and* 15B, 15/F, Cheuk Nang Plaza, 250 Hennessy Road, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | Microlink Communication Ltd., Room 806, 8/F, Kenbo Commercial Building, No. 335–339 Queen's Road West, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| | Milectronic Communication Ltd., Room 2912, Tower 2, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | Narpel Technology Co., Limited, Unit A, 6/F, Yip Fat Factory Building, Phase 1, No 77 Hoi Yuen Road, Kwun Tong, Kowloon, Hong Kong; *and* Room 4C, 8/F, Sunbeam Centre, 27 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Room 1905, Nam Wo Hong Building, 148 Wing Lok Street, Sheung Wan, Hong Kong. | 79 FR 34217, 06/16/14, 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | Powersun Electronics, Flat/Rm 502D, Hang Pont Commercial Building, 31 Tonkin Street, Cheung Sha Wan, Kowloon, Hong Kong; *and* G/F and G/M, Winner Godown Building, 1–9 Sha Tsui Road, Tsuen Wan, New Territories, Hong Kong. | 79 FR 34217, 06/16/14, 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| | Suke Logistics Ltd., Flat 6, 20/F, Mega Trade Centre, 1–9 Mei Wan Street, Tsuen Wan, New Territories, Hong Kong. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| PAKISTAN | Fauji Fertilizer Company Ltd., 156 The Mall Rawalpindi Cantt, Pakistan | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| | T.M.A. International, a.k.a. TMA International, a.k.a. Tahir Asad Industries Pvt. Ltd., a.k.a. T.A. Industries Pvt. Ltd., 45–B, Ahmed Block, New Garden Town, Lahore, Pakistan; *and* 417 Gulshan Block, Iqbal Town, Lahore, Pakistan. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |
| UNITED ARAB EMIRATES | Rich Star General Trading LLC, #203 The Atrium Centre, Khalid bin Waleed Road, Bur Dubai, Dubai, UAE; *and* P.O. Box 181977, Dubai, UAE. | 80 FR [INSERT FR PAGE NUMBER] January 29, 2015. |
| * | * * * * * * | * |

Dated: January 23, 2015.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2015–01639 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 870

**[Docket No. FDA–2013–N–0234]**

## Effective Date of Requirement for Premarket Approval for Automated External Defibrillator Systems

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final order.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is issuing a final order to require the filing of premarket approval applications (PMA) for automated external defibrillator (AED) systems, which consist of an AED and those AED accessories necessary for the AED to detect and interpret an electrocardiogram and deliver an electrical shock (*e.g.,* pad electrodes, batteries, adapters, and hardware keys for pediatric use).

**DATES:** This order is effective on January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Linda Ricci, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, Rm. 1314, Silver Spring, MD 20993, 301–796–6325, *linda.ricci@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), among other amendments, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d) of the FD&C Act (21 U.S.C. 360c(d)), devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as ''preamendments devices''), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

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

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type (both the preamendments and substantially equivalent devices are referred to as preamendments class III devices) may be marketed without submission of a premarket approval application (PMA) until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval or until the device is subsequently reclassified into class I or class II. Section 515(b)(1) of the FD&C Act (21 U.S.C. 360e(b)(1)) directs FDA to issue an order requiring premarket approval for a preamendments class III device.

Although, under the FD&C Act, the manufacturer of a class III preamendments device may respond to the call for PMAs by filing a PMA or a notice of completion of a product development protocol (PDP), in practice, the option of filing a notice of completion of a PDP has not been used. For simplicity, although corresponding requirements for PDPs remain available to manufacturers in response to a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)), this document will refer only to the requirement for the filing and receiving approval of a PMA.

On July 9, 2012, FDASIA was enacted. Section 608(a) of FDASIA (126 Stat. 1056) amended section 513(e) of the FD&C Act (21 U.S.C. 360c(e)), changing the mechanism for reclassifying a device from rulemaking to an administrative order. Section 608(b) of FDASIA amended section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) changing the mechanism for requiring premarket approval for a preamendments class III device from rulemaking to an administrative order.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payers, and providers.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order, consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination.

A preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order (a final rule issued under section 515(b) of the FD&C Act prior to the enactment of FDASIA is considered to be a final order for purposes of section 501(f) of the FD&C Act (21 U.S.C. 351(f))) requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. For AED systems, the later of these two time periods is the 90-day period. Therefore, section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)) requires that a PMA

for such devices be filed within 90 days of the effective date of a final order. However, for the reasons discussed below, FDA does not intend to enforce compliance with the 90-day deadline for PMA submissions for currently marketed AEDs and those AED accessories identified in 21 CFR 870.5310(a) (see further discussion in section V, ''Implementation Strategy'').

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act (21 U.S.C. 360e) is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final order requiring the filing of a PMA for the device. At that time, an IDE is required only if a PMA has not been filed. If the manufacturer, importer, or other sponsor of the device submits an IDE application and FDA approves it, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates, and the device is not distributed for investigational use under an IDE, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act (21 U.S.C. 351(f)(1)(A)), and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334) if its distribution continues. Other enforcement actions include, but are not limited to, the following: Shipment of devices in interstate commerce may be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment may be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). FDA requests that manufacturers take action to prevent the further use of devices for which no PMA has been filed.

## II. Regulatory History of This Device

On January 25, 2011, the Circulatory System Devices Panel (''Panel'') recommended that AED systems be classified as class III devices and subject to premarket approval to provide reasonable assurance of the safety and effectiveness of the device (Ref. 1). The Panel recommended that AED systems be regulated as class III devices because, among other things, they are lifesaving devices. Furthermore, the problems identified in adverse events in the medical device reporting systems and recalls related to AED systems indicated these devices require more regulatory oversight.

FDA published a proposed order to require PMAs for AED systems in the **Federal Register** of March 25, 2013 (78 FR 17890). FDA is now requiring PMAs for AED systems, which include AED accessories necessary for the functionality of the AED (*e.g.,* pad electrodes, batteries, adapters, and hardware keys for pediatric use) (''necessary AED accessories'') (see section IV, ''The Final Order'').

FDA received and has considered comments on the AED systems proposed order as discussed in section III of this document.

## III. Public Comments in Response to the Proposed Order

In response to the March 25, 2013 (78 FR 17890) proposed order to maintain the class III classification and require premarket approval for AED systems, FDA received 66 comments and one petition for reclassification (see FDA–2013–N–0234–0002).[1] The comments and the FDA's responses to the comments are summarized below. Certain comments are grouped together under a single number because the subject matter of the comments is similar. The number assigned to each comment is purely for organizational purposes and does not signify the comment's value or importance or the order in which it was submitted.

(Comment 1) Many comments indicated that AED systems have already been demonstrated to be safe and effective, and referenced literature and studies supporting the reliability of these devices and the value of AED systems in treating sudden cardiac arrest (SCA). The comments stated that PMAs and associated increased regulatory cost and review time is not warranted and would hinder innovation, increase device cost to consumers, and reduce availability of AED systems. The comments further stated that it is widely recognized that improvement in the survival rate from SCA is due in large part to widespread distribution of AED systems and expressed concern that requiring PMAs would limit availability of the devices.

(Response 1) FDA agrees that many currently marketed AEDs have been demonstrated to be effective in clinical use and, when designed and manufactured appropriately, AEDs can be safe and effective. However, FDA believes that there is insufficient information to determine that general and special controls would provide a reasonable assurance of the safety and effectiveness of these devices, which are for a use in supporting or sustaining human life (see section 513(a)(1)(C) of the FD&C Act (21 U.S.C. 360c(a)(1)(C))). Specifically, the postmarket information on AEDs supports increased regulatory review to ensure that device design and manufacturing practices provide a reasonable assurance of safety and effectiveness. FDA acknowledges that the PMA process may result in increased regulatory cost to manufacturers; however, FDA believes that device quality will improve, which will reduce costs associated with postmarket actions including recalls.

FDA also agrees that continued efforts to make safe and effective AED systems available is in the interest of public health, but disagrees that this call for PMAs will limit device availability. FDA believes that many manufacturers of currently marketed AEDs already have, or can reasonably obtain, the necessary data to support a PMA, and hence expects AED distribution to continue to meet demand. Also, for the reasons discussed below, FDA does not intend to enforce compliance with the 90-day deadline for submission of PMAs for currently marketed AEDs and necessary AED accessories (for further discussion see section V, ''Implementation Strategy'').

At the January 2011 Panel meeting, the Panel discussed the impact of FDA regulatory scrutiny on innovation. Various Panel members agreed that the appropriate focus should be on assuring reliability of AEDs and that there was no evidence presented to indicate that a call for PMAs would unduly hinder device innovation (Ref. 1). FDA notes that previous significant innovations for AED systems (*e.g.,* new defibrillation waveforms) have been supported by clinical evidence in the 510(k) process and that under the PMA process this clinical evidence is not expected to significantly change. As was mentioned in the proposed order, FDA anticipates that many AED manufacturers already have sufficient clinical evidence to support a PMA.

(Comment 2) Several comments noted that AED system failures are often the result of use error or improper maintenance (*e.g.,* expired batteries/pads, periodic checks not performed, etc.) and not of system failure or malfunction. The comments stated that efforts should be devoted to ensuring appropriate public awareness, training (particularly for lay users), and maintenance to address these issues as opposed to increasing premarket regulatory review. One comment stated that the proposed order should not be finalized until all stakeholders, not only device manufacturers, are engaged in an

[1] FDA will respond separately to the reclassification petition and will address the issues raised in that petition in its response. The reclassification petition is available at *http://www.regulations.gov/#!documentDetail;D=FDA-2013-N-0234-0002.*

integrated approach to increase the likelihood that AED systems will be available and functional when needed.

(Response 2) FDA agrees that AED system training and maintenance are important to help ensure AED system availability and proper use and also believes manufacturers and users are in the best position to develop and implement training and maintenance materials. FDA supports ongoing discussions and efforts to improve training and maintenance, but disagrees that these activities should delay finalizing the requirement for PMAs for these devices. Although we recognize that there have been some medical device reports (MDRs) associated with use errors, the focus of FDA's review of MDRs and recalls of AED systems has been related to problems with the quality of these devices as related to device design and manufacture and FDA continues to believe that requiring PMAs is appropriate.

(Comment 3) Several comments stated that special controls, including performance testing to industry standards, device labeling, guidance documents, human factors analysis and design, summary of field actions and mitigations to address Quality System (QS) concerns, risk management, and post-market surveillance were sufficient to regulate AED systems as class II devices under the existing 510(k) regulatory regime. One comment indicated that several of the regulatory controls identified by FDA as consistent with PMA requirements—such as pre-market inspections, review of changes that could significantly affect the safety or effectiveness of the device, and postmarket surveillance—could also be conducted under the 510(k) regime. Other comments supported FDA's proposal to maintain the devices in class III and agreed that the manufacturing controls, premarket review requirements, and assessment of lay use are best managed under the PMA process.

(Response 3) FDA disagrees that there is sufficient information to determine that general and special controls would provide a reasonable assurance of safety and effectiveness of these devices given safety concerns related to the manufacturing processes and design changes, problems which FDA considered in determining that PMAs are warranted (see section 513(a)(1)(C) of the FD&C Act (21 U.S.C. 360c(a)(1)(C))). FDA does not generally conduct preclearance inspections under the 510(k) process because such information is not required in a 510(k) submission under the FD&C Act or FDA regulations. Further, under section 513(f)(5) of the FD&C Act (21 U.S.C. 360c(f)(5)), FDA may not withhold a 510(k) ''because of a failure to comply with any provision of this Act unrelated to a substantial equivalence decision, including a finding that the facility in which the device is manufactured is not in compliance with good manufacturing requirements as set forth in regulations of the Secretary under section 520(f) (other than a finding that there is a substantial likelihood that the failure to comply with such regulations will potentially present a serious risk to human health).'' In contrast, under section 515(c)(1)(C) of the FD&C Act (21 U.S.C. 360e(c)(1)(C)), a PMA must include ''a full description of the methods used in, and the facilities and controls used for, the manufacturing, processing, and when relevant, packing and installation of, such device.'' Moreover, many of the design and manufacturing changes that have led to AED system recalls were not required to be reported to FDA under the 510(k) process. If these changes had been reported prior to implementation, as would be required in the PMA regime, these recalls may have been avoided. FDA continues to believe that the necessary regulatory controls for AED systems are consistent with the PMA review process, and that the 510(k) process does not provide sufficient regulatory oversight for these devices.

Similarly, FDA's oversight of postmarket changes to devices is very different in the 510(k) context as compared to the PMA context. Under 21 CFR 807.81, FDA requires 510(k)s for a change to a device only when the change ''could significantly affect the safety or effectiveness of the device, *e.g.,* a significant change or modification in design, material, chemical composition, energy source, or manufacturing process. '' In contrast, under 21 CFR 814.39, FDA requires PMA supplements (including 30-day notices) for any change to a PMA-approved device that affects safety or effectiveness. These differences in authorities, among the other reasons discussed above, warrant regulation of AEDs in class III.

(Comment 4) A few comments indicated that existing AED and AED accessory manufacturers are already subject to the QS regulation (21 CFR 820) and manufacturing quality would not be measurably improved as a result of requiring PMAs. One comment noted that specific expectations under the QS regulation for design controls, purchasing controls, and other issues identified by FDA as problematic for AEDs could be addressed by special controls and other regulations, and AEDs could remain in class II. One comment further stated that such concerns could be managed via postmarket controls, which are available under the 510(k) regime, such as submission of a summary of recent field actions and related design mitigations.

(Response 4) FDA disagrees with the comments. FDA acknowledges that AED and AED accessory manufacturers are already subject to the QS regulation and that QS requirements result in rigorously designed and manufactured devices and resultant quality improvements. By requiring premarket review of QS processes as well as device changes for AEDs, FDA believes the PMA process will provide a reasonable assurance of safety and effectiveness (see Response 3 above).

(Comment 5) One comment stated that certain AED accessories, specifically electrodes, cables, and adapters, are well-understood devices and that their classification into class III is not warranted. The comment stated that these accessories could be adequately regulated in class II with special controls, as is already the case when these accessories are used with manual defibrillators. The comment recommended special controls, including the following: Performance testing, usability evaluation, labeling, biocompatibility, and readiness for use. Two comments stated that because AED accessories often have identical designs and the same intended use as accessories used with class II manual defibrillators, FDA should not perform duplicative reviews under both the 510(k) and PMA regimes and that PMA review should be required only when use of the accessory with an AED results in a change in intended use or design.

(Response 5) Accessories necessary for an AED to detect and interpret an electrocardiogram and deliver an electrical shock (*e.g.,* battery, pad electrode, adapter, and hardware keys for pediatric use) are necessary for AED system functionality. Failure of these necessary accessories leads to the same negative outcomes as a failure of the AED itself; *e.g.,* an AED not ready for use because of a faulty battery is unable to detect heart rhythm abnormalities and/or deliver a defibrillation shock to a victim of SCA. FDA's review of adverse events and recalls has shown that problems with AED accessories have occurred during clinical use. As such, FDA continues to believe that the same regulatory oversight is warranted for certain critical accessories (*i.e.,* batteries, pad electrodes, adapters, and hardware keys for pediatric use) as for the AEDs with which they are used. As discussed in the response to Comment 3 above, FDA does not believe that

adequate regulatory controls are available under the 510(k) process, and hence PMAs are necessary to provide a reasonable assurance of safety and effectiveness.

(Comment 6) Several comments questioned the validity of FDA's data regarding adverse events associated with AED failures. One comment noted that FDA provided no data in the proposed order on the frequency of adverse events or relationship of number of events to total distribution and use of AEDs. The comment requested additional information from FDA to support the validity of the MDR analysis presented at the 2011 Panel and relied upon to support the proposed order. A few comments presented alternate analyses of MDR data that suggested that MDRs for AEDs are not increasing. One comment presented an analysis that showed no statistically significant increase in the rate of adverse event reports over the time period of 2007 to 2011. Two comments stated that a majority of AED MDRs reported to FDA resulted from self-test errors—which are reported as malfunction MDRs because they could cause or contribute to a death or serious injury but do not represent device failures in clinical use. The comments contended that any analysis of MDRs should focus instead on actual use adverse events, which would represent a small subset of the overall MDRs. One comment stated that self-test related events are representative of an effective design risk mitigation strategy being employed for AEDs and that because AEDs are often in standby for a large percentage of time, self-test detection of problems before use should not be included in the overall assessment of the benefit-risk profile for AEDs. Two comments requested further guidance from FDA on MDR reporting expectations for AEDs.

(Response 6) Although FDA requires manufacturers to submit an MDR when their device may have caused or contributed to a death, serious injury, or in certain situations when their device has malfunctioned, FDA acknowledges that there are limitations on the review of MDR data, including the fact that FDA typically does not have complete information on the number of devices in distribution from which to calculate adverse events rates. These limitations were discussed at the 2011 Panel meeting. FDA has previously stated that fatality statistics and injury statistics from MDRs should be considered in light of underreporting (58 FR 61952 at 61972, November 23, 1993). In addition, FDA notes that the evaluation of MDR data for AEDs was focused on manufacturing and design concerns and was not aimed at developing specific failure rates. Moreover, FDA believes that the large number of devices in distribution and the life-saving nature of these devices combined with the steady rate of MDRs support a call for PMAs to help ensure that these devices are adequately designed and manufactured so that they are available when needed.

FDA disagrees that evaluation of adverse events should focus only on those events that occur during clinical use. Although some distributed AEDs may seldom be used, this does not reduce the importance that they are safe and effective when needed. FDA acknowledges the importance of AED self-test features and recognizes that many self-test failures are not indicative of issues with overall device quality. FDA believes, however, that some self-test failures signal significant quality problems arising from device design or manufacturing issues and are appropriately considered as adverse events if recurrence of such failures could, for example, render the device unavailable for use when needed. FDA also recognizes that some MDRs may eventually be found to be the result of problems not associated with the device; however, this concern is applicable to all devices subject to adverse event reporting requirements and FDA does not believe such reports unduly influence overall reporting numbers.

FDA also notes that our review of available information, as presented at the January 2011 Panel meeting, included data on voluntary corrections and removals (*i.e.,* ''recalls'') of AEDs pursuant to section 519(g) of the FD&C Act (21 U.S.C. 360i(g)). Recalls are conducted ''(A) to reduce a risk to health posed by the device, or (B) to remedy a violation of this Act caused by the device which may present a risk to health,'' and as such may reflect safety concerns for AEDs (section 519(g)(1) of FD&C Act (21 U.S.C. 360i(g)(1)). Since the January 2011 Panel meeting, over 40 additional class I or class II recalls have been conducted by AED manufacturers and have impacted over 2 million distributed AEDs (Ref. 2). The root cause of these recalls has been attributed to a variety of causes, with design controls, purchasing controls, and receiving acceptance activities being the most common. FDA continues to believe that the recall data reinforces the overall conclusion regarding the inadequacy of regulatory controls for AED systems under the 510(k) process.

Additional guidance on MDR requirements for AEDs is beyond the scope of this document; however, FDA intends to continue efforts to clarify medical device reporting expectations and manufacturers who have questions regarding their reporting obligations should contact FDA.

(Comment 7) Several comments responded to FDA's request for feedback regarding whether 15 months is sufficient to allow companies to collect information necessary to support submission of a PMA. Two comments stated that this issue was dependent on the data expected by FDA and that FDA should provide more guidance in this respect. One comment requested clarification on what clinical data is known to FDA that would support a PMA because it is critical that AED manufacturers understand the type and amount of data that will be required. One comment stated that it is unclear what FDA's expectations would be for clinical trials of new AEDs or the need for clinical trials for AED accessories given available less burdensome methods for obtaining performance data on accessories. Another comment requested clarification on whether AED manufacturers would be expected to re-test and re-validate older AED models to currently recognized standards. One comment requested clarification on when marketing materials for AEDs would need to comply with 21 CFR 801.109.

One comment suggested that the 15-month period should be extended to 30 months, which the commenter claimed would be consistent with section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B). One commenter requested clarification regarding whether the 15 months started at the 90th day after a final order was issued and another comment indicated that 15 months should be sufficient, but that the 15 months should not include FDA's 180-day PMA review time. One comment suggested that FDA require PMAs 90 days after the final order.

(Response 7) The data required to support premarket approval will vary by device and the specific data requirements. FDA is aware of clinical study information that can be leveraged for AEDs from both published studies and clinical data previously submitted to FDA under the 510(k) process, and, as was stated in the proposed order, FDA believes that many AED accessories ''may need to submit non-clinical performance testing with confirmatory animal studies in order to support independent PMA approval'' (78 FR 17894, March 25, 2013). Performance testing of AEDs must be provided in a PMA to support a reasonable assurance of safety and effectiveness. Although retesting older

AED models to currently recognized standards is one way to meet the performance testing requirements, compliance with such standards is voluntary and manufacturers may submit a justification for how other testing conducted on their devices provides equivalent assurances of safety and effectiveness. FDA encourages manufacturers to proactively engage FDA via the pre-submission process to discuss the specific data needed for their PMAs (Ref. 3). FDA notes that existing prescription AEDs are already subject to 21 CFR 801.109, and will remain so after this call for PMAs. FDA review of AED PMAs will include review of the associated AED labeling to ensure such device labeling complies with regulatory requirements.

FDA notes that the 30 months discussed in section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)) references the date from initial *classification* of a device into class III. AEDs have been classified as class III for more than 30 months, and hence this statutory provision has expired. FDA also acknowledges that it is in the interest of public health to ensure the availability of AEDs because they are life-saving devices and their clinical use is well-established. After consideration of the comments, FDA continues to believe that the proposed 15 months for filing a PMA (Ref. 4) strikes an appropriate balance between the need to ensure continued availability of AEDs for the public health reasons stated above and the implementation of PMA requirements to ensure the safety and effectiveness of AEDs.

For currently marketed AEDs, FDA does not intend to enforce compliance with the 90-day deadline by which PMAs must be submitted for 15 months after that deadline (*i.e.,* 18 months after the effective date of the final order), as long as a notice of intent to file a PMA is submitted within 90 days of the effective date of the final order (see section V, ''Implementation Strategy''). Even if a notice of intent and PMA are submitted by these dates, manufacturers must cease distribution of devices upon receiving a not approvable or denial decision rendered on a PMA. To resume distribution, these manufacturers must receive PMA approval for their devices.

Moreover, for currently marketed necessary AED accessories, FDA does not intend to enforce compliance with the 90-day deadline by which PMAs must be submitted for 57 months after that deadline (*i.e.,* 5 years after the effective date of the final order) (see section V, ''Implementation Strategy''). Continued availability of necessary AED accessories, including consumable accessory items (*e.g.,* pad electrodes) and accessories with limited useful life (*e.g.,* batteries), is critical to ensuring the safety and efficacy of currently marketed AEDs during the time while PMAs for those AEDs are being pursued. In addition, the continued availability of necessary accessories for ''legacy devices''—individual AEDs that have been distributed and are currently in use (*e.g.,* in public facilities, etc.) and for which the manufacturer is not seeking PMA approval for that AED model—ensures the availability of functional legacy AEDs until they are replaced with PMA-approved AEDs.

(Comment 8) One commenter stated that FDA did not have a legal basis for continuing with finalization of a call for PMAs for AED systems because FDA failed to convene a panel as is required under FDASIA prior to issuing a final order. The commenter stated that FDA may not rely on the 2011 pre-FDASIA Panel because that Panel meeting was related to reclassifications under section 515(i) of the FD&C Act (21 U.S.C. 360e(i)) and not related to calls for PMAs under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)). The commenter further contended that the 2011 Panel neither considered new information contained in a reclassification petition submitted to FDA in 2009 nor adequately discussed the appropriateness of class II special controls.

(Response 8) FDA disagrees with the comment that FDA does not have a legal basis to finalize an order calling for PMAs for AED systems. Pursuant to FDASIA, the amendments to section 515(b) of the FD&C Act require, in relevant part, that issuance of an administrative order calling for PMAs for a preamendments device be preceded by a proposed order and a meeting of a classification panel. As amended, this section of the FD&C Act does not prescribe when these two events (the panel and proposed order) must occur in relation to each other. More importantly, FDA believes that the Panel's deliberations and recommendations remain relevant and fully satisfy the requirements in section 515(b) of FD&C Act.

FDA disagrees with the comment that the Panel did not consider new information contained in the 2009 reclassification petition. A representative from the petitioner was present at the meeting and provided comments on the reclassification petition during the Panel meeting (Ref. 1). In addition, the petitioner was given an opportunity to explain the petitioner's reasons for why AEDs should be class II devices, including a discussion of the special controls described in the reclassification petition. Therefore, the Panel heard the petitioner's arguments and these arguments were available for the Panel's consideration when it made its recommendation.

(Comment 9) One commenter objected to FDA's use of the term ''diagnose'' in the proposed order to describe the functionality of AEDs (78 FR 17893, March 25, 2013), and stated that AEDs sense shockable rhythms and are not diagnostic devices.

(Response 9) FDA disagrees that these devices do not perform diagnostic functions. AEDs analyze and interpret ECG data to produce an assessment as to whether a shock should be delivered; while FDA does believe that AEDs have diagnostic functions, we note that the regulatory identification for the device in 21 CFR 870.5310(a), as finalized in the order, does not use the term diagnose, and instead describes the function of the device as ''analyzes'' and ''interprets.''

(Comment 10) One commenter stated that FDA's proposal to allow manufacturers to ''bundle'' several AED models under a single PMA is inconsistent with the PMA regulatory paradigm, which relies on a device-by-device assessment. The comment points to FDA's guidance on bundling, which states that ''[g]enerally, [manufacturers] should not bundle differing generic device types in a single PMA submission because of the substantially different pre-clinical and clinical data needed to support each of the devices'' (Ref. 5).

(Response 10) FDA disagrees with the comment. Different AED models can be included in one PMA if they are the same generic device type. Because shock advisory algorithms and defibrillation waveforms will likely be common across various models from a given manufacturer of devices, FDA expects the clinical data needed to support devices within an appropriately bundled AED PMA to be the same. However, because of the differences in device labeling and user requirements between professional and lay use devices, FDA continues to believe that separate PMAs should be submitted for a manufacturer's professional use versus lay use devices. FDA believes this approach is least burdensome to manufacturers and is consistent with the bundling guidance, which states that ''[b]undling is appropriate for devices that present scientific and regulatory issues that can most efficiently be addressed during one review'' (Ref. 5).

(Comment 11) One comment requested clarification on whether

separate PMAs are required for AEDs and the associated AED accessories when a company manufacturers both for use together. Two comments requested additional clarification on whether accessories not specified in the proposed order (such as electrocardiograph modules and electrodes, training pads/batteries, protective carrying cases, Bluetooth modules, hardware keys or specialized pads to reduce energy for pediatric use, self-testers, $SpO_2$/blood pressure monitoring devices, cardiopulmonary resuscitation (CPR) aids, medical device data systems (MDDS), etc.) would require PMAs. One comment suggested that AED accessories that are already 510(k) cleared should not be subject to premarket approval by virtue of being used with an AED.

(Response 11) In response to this comment, FDA has revised the identification language to clarify that AED accessories regulated under 21 CFR 870.5310 are ''those accessories necessary for the AED to detect and interpret an electrocardiogram and deliver an electrical shock (*e.g.,* battery, pad electrode, adapter, and hardware keys for pediatric use).'' Manufacturers of accessory devices that are not addressed by the final order and are not already the subject of an existing classification regulation should contact FDA.

Under the final order, manufacturers must submit PMAs for accessories that are necessary for operation of the AED system (*e.g.,* accessories necessary to allow the AED to detect or interpret an electrocardiogram or deliver a defibrillation shock). These AED accessories include batteries, pad electrodes (including reduced energy pads for pediatric use), adapters, and hardware keys for pediatric use. In response to this comment, FDA has added ''hardware keys for pediatric use'' to the identification. Necessary AED accessories that are for use with a specific AED should be included in that PMA for the AED system as a whole. Alternatively, necessary AED accessories, including those manufactured by a third party, may be submitted in their own PMAs.

Accessories that are not necessary for the functionality of the AED are not addressed by the final order. Currently marketed AED accessories that are not addressed by the final order, such as $SpO_2$/blood pressure monitoring devices, ECG modules and testers, CPR aids, and MDDS, may be subject to other regulations and will continue to be subject to those existing regulations. Training accessories such as training pads and batteries for training-only AEDs are not currently subject to any additional regulations, and will not become so as a result of the final order.

(Comment 12) One comment requested clarification regarding AEDs being considered adulterated 90 days after the effective date of a final order in the absence of submission of a statement of intent to submit a PMA or the submission of a full PMA. The comment questioned whether devices legally distributed prior to the 90th day could remain in distribution. Another comment requested clarification on whether manufacturers could continue to provide consumable accessory items (such as batteries and pads) for previously distributed devices even if a PMA will not be submitted for that AED model. Two comments requested clarification on how and whether manufacturers would be allowed to distribute components required for field servicing of a device, including refurbished replacement devices, before PMAs are submitted for the devices.

(Response 12) Under the final order (see section IV, ''the Final Order'') and section 501(f)(2)(B) of the FD&C Act, PMAs must be submitted within 90 days after the effective date of the final order for currently marketed AED systems. If a PMA is not submitted, the devices are adulterated. However, for the reasons discussed above, for currently marketed AEDs, FDA does not intend to enforce compliance with the 90-day deadline by which PMAs must be submitted for 15 months after that deadline (*i.e.,* 18 months after the effective date of the final order), as long as a notice of intent to file a PMA is submitted within 90 days of the effective date of the final order (see section V, ''Implementation Strategy''). For currently marketed necessary AED accessories, FDA also does not intend to enforce compliance with the 90-day deadline by which PMAs must be submitted for 57 months after that deadline (*i.e.,* 5 years after the effective date of the final order) (see section V, ''Implementation Strategy). This intention applies to necessary AED accessories regardless of whether a PMA is being or has been sought for the AED model.

(Comment 13) One comment indicated that premarket review of medical devices such as AEDs should include review of the software embedded into the devices, including review of software verification and validation documentation. The comment noted that such review should also occur for software modifications and software developed for maintenance of the devices, including self-test functions. The comment relayed the importance of having reviewers with adequate training, expertise, and experience.

(Response 13) FDA agrees with the comment. Review of AEDs under the 510(k) process has included a detailed review of software documentation supporting premarket submissions by appropriately trained and experienced FDA reviewers. The PMA review will also involve a review of software documentation and will be conducted by trained and experienced FDA reviewers.

(Comment 14) One comment suggested an alternative regulatory approach whereby AEDs for medical professional use be reclassified into class II and public access defibrillators used by laypersons remain in class III with PMAs required. The comment stated that professional use devices have advanced functionality and are operated by skilled and trained professionals, which lessens the chance of human factor errors and increases the likelihood that the user will be able to recognize and troubleshoot any malfunctions. The comment stated that such users can rely on past experience and other means of attempting to rescue a patient, whereas lay users are often fully reliant on the AED. Two comments also indicated that professional use devices are typically manual defibrillators with additional functionality, including AED, and that the proposed order would create an inconsistent system whereby the same hardware if used only for manual defibrillation would be class II, but by virtue of configuring the device to include AED functionality would become a PMA class III product.

(Response 14) FDA disagrees with the comments and believes that the submission of PMAs is warranted regardless of the intended user of the device. FDA does not believe that there is sufficient information to establish special controls to provide a reasonable assurance of safety and effectiveness of the device regardless of the training of AED users.

FDA recognizes that some manual defibrillators and AEDs share common hardware and software platforms, and hence devices with similar or identical platforms may receive different regulatory review based on the configuration. For the reasons previously stated, however, FDA continues to believe AED systems should be class III devices. FDA also notes that the performance and other data needed to support safety and effectiveness for hardware and software platforms for both types of devices would be nearly identical; the difference would be related to the amount of

information that must be submitted to FDA. For a PMA, more information on the design controls process is required to be submitted whereas for a 510(k) submission, some information may not need to be submitted and instead can reside within the company's overall quality system and associated design documentation. Such situations of different regulatory processes have occurred in other product areas including contact lenses (daily-wear are typically class II, whereas extended wear are class III) and ablation devices (general surgical use are class II, whereas use for treatment of atrial fibrillation is class III), and FDA does not believe this changes the overall rationale supporting the need for PMAs.

(Comment 15) Two comments noted that there are numerous companies that refurbish and/or resell AEDs. The comments requested that FDA include AED resellers and refurbishers in their consideration of regulatory strategy.

(Response 15) Regardless of the supplier, the introduction or delivery for introduction into interstate commerce of any device that is adulterated is a prohibited act under section 301 of the FD&C Act (21 U.S.C. 331) (see Comment 12). FDA encourages refurbishers and resellers who have questions about the continued distribution of AEDs to contact FDA via the pre-submission process.

(Comment 16) One comment requested clarification of the process for modifications of currently marketed AEDs (and notifying FDA of such modifications) during the 90-day period after the final order is issued. One comment stated that given the nature of commercial, electrical and mechanical components used in AEDs, an extended transition period without the ability to implement changes would not be tenable and would result in unavailability of devices. One comment requested clarification on 510(k) submissions accepted for review, but for which no decision had been rendered, prior to the effective date of a final order calling for PMAs.

(Response 16) Under 21 CFR 870.5310, as amended, all new AED and necessary AED accessories must have an approved PMA in effect before being placed in commercial distribution. We recommend that manufacturers of currently marketed AEDs contact FDA regarding implementation of any changes necessary for their AEDs in order to address safety concerns or to support ongoing distribution while PMA approval is being sought. FDA understands that issues may arise relating to part obsolescence or changes necessary to reduce a risk to health posed by a currently marketed AED that is not functioning properly.

All other changes need to be accounted for in a PMA. Moreover, all new AED and necessary AED accessories must have an approved PMA in effect before being placed in commercial distribution.

(Comment 17) One comment objected to the comparisons made by FDA at the 2011 Panel meeting between implanted cardioverter defibrillators (ICDs) (PMA devices) and AEDs. The comment noted the number of commercial components (*e.g.,* components supplied to multiple industries for a variety of uses) in order to maintain affordable price-points for AEDs and the potentially burdensome PMA supplements that would be necessary to support incremental changes in manufacturing for AEDs. The comment further contended that purchased component-related recalls for AEDs have largely been a result of latent component failures and that FDA's examples at the 2011 Panel meeting of QS concerns related to changes to purchased components or device design would not have been averted by the stricter premarket regulatory oversight via PMA supplements.

(Response 17) FDA acknowledges that more stringent regulatory oversight via the PMA process may not completely eliminate AED recalls. FDA also recognizes that AEDs typically contain commercial components and manufacturers will need to submit PMA supplements for changes to these components, as well as changes to suppliers and manufacturing processes. Use of commercial components in PMA devices is not uncommon and changes at the component level may have led to some AED recalls and adverse events, providing further support for increased regulatory review. FDA continues to believe that these failures and the need for careful consideration and adequate verification and validation of such changes support more rigorous review under the PMA process.

(Comment 18) One comment requested clarification on activities during the time after a notice of intent to file is submitted, including whether FDA will place additional postmarket approval requirements on previously distributed products as allowed under 21 CFR 814.82. The comment further asked whether IDEs would be required for design changes (*e.g.,* would an IDE be required to conduct human factors/usability studies).

(Response 18) FDA will consider the need for postapproval requirements in the context of each manufacturer's PMA submission and the devices in distribution. FDA does not intend to exempt manufacturers from the IDE requirements and hence any study which meets the IDE requirements must be conducted in accordance with the requirements of 21 CFR parts 50 and 812. There will be no extended period for filing an IDE and studies may not be initiated without appropriate IDE approvals. Manufacturers who have questions regarding whether an IDE is needed for a particular AED study are encouraged to interact with FDA via the pre-submission process.

## IV. The Final Order

FDA is adopting its findings as published in the preamble of the proposed order (78 FR 17890, March 25, 2013) and issuing this final order to require the filing of a PMA for AED systems under 515(b) of the FD&C Act (21 U.S.C. 360e(b)). An AED system consists of an AED and those accessories necessary for the AED to detect and interpret an electrocardiogram and deliver an electrical shock (*e.g.,* battery, pad electrode, adapter, and hardware keys for pediatric use). An AED system analyzes the patient's electrocardiogram, interprets the cardiac rhythm, and automatically delivers an electrical shock (fully automated AED), or advises the user to deliver the shock (semi-automated or shock advisory AED) to treat ventricular fibrillation or pulseless ventricular tachycardia. Under section 515(b)(1)(A) of the FD&C Act (21 U.S.C. 360e(b)(1)(A)), PMAs for AED systems are required to be filed on or before 90 days after the effective date of a final order. This final order will revise 21 CFR part 870.

## V. Implementation Strategy

Based on comments on the proposed order, we are clarifying FDA's intentions regarding enforcing compliance with the final order (see section IV, ''The Final Order'') and section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)).

### *A. Currently Marketed AEDs*

Under the final order and section 501(f)(2)(B) (21 U.S.C. 351(f)(2)(B)), PMAs for currently marketed AEDs are required to be filed on or before 90 days after the effective date of a final order. However, for currently marketed AEDs, FDA does not intend to enforce compliance with this 90-day deadline for 15 months after that deadline (*i.e.,* 18 months after the effective date of the final order), as long as notice of intent to file a PMA is submitted within 90 days of the effective date of the final order. The notification of the intent to file a PMA submission must include a

list of all model numbers for which a manufacturer plans to seek marketing approval through a PMA.

In conducting any clinical studies, AEDs may be distributed for investigational use if the requirements of the IDE regulations (21 CFR part 812) are met. There will be no extended period for filing an IDE nor exemption from IDE requirements, and studies may not be initiated without appropriate IDE approvals, where necessary.

*B. Currently Marketed Necessary AED Accessories*

Under the final order and section 501(f)(2)(B) (21 U.S.C. 351(f)(2)(B)), PMAs for currently marketed necessary AED accessories are required to be filed on or before 90 days after the effective date of this final order. However, for currently marketed necessary AED accessories, FDA does not intend to enforce compliance with this 90-day deadline for 57 months after the deadline (*i.e.,* 5 years after the effective date of the final order). Currently marketed necessary AED accessory manufacturers are not required to file an intent-to-file by the 90-day deadline.

After the effective date of the final order, new AEDs and necessary AED accessories must have approved PMAs to be legally marketed. The following tables show the regulatory timetable for currently marketed AEDs and necessary AED accessories.

TABLE 1—CURRENTLY MARKETED AEDS

| | Timetable for which FDA does not intend to enforce compliance (time after effective date of order) | Distribution period (time after effective date of order) |
|---|---|---|
| Intent to File a PMA | 90 days | *Devices included in an intent to file:* 18 months. *Devices not included in intent to file:* 90 days. |
| File a PMA | 18 months | Until a not approvable decision or denial decision is issued; can continue distribution if an approval order is issued. |

TABLE 2—CURRENTLY MARKETED NECESSARY AED ACCESSORIES

| | Timetable for which FDA does not intend to enforce compliance (time after effective date of order) | Distribution period (time after effective date of order) |
|---|---|---|
| Intent to File a PMA | N/A | N/A. |
| File a PMA | 60 months | Until a not approvable decision or denial decision is issued; can continue distribution if an approval order is issued. |

## VI. Environmental Impact

The Agency has determined under 21 CFR 25.30 (h) 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.

## VII. Paperwork Reduction Act of 1995

The final order 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 part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

## VIII. Codification of Orders

Prior to the amendments by FDASIA, section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) provided for FDA to issue regulations to require PMA approval for preamendments devices or devices found substantially equivalent to preamendments devices. Section 515(b) of the FD&C Act (21 U.S.C. 360e(b)), as amended by FDASIA, provides for FDA to require PMA approval for such devices by issuing a final order, following the issuance of a proposed order in the **Federal Register**. FDA will continue to codify the requirement for a PMA approval in the Code of Federal Regulations. Therefore, under section 515(b)(1)(A) of the FD&C Act (21 U.S.C. 360e(b)(1)(A)), as amended by FDASIA, in this final order, we are requiring PMA approval for AED systems and we are making the language in 21 CFR 870.5310 consistent with the final version of this order.

## IX. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. Meeting Materials for 515(i) Regulatory Classification of Automated External Defibrillator Systems, January 25, 2011, available at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/CirculatorySystemDevicesPanel/ucm240575.htm.*

2. U.S. Food and Drug Administration, Medical Device Recalls Database, available at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRES/res.cfm.*

3. Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff, Guidance for Industry and Food and Drug Administration Staff, February 18, 2014, available at *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM311176.pdf.*

4. Acceptance and Filing Reviews for Premarket Approval Applications (PMAs), Guidance for Industry and Food and Drug Administration Staff, December 31, 2012, available at *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM313368.pdf.*

5. Guidance for Industry and FDA Staff: Bundling Multiple Devices or Multiple Indications in a Single Submission, June 22, 2007, available at *http://www.fda.gov/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm089731.htm.*

**List of Subjects in 21 CFR Part 870**

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 870 is amended as follows:

## PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for 21 CFR part 870 continues to read as follows:

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

■ 2. Section 870.5310 is amended by revising the section heading and paragraphs (a) and (c) to read as follows:

**§ 870.5310 Automated external defibrillator system.**

(a) *Identification.* An automated external defibrillator (AED) system consists of an AED and those accessories necessary for the AED to detect and interpret an electrocardiogram and deliver an electrical shock (*e.g.,* battery, pad electrode, adapter, and hardware key for pediatric use). An AED system analyzes the patient's electrocardiogram, interprets the cardiac rhythm, and automatically delivers an electrical shock (fully automated AED), or advises the user to deliver the shock (semi-automated or shock advisory AED) to treat ventricular fibrillation or pulseless ventricular tachycardia.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA will be required to be submitted to the Food and Drug Administration by April 29, 2015, for any AED that was in commercial distribution before May 28, 1976, or that has, by April 29, 2015, been found to be substantially equivalent to any AED that was in commercial distribution before May 28, 1976. A PMA will be required to be submitted to the Food and Drug Administration by April 29, 2015, for any AED accessory described in paragraph (a) that was in commercial distribution before May 28, 1976, or that has, by April 29, 2015, been found to be substantially equivalent to any AED accessory described in paragraph (a) that was in commercial distribution before May 28, 1976. Any other AED and AED accessory described in paragraph (a), shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: January 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–01619 Filed 1–28–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9709]**

**RIN 1545–BK64**

## Application for Recognition as a 501(c)(29) Organization

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

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

**SUMMARY:** This document contains final regulations authorizing the IRS to prescribe the procedures by which certain entities may apply to the IRS for recognition of exemption from Federal income tax. These regulations affect qualified nonprofit health insurance issuers participating in the Consumer Operated and Oriented Plan program established by the Centers for Medicare and Medicaid Services that seek exemption from federal income tax under the Internal Revenue Code.

**DATES:** *Effective date:* These regulations are effective on January 29, 2015.

*Applicability date:* For date of applicability, see § 1.501(c)(29)–1(c).

**FOR FURTHER INFORMATION CONTACT:** Martin Schäffer, (202) 317–5800 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

Section 501(c)(29) of the Internal Revenue Code (Code) provides requirements for tax exemption under section 501(a) for qualified nonprofit health insurance issuers (QNHIIs). Section 501(c)(29) was added to the Code by section 1322(h)(1) of the Patient Protection and Affordable Care Act, Public Law 111–148 (March 23, 2010) (Affordable Care Act).

Section 1322 of the Affordable Care Act directs the Centers for Medicare and Medicaid Services (CMS) to establish the Consumer Operated and Oriented Plan (CO–OP) program. The purpose of the CO–OP program is to foster the creation of member-governed QNHIIs that will operate with a strong consumer focus and offer qualified health plans in the individual and small group markets. CMS provides loans and repayable grants (collectively, loans) to organizations applying to become QNHIIs to help cover start-up costs and meet any solvency requirements in States in which the organization is licensed to issue qualified health plans. For each loan, CMS issues a Notice of Award and Loan Agreement to the QNHII. The appropriate officer of the QNHII or of the QNHII's board of directors must sign and return the loan agreement to CMS. On December 13, 2011, CMS issued final regulations implementing the CO–OP program at 76 FR 77392.

The CMS final regulations define a QNHII as an entity that, within specified time frames, satisfies or can reasonably be expected to satisfy the standards in section 1322(c) of the Affordable Care Act and in the CMS final regulations. The entity will constitute a QNHII until such time as CMS determines the entity does not satisfy or cannot reasonably be expected to satisfy these standards. Section 1322(c) of the Affordable Care Act imposes a number of requirements, including that a QNHII be organized as a nonprofit member corporation under State law and that substantially all its activities consist of the issuance of qualified health plans in the individual and small group markets in each State in which it is licensed to issue such plans.

Section 501(c)(29)(A) of the Code provides that a QNHII (within the meaning of section 1322(c) of the Affordable Care Act) which has received a loan or grant under the CO–OP program may be recognized as exempt from taxation under section 501(a), but only for periods for which the organization is in compliance with the requirements of section 1322 of the Affordable Care Act and any loan or grant agreement with the Secretary of Health and Human Services. Section 501(c)(29)(B) provides that a QNHII will not qualify for tax-exemption unless it meets four additional requirements. First, the QNHII must give notice to the Secretary of the Treasury, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of exemption as an organization described in section 501(c)(29). Second, no part of the QNHII's net earnings may inure to the benefit of any private shareholder or individual, except to the extent permitted by section 1322(c)(4) of the Affordable Care Act (which requires that any profits be used to lower premiums, to improve benefits, or for other programs intended to improve the quality of health care delivered to the organization's members). Third, no substantial part of the QNHII's activities

may consist of carrying on propaganda, or otherwise attempting, to influence legislation. Finally, the QNHII may not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. As required by section 1322(b)(2)(C)(iii) of the Affordable Care Act, CMS must notify the IRS of any determination of a failure to comply with the CO–OP program standards, including any loan agreement, that may affect a QNHII's tax-exempt status under section 501(c)(29) of the Code.

Section 6033 requires a QNHII to file an annual information return. Section 6033(m), added to the Code by section 1322(h)(2) of the Affordable Care Act, further requires a QNHII to provide additional information on the amount of reserves required by each state in which the QNHII is licensed to issue qualified health plans and the amount of reserves on hand. These requirements are met by filing a Form 990 for each tax year in which the QNHII claims tax-exempt status, including tax years prior to receipt of a determination letter from the IRS recognizing its tax-exempt status. See Notice 2011–23, § 8, 2011–13 IRB 588, as well as Instructions for Form 990–EZ, ''Short Form Return of Organization Exempt from Income Tax.''

On February 7, 2012, temporary regulations (TD 9574) authorizing the IRS to prescribe the procedures by which certain entities may apply to the IRS for recognition of exemption from Federal income tax were published in the **Federal Register** (77 FR 6005). On the same date, and under the authority of the temporary regulations, the IRS issued Rev. Proc. 2012–11, 2012–7 IRB 368, providing instructions on how an organization should apply for recognition of exemption as an organization described in section 501(c)(29). The IRS intends to reissue Rev. Proc. 2012–11 (with a 2015 designation) under the authority of the final regulations.

A notice of proposed rulemaking (REG–135071–11) cross-referencing the temporary regulations was also published in the **Federal Register** on February 7, 2012 (77 FR 6027). No public hearing was requested or held. Two comments responding to the notice of proposed rulemaking were received and are available at *www.regulations.gov* (Docket Number IRS–2012–0007). After consideration of the two comments, the proposed regulations are adopted without revision, and the corresponding temporary regulations are removed.

**Summary of Comments and Explanation of Provisions**

Section 501(c)(29)(B)(i) of the Code provides that a QNHII which has received a loan through the CO–OP program established under the Affordable Care Act by the Centers for Medicare and Medicaid Services may be recognized as exempt from taxation under section 501(a) only if, among other things, the QNHII gives notice to the IRS, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as an organization described in section 501(c)(29). These final regulations provide that the Commissioner has the authority to prescribe the application procedures that a QNHII seeking such recognition must follow. These final regulations expressly authorize the Commissioner to recognize a QNHII as exempt effective as of a date prior to the date of its application, provided that the application is submitted in the manner and within the time prescribed by the Commissioner and that the QNHII's prior purposes and activities were consistent with the requirements for exempt status under section 501(c)(29).

Neither of the comments received addressed the proposed rule authorizing the IRS to prescribe the procedures by which certain entities may apply for recognition of exemption from Federal income tax as organizations described in section 501(c)(29). One commenter suggested that the final rule clarify that the failure of a QNHII to meet the requirements of state insurance laws may be grounds for the denial or revocation of the entity's tax-exempt status. In addition, the commenter suggested that the application for a section 501(c)(29) determination letter, as described in Rev. Proc. 2012–11, should include an affirmation by the entity seeking an exemption that it meets all applicable state requirements for a qualified health insurer, including solvency and licensing standards.

The final regulations do not incorporate these suggestions. Section 501(c)(29)(A) provides for recognition of a QNHII that has received a loan or grant under the CO–OP program for periods for which the organization is in compliance with the requirements of the Affordable Care Act and of any CO–OP program loan or grant. An entity that CMS has determined qualifies as a QNHII remains a QNHII until CMS determines that it does not satisfy or cannot reasonably be expected to satisfy the standards in section 1322(c) of the Affordable Care Act and the CMS final regulations. CMS must notify the IRS if a QNHII fails to comply with the CO–OP program standards, including any loan agreement. If CMS determines that an organization no longer qualifies as a QNHII, it will lose its tax-exempt status under section 501(c)(29) of the Code. Because the commenter's suggestions relate to an organization's qualification as a QNHII, rather than to the requirements for a QNHII to be recognized as tax-exempt, these suggestions were not adopted.

Another commenter recommended that the final rule make it clear that all state and federal laws and regulations that currently apply to 501(c) organizations—including those related to transparency, reporting, and the treatment of assets upon dissolution—apply also to organizations recognized under section 501(c)(29), noting particularly the requirement to file a Form 990, ''Return of Organization Exempt From Income Tax,'' and related documents on an annual basis. The commenter further recommended that the final rule specifically address aspects of the Affordable Care Act that are not within the jurisdiction of the Treasury Department.

The final regulations do not incorporate these suggestions. With respect to the Code, different requirements apply to different types of organizations described in section 501(c). Section 501(c)(29)(B) sets forth the conditions that a QNHII must satisfy for exemption from Federal income tax. Section 6033 and the regulations thereunder generally requires all organizations exempt from taxation under section 501(a), including QNHIIs exempt under section 501(c)(29), to file Form 990, unless an organization qualifies for an exception from the filing requirement. With respect to section 1322 of Affordable Care Act, CMS issued final regulations in December 2011 implementing the CO–OP program and providing the basic standards that an organization must meet to be a QNHII and participate in the program. Those requirements are outside the jurisdiction of the Treasury Department. For these reasons no additional regulatory guidance is needed.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has been determined, also, that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply, and because no collection of information is imposed on small entities, the

provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Code, the NPRM preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of these regulations is Martin Schäffer of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), although other persons in the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.501(c)(29)–1 also issued under 26 U.S.C. 501(c)(29)(B)(i). * * *

■ **Par. 2.** Section 1.501(c)(29)–1 is added to read as follows:

**§ 1.501(c)(29)–1 CO–OP Health Insurance Issuers.**

(a) *Organizations must notify the Commissioner that they are applying for recognition of section 501(c)(29) status.* An organization will not be treated as described in section 501(c)(29) unless the organization has given notice to the Commissioner that it is applying for recognition as an organization described in section 501(c)(29) in the manner prescribed by the Commissioner in published guidance.

(b) *Effective date of recognition of section 501(c)(29) status.* An organization may be recognized as an organization described in section 501(c)(29) as of a date prior to the date of the notice required by paragraph (a) of this section if the notice is given in the manner and within the time prescribed by the Commissioner and the organization's purposes and activities prior to giving such notice were consistent with the requirements for exempt status under section 501(c)(29). However, an organization may not be recognized as an organization described in section 501(c)(29) before the later of its formation or March 23, 2010.

(c) *Effective/applicability date.* Paragraphs (a) and (b) of this section are applicable beginning February 7, 2012.

**§ 1.501(c)(29)–1T [Removed]**

■ **Par. 3.** Section 1.501(c)(29)–1T is removed.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 22, 2015.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury.*

[FR Doc. 2015–01677 Filed 1–26–15; 4:15 pm]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2014–0713; FRL–9919–42–Region 8]**

### Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to Administrative Rules of Montana—Prevention of Significant Deterioration

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by the State of Montana on June 4, 2013. This submission revises the Administrative Rules of Montana that pertain to the issuance of Montana air quality permits. The June 4, 2013 revisions contain amended and renumbered rules that, among other things, address the proper treatment of air pollutants under the State's prevention of significant deterioration (PSD) program. In this rulemaking, we are taking final action on all of the June 4, 2013 submittal, with the exception of one small portion. This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** This final rule is effective March 2, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2014–0713. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials *ARM* mean or refer to the Administrative Rules of Montana.

(iii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iv) The initials *FIP* mean or refer to Federal Implementation Plan.

(v) The initials *MDEQ* mean or refer to the Montana Department of Environmental Quality.

(vi) The initials $NO_X$ mean or refer to nitrogen oxides.

(vii) The initials *NSR* mean or refer to New Source Review.

(viii) The initials $PM_{2.5}$ mean or refer to particulate matter equal to or less than 2.5 microns in diameter.

(ix) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(x) The initials *SIP* mean or refer to State Implementation Plan.

(xi) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

**I. Background**

EPA is taking final action to approve (with one exception) the revisions to Title 17, Chapter 8, subchapter 8 of the Administrative Rules of Montana (ARM) submitted by the State on June 4, 2013, that relate to the State's PSD program. The revisions to the State PSD SIP were adopted by the Montana Department of

Environmental Quality (MDEQ) on September 27, 2012, and became effective October 12, 2012.

Montana's revisions addressed certain requirements in EPA's November 29, 2005 ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standards—Phase 2,'' 70 FR 71612 (''Phase 2 Ozone Implementation Rule''). EPA's November 29, 2005 rule required states to revise their programs for major source permitting to address ozone formation by properly regulating precursor pollutants. ''Precursor pollutants'' are pollutants that combine to form another pollutant; in particular, nitrogen oxides ($NO_X$) react with volatile organic compounds to form ozone. In the Phase 2 Ozone Implementation Rule, EPA identified $NO_X$ as an ozone precursor pollutant in attainment and unclassifiable areas. Accordingly, the Phase 2 Ozone Implementation Rule amended the definitions in 40 CFR 51.166 of ''major stationary source,'' ''major modification,'' ''significant,'' and ''regulated NSR pollutant'' to include $NO_X$ as an ozone precursor; the rule also amended certain requirements regarding monitoring of ozone to reflect the identification of $NO_X$ as an ozone precursor.

However, prior to Montana's June 4, 2013 submittal, the State had not amended its PSD rules accordingly. As a result, in a July 22, 2011 final rule (Approval and Disapproval and Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards; Montana), EPA partially disapproved a Montana SIP submission that (among other things) addressed PSD requirements pursuant to CAA section 110(a)(2)(C), because Montana's PSD rules did not properly address $NO_X$ as an ozone precursor pollutant as required by the Phase 2 Ozone Implementation Rule. 76 FR 43918; see also 76 FR 28934 (proposal). Under CAA section 110(c)(1)(B), this disapproval started a two-year Federal Implementation Plan (FIP) clock as to this deficiency, which required EPA to promulgate a FIP within two years of the disapproval unless the State submitted and we approved a plan revision correcting the deficiency. As we are now taking final action to approve Montana's June 4, 2013, submittal, which addresses the requirements of the Phase 2 Ozone Implementation Rule, this action fixes the deficiency identified in our prior disapproval and removes our FIP obligations.

## II. What are the changes that EPA is taking final action to approve?

With respect to Montana's June 4, 2013 submittal, EPA is taking final action to approve revisions to the Montana SIP that bring the State PSD program into conformance with the requirements of the Phase 2 Ozone Implementation Rule.

In our September 29, 2014 proposed action (79 FR 58311), we proposed to approve the following revisions to the Administrative Rules of Montana (ARM): *17.8.801(20)(a) (major modification); 17.8.801(22)(b) (major stationary source); 17.8.801(25) (nitrogen oxides or $NO_X$); 17.8.801(27)(a) (significant); and 17.8.818(7)(a)(6) (Review of Major Source and Major Modifications—Source Applicability and Exemptions).* The submittal also corrected a small error in an August 15, 2012 Montana submittal regarding the treatment of fine particulate matter ($PM_{2.5}$). We have not acted on the remaining portions of the August 15, 2012 submittal; EPA will act on the correction in the June 4, 2013 submittal in tandem with our future action on the rest of the August 15, 2012 submittal.

We provided a detailed explanation of the basis of approval in our proposed rulemaking (see 79 FR 58311). We invited comment on all aspects of our proposal and provided a 30-day comment period. The comment period ended on October 29, 2014.

## III. Response to Comments

We received one comment during the public comment period. This one comment was in support of our proposed rule, and we acknowledge receipt of that comment.

## IV. What action is EPA taking today?

As discussed in our proposed rulemaking, the requirements included in Montana's PSD program, as specified in ARM 17.8.801 and ARM 17.8.818, are substantially the same as the federal provisions for PSD as set forth at 40 CFR 51.166. Thus, for the reasons discussed in our proposal notice and summarized above, EPA is taking final action to approve the revisions to the ARM 17.8.801 and 17.8.818 as outlined in Section II of this rulemaking (with the small exception noted there) and as submitted to EPA by the State of Montana on June 4, 2013.

## V. Statutory and Executive Orders Review

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 in 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 (Pub. L. 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, as appropriate, disproportionate human health or environmental effects, using practicable 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 March 30, 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. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: November 3, 2014.

**Shaun L. McGrath,**

*Regional Administrator, Region 8.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 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 BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(74) to read as follows:

**§ 52.1370 Identification of plan.**

* * * * *

(c) * * *

(74) On June 4, 2013 the State of Montana submitted revisions to the Administrative Rules of Montana (ARM), *Air Quality,* Subchapter 8, *Prevention of Significant Deterioration of Air Quality,* 17.8.801, *Definitions,* and 17.8.818, *Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions.*

(i) Incorporation by reference

(A) Administrative Rules of Montana, *Air Quality,* Subchapter 8, *Prevention of Significant Deterioration of Air Quality,* 17.8.801, *Definitions,* (20) introductory text, (20)(a); (22) introductory text, (22)(b); (25); (28) introductory text, (28)(a), except for the phrase ''nitrogen oxides (NOx)''; and, 17.8.818, *Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions,* (7) introductory text, (7)(a) introductory text, (7)(a)(vi), effective 10/12/2012.

[FR Doc. 2015–01490 Filed 1–28–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2014–0178; FRL–9921–99–Region 9]**

## Approval and Promulgation of Implementation Plans; State of California; Sacramento Metro Area; Attainment Plan for 1997 8-Hour Ozone Standard

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve state implementation plan (SIP) revisions submitted by the State of California that provide for attainment of the 1997 8-hour ozone national ambient air quality standard (''standard'' or NAAQS) in the Sacramento Metro nonattainment area. The EPA is approving the emissions inventories, air quality modeling, reasonably available control measures, provisions for transportation control strategies and measures, rate of progress and reasonable further progress (RFP) demonstrations, attainment demonstration, transportation conformity motor vehicle emissions budgets, and contingency measures for failure to make RFP or attain. The EPA is also approving commitments for measures by the Sacramento Metro nonattainment area air districts.

**DATES:** This final rule is effective on *March 2, 2015.*

**ADDRESSES:** The EPA has established a docket for this action: Docket ID No. EPA–R09–OAR–2014–0178. 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. 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:** John Ungvarsky, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3963, *ungvarsky.john@epa.gov.*

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

**Table of Contents**



### I. Summary of Proposed Action

On October 15, 2014 (79 FR 61799), under section 110(k) of the Clean Air Act (Act or CAA), the EPA proposed approval of a series of submittals from the California Air Resources Board (CARB) as revisions to the California state implementation plan (SIP) for the Sacramento Metro ozone nonattainment area (SMA).[1] The principal submittals are:

- Sacramento Regional Nonattainment Area 8-Hour Ozone Reasonable Further Progress Plan 2002–2008 (''2002–2008 RFP Plan''), February 2006;
- Sacramento Regional 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan, March 26, 2009

[1] The SMA consists of Sacramento and Yolo counties and portions of El Dorado, Placer, Solano and Sutter counties. For a precise description of the geographic boundaries of the SMA, see 40 CFR 81.305. Sacramento County is under the jurisdiction of the Sacramento Metropolitan Air Quality Management District (SMAQMD). Yolo County and the eastern portion of Solano County comprise the Yolo-Solano AQMD (YSAQMD). The southern portion of Sutter County is part of the Feather River AQMD (FRAQMD). The western portion of Placer County is part of the Placer County Air Pollution Control District (PCAPCD). Lastly, the western portion of El Dorado County is part of the El Dorado County AQMD (EDCAQMD). Collectively, we refer to these five districts as the ''Districts.''

(''2009 Ozone Attainment and RFP Plan'' or ''2009 Plan'');

- Elements of CARB's 2007 State Strategy (''2007 State Strategy''), adopted by CARB on September 27, 2007, as applicable in the SMA;
- Elements of the Status Report on the State Strategy for California's 2007 State Implementation Plan (SIP) and Proposed Revision to the SIP Reflecting Implementation of the 2007 State Strategy (''Revised 2007 State Strategy''),[2] March 24, 2009, as applicable in the SMA; and
- Sacramento Regional 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan, 2013 SIP Revisions (''2013 Ozone Attainment and RFP Plan'' or ''2013 Plan Update''), September 26, 2013.

We refer to these submittals collectively as the ''Sacramento 8-Hour Ozone Attainment Plan'' or ''Sacramento Ozone Plan.'' The SMA is classified as ''severe-15'' with an attainment date no later than June 15, 2019.[3] See 75 FR 24409. The following paragraphs summarize the regulatory background, CARB's submittals, and the EPA's rationale for proposing approval. For additional details concerning these topics, please see our October 15, 2014 proposed rule.

*A. Regulatory Background*

The specific CAA requirement that is relevant for the purposes of this action is Title I, Part D of the CAA, under which states must implement the 1997 8-hour ozone standard. Title I, Part D of the CAA includes section 172, ''Nonattainment plan provisions,'' and subpart 2, ''Additional Provisions for Ozone Nonattainment Areas'' (sections 181–185).

In order to assist states in developing effective plans to address their ozone nonattainment problem, the EPA issued the 8-hour ozone implementation rule. This rule was finalized in two phases. The first phase of the rule addresses classifications for the 1997 8-hour ozone standard, applicable attainment dates for the various classifications, and the timing of emissions reductions needed for attainment. See 69 FR 23951 (April 30, 2004). The second phase addresses SIP submittal dates and the requirements for reasonably available control technology and measures (RACT and RACM), RFP, modeling and attainment demonstrations, contingency measures, and new source review. See 70 FR 71612 (November 29, 2005). The rule is codified at 40 CFR part 51, subpart X.[4] We discussed each of these CAA and regulatory requirements for 8-hour ozone nonattainment plans in more detail in our October 15, 2014 proposal.

*B. CARB's Submittals*

The 2002–2008 RFP Plan was adopted by the Districts' governing boards during the January–February 2006 time frame and then by CARB Executive Order G–125–335 on February 24, 2006. The 2002–2008 RFP Plan includes an RFP demonstration for the 2002–2008 period, an amended Rate of Progress Plan for the 1990–1996 period, and motor-vehicle emissions budgets (MVEB or ''budgets'') used for transportation conformity purposes.

The 2009 Ozone Attainment and RFP Plan was adopted by the Districts' governing boards during the January–February 2009 time frame and then by CARB on March 26, 2009. The 2009 Ozone Attainment and RFP Plan includes an attainment demonstration, commitments by the Districts to adopt control measures to achieve emissions reductions from sources under its jurisdiction (primarily stationary sources), and budgets used for transportation conformity purposes. The attainment demonstration includes air quality modeling, an RFP plan, an analysis of RACM/RACT, base year and projected year emissions inventories, and contingency measures. The 2009 Ozone Attainment and RFP Plan also includes a demonstration that the most expeditious date for attaining the 1997 8-hour ozone NAAQS in the SMA is June 15, 2018.

In late 2013, SMAQMD and CARB adopted the 2013 Plan Update, which revised portions of the 2009 Plan. The 2013 Plan Update included a revised emissions inventory that accounted for control measures adopted through 2011, revised attainment and RFP demonstrations, the effects of the economic recession, and updated transportation activity projections provided by the Sacramento Area Council of Governments (SACOG). On June 19, 2014, CARB submitted a technical supplement to the Sacramento Vehicle Miles Traveled (VMT) emissions offset demonstration in the 2013 Plan Update.[5] CARB's technical supplement includes a revised set of motor vehicle emissions estimates reflecting technical changes to the inputs used to develop the original set of calculations.[6] While the vehicle emissions estimates in CARB's technical supplement differ from those contained in the demonstration in the 2013 Plan Update, the conclusions in the revised analysis remain the same as those in the 2013 Plan Update.

To demonstrate attainment, the Sacramento Ozone Plan relies to a large extent on measures in CARB's 2007 State Strategy. The 2007 State Strategy was adopted by CARB on September 27, 2007 and submitted to the EPA on November 16, 2007.[7] The 2007 State Strategy describes CARB's overall approach to addressing, in conjunction with local plans, attainment of both the 1997 Fine Particulate Matter ($PM_{2.5}$) and 1997 8-hour ozone NAAQS not only in the SMA but also in California's other nonattainment areas, such as the South Coast Air Basin and the San Joaquin Valley. It also includes CARB's commitments to obtain emissions reductions of $NO_X$ and VOC from sources under the State's jurisdiction, primarily on- and off-road motor vehicles and engines, through the

[2] On July 21, 2011, CARB further revised the State Strategy (*i.e.,* Progress Report on Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions). Although the 2011 revision was specific to the South Coast and San Joaquin Valley ozone nonattainment areas, it contained Appendix E, an assessment of the impacts of the economic recession on emissions from the goods movement sector. The growth projections developed for emissions inventories in the Sacramento Regional 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan (2013 Revisions) also rely on the recessionary impacts in Appendix E.

[3] For the 2008 ozone standard, we also designated the SMA as nonattainment and classified the area as ''severe-15.'' See 77 FR 30088 (May 21, 2012). The SMA attainment date for the 2008 8-hour ozone standard is as expeditious as practicable but no later than December 31, 2027. Today's action does not address requirements concerning the 2008 8-hour ozone standard.

[4] The EPA has revised or proposed to revise several elements of the 8-hour ozone implementation rule since its initial promulgation in 2004. See, *e.g.,* 74 FR 2936 (January 16, 2009); 75 FR 51960 (August 24, 2010); and 75 FR 80420 (December 22, 2010). None of these revisions affect any provision of the rule that is applicable to the EPA's proposed action on the Sacramento 8-Hour Ozone Attainment Plan.

[5] See letter from Lynn Terry, Deputy Executive Officer, CARB, to Deborah Jordan, Director, Air Division, EPA Region 9, June 19, 2014, with enclosures. On July 25, 2014, CARB sent the EPA a revised technical supplement that corrected minor typographical errors. See record of July 25, 2014 email and attachment from Jon Taylor, CARB, to Matt Lakin, EPA, included in the docket.

[6] The principal difference between the two sets of calculations is that CARB's technical supplement includes running exhaust, start exhaust, hot soak, and running loss emissions of VOCs in all of the emissions scenarios. These processes are directly related to VMT and vehicle trips. The revised calculation excludes diurnal and resting loss emissions of VOCs from all of the emissions scenarios because such evaporative emissions are related to vehicle population rather than to VMT or vehicle trips.

[7] See CARB Resolution No. 07–28, September 27, 2007 with attachments and letter, James N. Goldstene, Executive Officer, CARB, to Wayne Nastri, Regional Administrator, EPA Region 9, November 16, 2007 with enclosures.

implementation of 15 defined State measures.[8]

On August 12, 2009, CARB submitted the Revised 2007 State Strategy, dated March 24, 2009 and adopted April 24, 2009.[9] [10] This submittal updated the 2007 State Strategy to reflect its implementation during 2007 and 2008 and calculated emission reductions in the SMA from implementation of the State Strategy. The 2013 Plan Update incorporates the Revised 2007 State Strategy and updates $NO_X$ and VOC emissions reductions estimates from adopted State measures and commitments. In our proposal and in the context of the Sacramento Ozone Plan, we only evaluated the State measures that are included in the Revised 2007 State Strategy and applicable in the SMA.

For additional background on the submittals and CAA procedural and administrative requirements for SIP submittals, see the October 15, 2014 proposal.

*C. The EPA's Proposed Approval*

As noted above, on October 15, 2014, the EPA proposed to approve California's attainment SIP for the SMA for the 1997 8-hour Ozone NAAQS. This SIP is comprised of a series of submittals described above.

In its proposal, the EPA proposed to approve under CAA section 110(k)(3) the following elements of the Sacramento Ozone Plan:

1. The revised 2002 base year emissions inventory as meeting the requirements of CAA section 182(a)(1) and 40 CFR 51.915;

2. The reasonably available control measure demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.912(d);

3. The rate of progress and reasonable further progress demonstrations as meeting the requirements of CAA sections 172(c)(2) and 182(c)(2)(B) and 40 CFR 51.910 and 51.905;

4. The attainment demonstration as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.908;

5. The contingency measure provisions for failure to make RFP and to attain as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9);

6. The demonstration that the SIP provides for transportation control strategies and measures sufficient to offset any growth in emissions from growth in VMT or the number of vehicle trips, and to provide for RFP and attainment, as meeting the requirements of CAA section 182(d)(1)(A);

7. The revised motor vehicle emissions budgets for 2017 and for the attainment year of 2018 because they are derived from approvable RFP and attainment demonstrations and meet the requirements of CAA section 176(c) and 40 CFR part 93, subpart A; [11] and

8. The Districts' commitments to adopt and implement certain defined measures, as summarized in table 7–5 on page 7–32 of the 2013 Plan Update, as strengthening the SIP.[12]

The EPA's analysis and findings are summarized in our October 15, 2014 proposal and are described in more detail in the Technical Support Document (TSD) for the proposal, which is available online at *www.regulations.gov* in the docket, EPA–R09–OAR–2014–0178, or from the EPA contact listed at the beginning of this notice.

## II. What comments did the EPA receive on the proposed rule?

Our October 15, 2014 proposed rule provided for a 30-day comment period. During this period, we received a comment letter jointly signed by Larry Greene, Executive Director/Air Pollution Control Officer at the SMAQMD, and Mike McKeever, Chief Executive Officer at SACOG. We provide our response to the comment letter below.

*Comment:* The SMAQMD notes that the 2013 Plan Update contains $NO_X$ reductions that exceed by 1.0 tons per day (tpd) the amount of reductions of $NO_X$ needed to meet the attainment target for 2018. They refer to this excess as a ''buffer'' intended for possible use, if necessary, to demonstrate general conformity for future federal projects. In its proposal, the EPA did not credit all reductions in the 2013 Plan Update, and the attainment demonstration adjusted by the EPA results in excess $NO_X$ reductions in 2018 of only 0.1 tpd. The 2018 motor vehicle emissions budget (MVEB) in the 2013 Plan Update includes a 2018 safety margin of 3.0 tpd of $NO_X$. In their comment letter, SMAQMD requests that the EPA reallocate 0.9 tpd of $NO_X$ from the 2018 MVEB safety margin to the ''general conformity $NO_X$ buffer.'' This would leave 2.1 tpd in the 2018 $NO_X$ safety margin and 1.0 tpd of $NO_X$ (*i.e.,* 0.9 tpd from the safety margin plus 0.1 tpd excess in the adjusted attainment demonstration) available, if needed, for general conformity.

*Response:* The SMAQMD is correct that, in proposing approval of the attainment demonstration, the EPA did not credit all of the emissions reductions claimed in the plan but found that the plan nonetheless provides sufficient, creditable, emissions reductions to meet the emissions targets necessary to attain the ozone standard by 2018. The EPA, however, did credit some of the local measures included as ''remaining regional/local control measures'' in line J of table 8–1 in the 2013 Plan Update for attainment demonstration purposes because, by the time of our proposed rule, certain individual rules had been adopted, submitted, and approved by the EPA (*e.g.,* YSAQMD Rule 2.37). See table 10 of the October 15, 2014 proposed rule.

The emissions reductions that EPA discounted in its evaluation of the attainment demonstration include those associated with (1) local rules that, while adopted, have not yet been submitted or approved by the EPA but for which credit is taken as part of the emission inventory baseline for 2018 (see page 14 of the EPA's TSD for the October 15, 2014 proposed rule); (2) certain mobile source incentive programs for which credit is taken as part of the emission inventory baseline for 2018 (see page 14 of the TSD); (3) local rules included as ''remaining regional/local control measures'' (see pages 7–27 through 7–31 of the 2013 Plan Update) included in line J in table 8–1 of the 2013 Plan Update that have not been adopted or submitted to the EPA for approval as part of the SIP; (4) regional non-regulatory measures (included in line J in table 8–1 of the 2013 Plan Update); and (5) the ''Remaining State/Federal Control Measures'' (shown in line K in table 8–1 of the 2013 Plan Update).

By the EPA's accounting, as SMAQMD contends, the ''buffer'' is

[8] The 2007 State Strategy also includes measures (*i.e.,* Smog Check improvements) to be implemented by the California Bureau of Automotive Repair. See 2007 State Strategy, pp. 64–65 and CARB Resolution 7–28, Attachment B, p. 8.

[9] See CARB Resolution No. 09–34, April 24, 2009 and letter, James N. Goldstene, Executive Officer, CARB to Wayne Nastri, Regional Administrator, EPA Region 9, August 12, 2009 with enclosures. Only pages 11–27 of the Revised 2007 State Strategy were submitted as a SIP revision. The balance of the report was for informational purposes only. See Attachment A to CARB Resolution No. 09–34.

[10] The EPA has previously approved portions of CARB's 2007 State Strategy and the Revised 2007 State Strategy that are relevant for attainment of the 1997 8-hour ozone standard in the San Joaquin Valley. See 77 FR 12674 (March 1, 2012).

[11] Motor vehicle emission budgets (MVEBs) for 2011, 2014, and 2017 were previously found adequate by the EPA on July 28, 2009 (74 FR 37210). New MVEBs for 2014, 2017, and 2018 in the 2013 Plan Update were determined to be adequate on July 25, 2014. The adequacy finding was published on August 8, 2014 (79 FR 46436) with an effective date of August 25, 2014.

[12] The October 15, 2014 proposal incorrectly refers to table 7–2 on pages 7–5 and 7–6 of the 2013 Plan Update as the location of the Districts' commitments to adopt and implement certain defined measures. The correct cite is Table 7–5 on page 7–32. The Districts' measures are further described in Section 7.5 of the 2013 Plan Update.

only 0.1 tpd for $NO_X$, not 1.0 tpd as claimed in the plan. The calculated ''buffer'' itself reflects a 2018 MVEB ''safety margin'' of 3 tpd of $NO_X$, and therefore, there are surplus $NO_X$ reductions that could be reallocated from the MVEB ''safety margin'' to other purposes, such as a set-aside for general conformity. However, to effectuate such a reallocation, the CARB and the Districts should adopt and submit a revised plan to EPA as a revision to the SIP. The EPA contacted the SMAQMD concerning this matter, and the SMAQMD expressed support for completion of the current rulemaking even if the EPA cannot grant the request to reallocate a portion of the $NO_X$ MVEB at this time.[13] Therefore, we are taking final action today consistent with our October 15, 2014 proposed rule and will consider the reallocation of the MVEB safety margin once a revised SIP is submitted.

## III. What action is the EPA taking?

For the reasons discussed in our October 15, 2014 proposal and summarized above, the EPA is approving California's attainment SIP for the Sacramento Metro Area for the 1997 8-hour Ozone NAAQS. This SIP is comprised of the Sacramento Regional Nonattainment Area 8-Hour Ozone Reasonable Further Progress Plan 2002–2008 (February 2006), Sacramento Regional 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan (March 26, 2009), CARB's 2007 State Strategy (adopted by CARB on September 27, 2007) and Revised 2007 State Strategy (March 24, 2009) (specifically, the portions applicable to the SMA), and the Sacramento Regional 8-Hour Ozone Attainment Plan and Reasonable Further Progress Plan (September 26, 2013).

Under section 110(k)(3), the EPA is approving the following elements of the Sacramento Ozone Plan:

1. The revised 2002 base year emissions inventory as meeting the requirements of CAA section 182(a)(1) and 40 CFR 51.915;

2. The reasonably available control measure demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.912(d);

3. The rate of progress and reasonable further progress demonstrations as meeting the requirements of CAA sections 172(c)(2) and 182(c)(2)(B) and 40 CFR 51.910 and 51.905;

4. The attainment demonstration as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.908;

5. The contingency measure provisions for failure to make RFP and to attain as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9);

6. The demonstration that the SIP provides for transportation control strategies and measures sufficient to offset any growth in emissions from growth in VMT or the number of vehicle trips, and to provide for RFP and attainment, as meeting the requirements of CAA section 182(d)(1)(A);

7. The revised motor vehicle emissions budgets for 2017 and for the attainment year of 2018, because they are derived from approvable RFP and attainment demonstrations and meet the requirements of CAA section 176(c) and 40 CFR part 93, subpart A;[14] and

8. The Districts' commitments to adopt and implement certain defined measures, as summarized in table 7–5 on page 7–32 of the 2013 Plan Update.

## IV. Statutory and Executive Order Reviews

The Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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 plan revisions as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this final 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 (Pub. L. 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 CAA; and
- Does not provide the 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), nor will it 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. The 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 30, 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. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

[13] See email from Deborah Jordan, Director, Air Division, EPA Region IX, dated December 17, 2014, summarizing a December 3rd telephone conversation between herself and Larry Greene at the SMAQMD.

[14] The MVEBs approved in today's action are the following (in tons per day, average summer weekday): 18 tpd and 39 tpd of VOC and $NO_X$ for 2017, respectively, and 17 tpd and 37 tpd of VOC and $NO_X$, respectively, for 2018.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 9, 2015.

**Jared Blumenfeld,**

*Regional Administrator, EPA Region 9.*

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)(450), (c)(451) and (c)(452) to read as read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(450) The following plan was submitted on February 24, 2006 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Sacramento Metro 1997 Eight-Hour Ozone Planning Area.

(*1) Sacramento Regional Nonattainment Area 8-Hour Ozone Rate-of-Progress Plan,* Final Draft, December 2005.

(451) The following plan was submitted on April 17, 2009 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Sacramento Metro 1997 Eight-Hour Ozone Planning Area.

(*1*) *Sacramento Regional 8-Hour Ozone Attainment and Reasonable Further Progress Plan (With Errata Sheets Incorporated),* March 26, 2009 (Reasonable further progress demonstration and related contingency demonstration for milestone year 2011 as presented in chapter 13 (''Reasonable Further Progress Demonstrations'') only).

(452) The following plan was submitted on December 31, 2013 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Sacramento Metro 1997 Eight-Hour Ozone Planning Area.

(*1*) *Sacramento Regional 8-Hour Ozone Attainment and Reasonable Further Progress Plan (2013 SIP Revisions),* September 26, 2013, including appendices.

(*2*) Supplemental information, titled ''Sacramento Federal Ozone Nonattainment Area, July 24, 2014,'' for Appendix F–1 (''Vehicle Miles Traveled Offset Demonstration'') of the *Sacramento Regional 8-Hour Ozone Attainment and Reasonable Further Progress Plan (2013 SIP Revisions).*

[FR Doc. 2015–01609 Filed 1–28–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2011–0725, FRL–9922–04–Region 8]**

### Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$, 2008 Lead, 2008 Ozone, and 2010 $NO_2$ National Ambient Air Quality Standards; South Dakota

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) revisions from the State of South Dakota to demonstrate the State meets infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for fine particulate matter ($PM_{2.5}$) on July 18, 1997 and October 17, 2006; lead (Pb) on October 15, 2008; ozone on March 12, 2008; and nitrogen dioxide ($NO_2$) on January 22, 2010. EPA is also approving SIP revisions the State submitted updating the Prevention of Significant Deterioration (PSD) program and provisions regarding state boards. Section 110(a) of the CAA requires that each state submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA.

**DATES:** This rule is effective on March 2, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2011–0725. 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, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Abby Fulton, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, 303–312–6563, *fulton.abby@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

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### I. Background

Infrastructure requirements for SIPs are provided in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPR) published on December 1, 2014 (79 FR 71040).

The NPR proposed approval of South Dakota's submissions with respect to the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$, 2008 Pb, 2008 ozone, and 2010 $NO_2$ NAAQS: CAA 110(a)(2) (A), (B), (C) with respect to minor new source review (NSR) and PSD requirements, (D)(i)(II) prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The reasons for our approval are provided in detail in the NPR.

For reasons explained in the NPR, EPA also proposed to approve revisions to the Administrative Rules of South Dakota (ARSD) 74:36:09 submitted on July 29, 2013, which incorporate by reference the requirements of EPA's September 29, 2010 $PM_{2.5}$ Increment Rule. Specifically, we proposed to approve the adoption of the text of 40 CFR 52.21, paragraphs (b)(14)(i),(ii),(iii), (b)(15)(i),(ii), and paragraph (c) as they existed on July 1, 2012 by approving revisions to: ARSD 74:34:09:02

(Prevention of significant deterioration) and 74:36:09:03 (Public participation).

For reasons explained in the NPR, EPA proposed approval of revisions to ARSD 74:09 and the South Dakota Codified Laws (SDCL) 1–40–25.1 submitted on June 11, 2014 to satisfy requirements of element (E)(ii), state boards. Finally, EPA proposed approval of D(i)(I) prongs 1 and 2 for the 2006 $PM_{2.5}$, 2008 Pb, and 2010 $NO_2$ NAAQS. EPA will act separately on infrastructure element (D)(i)(I), interstate transport for the 2008 ozone NAAQS.

**II. Response to Comments**

No comments were received on our December 1, 2014 NPR.

**III. Final Action**

EPA is approving the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$, 2008 Pb, 2008 ozone, and 2010 $NO_2$ NAAQS: CAA 110(a)(2) (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is also approving revisions to ARSD 74:36:09 submitted on July 29, 2013, which incorporate by reference the requirements of EPA's September 29, 2010 $PM_{2.5}$ Increment Rule. Specifically, we are approving the adoption of the text of 40 CFR 52.21, paragraphs (b)(14)(i),(ii),(iii), (b)(15)(i),(ii), and paragraph (c) as they existed on July 1, 2012 by approving revisions to: ARSD 74:36:09:02 (Prevention of significant deterioration) and 74:36:09:03 (Public participation). EPA is also approving revisions to ARSD 74:09 and SDCL 1–40–25.1 submitted on June 11, 2014 to satisfy requirements of element (E)(ii), state boards. Finally, EPA is approving D(i)(I) prongs 1 and 2 for the 2006 $PM_{2.5}$, 2008 Pb, and 2010 $NO_2$ NAAQS. EPA will act separately on infrastructure element (D)(i)(I), interstate transport for the 2008 ozone NAAQS.

**IV. Statutory and Executive Orders Review**

Under the CAA, 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 CAA. Accordingly, this action merely approves some state law as meeting Federal requirements and disapproves other state law because it does not meet federal requirements; this action 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, Oct. 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, Aug. 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 CAA; and,
- 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 (59 FR 7629, Feb. 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, Nov. 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 March 30, 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. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds, Incorporation by reference.

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

Dated: January 14, 2015.

**Debra H. Thomas,**

*Acting Regional Administrator, Region 8.*

40 CFR part 52 is amended to read 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 QQ—South Dakota

■ 2. Section 52.2170 is amended:

■ a. In paragraph (c)(1) by:

■ i. Adding a new centered heading for ''74:09:01 Contested Case Procedure'' in numerical order and the table entries ''74:09:01:20'' and ''74:09:01:21'' in numerical order;

■ ii. Revising the table entries for ''74:36:09:02'' and ''74:36:09:03''; and

■ b. In the table in paragraph (e) by adding the entries ''XIV'', ''XV'', ''XVI'', ''XVII'', and ''XVIII'' in numerical order.

The revised and added text read as follows:

**§ 52.2170 Identification of plan.**

* * * * *

(c) * * *

(1) * * *

| State citation | Title/subject | State effective date | EPA approval date and citation [1] | Explanations |
|---|---|---|---|---|
| **74:09:01 Contested Case Procedure** | | | | |
| 74:09:01:20 | Board member conflict of interest | 5/29/2014 | 1/29/2015, [insert **Federal Register** citation]. | |
| 74:09:01:21 | Board member potential conflicts of interests. | 5/29/2014 | 1/29/2015, [insert **Federal Register** citation]. | |
| * * * * * * * | | | | |
| **74:36:09 Prevention of Significant Deterioration** | | | | |
| * * * * * * * | | | | |
| 74:36:09:02 | Prevention of significant deterioration. | 6/25/2013 | 1/29/2015, [insert **Federal Register** citation]. | |
| 74:36:09:03 | Public participation | 6/25/2013 | 1/29/2015, [insert **Federal Register** citation]. | |
| * * * * * * * | | | | |

[1] In order to determine the EPA effective date for a specific provision that is listed in this table, consult the **Federal Register** cited in this column for that particular provision.

* * * * * (e) * * *

| Name of nonregulatory SIP provision | Applicable geographic or non-attainment area | State submittal date/ adopted date | EPA approval date and citation [5] | Explanations |
|---|---|---|---|---|
| * | * | * * | * | * * |
| XIV. Section 110(a)(2) Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$ NAAQS. | Statewide | Submitted: 5/20/2008 and 03/04/2011. | 1/29/2015, [insert **Federal Register** citation]. | |
| XV. Section 110(a)(2) Infrastructure Requirements for the 2008 Lead NAAQS. | Statewide | Submitted: 10/10/2012 | 1/29/2015, [insert **Federal Register** citation]. | |
| XVI. Section 110(a)(2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS. | Statewide | Submitted: 5/21/13 | 1/29/2015, [insert **Federal Register** citation]. | Excluding 110(D)(i)(I), interstate transport for the 2008 Ozone NAAQS which will be acted on separately. |
| XVII. Section 110(a)(2) Infrastructure Requirements for the 2010 $NO_2$ NAAQS. | Statewide | Submitted: 10/23/13 | 1/29/2015, [insert **Federal Register** citation]. | |
| XVIII. SDCL (South Dakota Codified Laws), 1–40–25.1. | Statewide | Submitted: 6/11/2014 | 1/29/2015, [insert **Federal Register** citation]. | Source: SL 1995, ch 318 (Ex. Ord. 95–2), § 15. |

[5] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in the column for the particular provision.

[FR Doc. 2015–01613 Filed 1–28–15; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 84

**[Docket Number CDC–2015–0004; NIOSH–280]**

**RIN 0920–AA60**

## Closed-Circuit Escape Respirators; Extension of Transition Period

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Interim final rule.

**SUMMARY:** In March 2012, the Department of Health and Human Services (HHS) published a final rule establishing new standards for the certification of closed-circuit escape respirators (CCERs) by the National Institute for Occupational Safety and Health (NIOSH) within the Centers for Disease Control and Prevention (CDC). The new standards were designed to take effect over a 3-year transition period. HHS has determined that

extending the concluding date for the transition is necessary to allow sufficient time for respirator manufacturers to meet the demands of the mining, maritime, railroad, and other industries. Pursuant to this interim final rule, NIOSH will extend the phase-in period until 6 months after the date that the first approval is granted to certain CCER models.

**DATES:** This rule is effective on January 29, 2015. Comments must be received by March 30, 2015.

**ADDRESSES:** You may submit comments, identified by ''RIN 0920–AA60,'' by any of the following methods:

- *Internet:* Access the Federal e-rulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, OH 45226–1998.

*Instructions:* All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. All relevant comments will be posted without change to *http://www.regulations.gov* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

**FOR FURTHER INFORMATION CONTACT:** Rachel Weiss, Program Analyst; 1090 Tusculum Ave., MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

**SUPPLEMENTARY INFORMATION:**

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## I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, arguments, recommendations, and data. Comments are invited on any topic related to this rulemaking. HHS invites comments specifically on the following question related to this rulemaking:

1. Will a compliance date 6 months after the date that the first approval is granted in each of three categories of CCER types provide sufficient time for respirator manufacturers to develop production capacity to meet expected market demand, while not causing undue loss of sales revenue that may be expected from achieving the first successful design for the given size?

## II. Background

### *A. History of Rulemaking*

Under 42 CFR part 84—Approval of Respiratory Protective Devices, NIOSH approves respirators used by workers in mines and other workplaces for protection against hazardous atmospheres. The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) require U.S. employers to supply NIOSH-approved respirators to their employees whenever the employer requires the use of respirators.

A closed-circuit escape respirator (CCER) is an apparatus in which the wearer's exhalation is rebreathed after the carbon dioxide in the exhaled breath has been effectively removed and a suitable oxygen supply has been restored from sources composed of compressed, chemical, or liquid oxygen. CCERs are used in certain industrial and other work settings during emergencies to enable users to escape from atmospheres that can be immediately dangerous to life and health. The CCER, known in the mining industry as a self-contained self-rescuer, is used by miners to escape dangerous atmospheres in mines. It is also used by certain Navy and Coast Guard personnel, such as crews working below decks on vessels, where it is referred to as an emergency escape breathing device, and in the railroad industry, where it is known as an emergency escape breathing apparatus. To a lesser extent, it is also used by other workers who work underground or in confined spaces, such as in tunneling operations in the construction industry.

Standards for the certification of CCERs were updated in a 2012 final rule, in which HHS codified a new Subpart O and removed only those technical requirements in 42 CFR part 84—Subpart H that were uniquely applicable to CCERs. All other applicable requirements of 42 CFR part 84 were unchanged. The purpose of these updated requirements is to enable NIOSH and MSHA to more effectively ensure the performance, reliability, and safety of CCERs.

The effective date for the new standards in Subpart O was April 9, 2012. Beginning on that date, any new application for a certification of approval for a CCER would be required to meet the new standards in Subpart O. Manufacturers were allowed to continue to manufacture, label, and sell respirators certified to the prior Subpart H standard until April 9, 2015.

### *B. Need for Rulemaking*

HHS has determined that extending the concluding date for the transition is necessary to allow sufficient time for respirator manufacturers to meet the demands of the mining, maritime, railroad, and other industries. NIOSH has found that respirator manufacturers that have submitted applications under the Subpart O standards have not been successful in meeting those standards and obtaining approval of any large-capacity CCERs. While one manufacturer recently received NIOSH approval for a small-capacity non-mining respirator, large-capacity units designed for underground coal mining and other industries are not likely to receive NIOSH approval before the April 9, 2015 deadline. Mining industry and maritime stakeholders have expressed concern that an adequate number of new CCERs will not be available for purchase by April 2015, when the grandfather clause is set to expire, leaving miners, sailors, and other workers with insufficient protection.

### *C. Scope*

Pursuant to this interim final rule, which amends 42 CFR 84.301, NIOSH will extend the deadline for Subpart O compliance until 6 months after the date on which NIOSH approves the first CCER in each of the following three categories, described in 42 CFR 84.304: Cap 1 mining, Cap 3 mining, and Cap 3 non-mining.

CCER Cap 1 non-mining and Cap 2 mining and non-mining categories are not included in this rulemaking. Approval TC–13G–0001 was issued to

Avon Protection Systems, Inc. on July 24, 2014 for its ER–2 emergency escape breathing device (EEBD). The ER–2 EEBD is certified by NIOSH as a Cap 1, 20-liter, CCER for use in non-mining applications. The current deadline for compliance (April 9, 2015) already provides for more than a 6-month period for the issuance of additional approvals for respirators in this category. Therefore, NIOSH has determined no further extension of the existing April 9, 2015 deadline is required for the Cap 1 non-mining category. The Cap 2 mining and non-mining categories are not included in this rulemaking because NIOSH never approved any respirators under the former Subpart H requirements that would be classified within either of these two categories.

## III. Issuance of an Interim Final Rule With Immediate Effective Date

Rulemaking under the Administrative Procedure Act (APA) generally requires a public notice and comment period and consideration of the submitted comments prior to promulgation of a final rule (5 U.S.C. 553). However, the APA provides for exceptions to its notice and comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. In accordance with the provisions in 5 U.S.C. 553(b)(3)(B), HHS finds good cause to waive the use of prior notice and comment procedures for this IFR and to make this action effective immediately.

This IFR amends 42 CFR 84.301 to extend the concluding date for the Subpart O transition to allow sufficient time for respirator manufacturers to meet the supply demands of the mining, maritime, railroad, and other industries. Pursuant to this interim final rule, NIOSH will extend the deadline for Subpart O compliance until 6 months after the date on which NIOSH approves the first CCER in each of three categories. HHS has determined that it is impracticable to use prior notice and comment procedures for this IFR because the transition period will end on April 9, 2015, and respirator manufacturers must have sufficient notice that they may be granted an extension. Thus, HHS is waiving the prior notice and comment procedures in the interest of protecting the health of coal miners and workers in other industries that use CCERs by offering extensions to manufacturers to ensure that the supply of new CCERs will not be depleted after April 9, 2015.

Stakeholders were given an opportunity to comment on the CCER notice of proposed rulemaking, published on December 10, 2008 (73 FR 75027), in which HHS proposed that all CCERs submitted to NIOSH for approval on or after the effective date would adhere to the new standards; all CCERs sold after 3 years would adhere to the new standards; and all certificates of approval under the former standard would be rescinded at 6 years. In response to stakeholder comments, HHS determined that the products certified under the former standard could remain in service through the service time indicated by the manufacturer (typically, 10–15 years), rather than those approvals being rescinded at 6 years, and that retaining the 3-year transition period would address the needs of workplace managers to have a sufficient supply of CCERs while ostensibly giving respirator manufacturers sufficient time to develop new products in accordance with the new standards. With the April 9, 2015 deadline approaching, manufacturers and other stakeholders have expressed concerns that no new products certified to the Subpart O requirements have yet become available. During a NIOSH status update at a MSHA meeting held on June 19, 2014, participating stakeholders were given an additional opportunity to provide input to NIOSH and MSHA, where they expressed concern about the manufacturers' inability to submit respirators to NIOSH for approval prior to the concluding date of the transition period. A majority of manufacturers who have offered input to NIOSH indicate that they will not be able to build enough capacity of units submitted under Subpart O to meet market demands prior to the April 9, 2015 deadline.

Under 5 U.S.C. 553(d)(3), HHS finds good cause to make this IFR effective immediately. As stated above, in order to protect the health of coal miners and workers in other industries, it is necessary that HHS act quickly to amend 42 CFR 84.301 to allow NIOSH to offer transition period concluding date extensions on a case-by-case basis. While amendments to 42 CFR 84.301 are effective on the date of publication of this IFR, they are interim and will be finalized following the receipt and consideration of any substantive public comments. (See **Section I. Public Participation**, above.)

## IV. Summary of Interim Final Rule

This interim final rule amends 42 CFR 84.301 to allow NIOSH to extend the original 3-year period for continued manufacturing, labeling, and sale of CCERs approved under Subpart H to allow for the orderly implementation of the new testing and certification requirements of Subpart O. This provision allows NIOSH to extend the original transition period to allow manufacturers to obtain NIOSH certification, establish production capacity, and complete the modification of existing CCER designs, if necessary, or develop entirely new designs that respond to the new testing and certification requirements. An extension also ensures that a constant supply of approved CCERs will remain available for purchase. The new Subpart O standards will continue to be applied to all new CCER designs that are submitted for approval.

Paragraph (a) of this section is new, and authorizes the continued manufacturing, labeling, and selling of CCERs approved under the former standards in Subpart H until either April 9, 2015 or 6 months after the date that NIOSH first approves a CCER model under the capacity rating categories Cap 1 (for mining applications) and Cap 3 (mining and non-mining) described in 42 CFR 84.304, whichever date comes later. In particular, the compliance deadline may be extended for only those types of CCER that are currently approved under the former standards in Subpart H: 20-minute non-mining units and 10-minute and 1-hour units approved for mining pursuant to 42 CFR 84.100. As discussed in the final rule published on March 8, 2012, 10-minute units are considered comparable to Cap 1 devices, and 1-hour units are comparable to Cap 3 devices (77 FR 14168).

A new paragraph (b) clarifies that any non-major modifications to those approved devices must continue to meet the prior Subpart H standards. CCERs with major modifications that will result in a new NIOSH approval must conform to the new Subpart O standards.

Paragraph (c) of this section is unchanged from the current requirement that Subpart O applies to all CCERs submitted to NIOSH for approval after the effective date of the final rule, April 9, 2012.

## V. Regulatory Assessment Requirements

### *A. Executive Order 12866 and Executive Order 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This interim final rule is not being treated as a ''significant'' action under E.O. 12866. It amends existing 42 CFR 84.301 to allow NIOSH to extend the deadline for respirator certification standards established in 2012, and does not result in any costs to affected stakeholders. Accordingly, HHS has not prepared an economic analysis and the Office of Management and Budget (OMB) has not reviewed this rulemaking.

The rule does not interfere with State, local, or tribal governments in the exercise of their governmental functions.

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. The Department of Health and Human Services (HHS) certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities, including both small manufacturers of CCERs and the small mining operators that are required to purchase them, within the meaning of the RFA.

*C. Paperwork Reduction Act*

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on and to obtain OMB approval of any rule of general applicability that requires recordkeeping, reporting, or disclosure requirements.

NIOSH has obtained approval from OMB to collect information from respirator manufacturers under ''Information Collection Provisions in 42 CFR Part 84—Tests and Requirements for Certification and Approval of Respiratory Protective Devices'' (OMB Control No. 0920–0109, exp. November 30, 2017), which covers information collected under 42 CFR part 84. This rulemaking does not increase the reporting burden on respirator manufacturers.

*D. Small Business Regulatory Enforcement Fairness Act*

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the Department will report the promulgation of this rule to Congress prior to its effective date. The report will state that the Department has concluded that this rule is not a ''major rule'' because it is not likely to result in an annual effect on the economy of $100 million or more.

*E. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector. For 2014, the inflation-adjusted threshold is $152 million.

*F. Executive Order 12988 (Civil Justice)*

This rule has been drafted and reviewed in accordance with Executive Order 12988, ''Civil Justice Reform,'' and will not unduly burden the Federal court system. NIOSH has provided clear deadline extension requirements that will be applied uniformly to all applications from manufacturers of CCERs. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

*G. Executive Order 13132 (Federalism)*

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule 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.''

*H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)*

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this rule on children. HHS has determined that the rule would have no effect on children.

*I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)*

In accordance with Executive Order 13211, HHS has evaluated the effects of this rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

*J. Plain Writing Act of 2010*

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the interim final rule consistent with the Federal Plain Writing Act guidelines.

**List of Subjects in 42 CFR Part 84**

Incorporation by reference, Mine safety and health, Occupational safety and health, Personal protective equipment, Respirators.

**Interim Final Rule**

For the reasons discussed in the preamble, the Department of Health and Human Services amends 42 CFR part 84 as follows:

## PART 84—APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

■ 1. The authority citation for Part 84 is revised to read as follows:

**Authority:** 29 U.S.C. 651 *et seq.,* 30 U.S.C. 3, 5, 7, 811, 842(h), 844.

■ 2. Revise § 84.301 to read as follows:

### § 84.301 Applicability to new and previously approved CCERs.

(a) The continued manufacturing, labeling, and sale of CCERs previously approved under Subpart H is authorized for units with durations comparable to Cap 1 (for mining applications) and Cap 3 (mining and non-mining applications) until either April 9, 2015 or 6 months after the date of the first NIOSH approval of a respirator model under each respective category specified, whichever date comes later.

(b) Any manufacturer-requested modification to a device approved under the former subpart H standards must comply with the former subpart H standards and address an identified worker safety or health concern to be granted an extension of the NIOSH approval. Major modifications to the configuration that will result in a new approval number must meet and be

issued approvals under the requirements of this subpart O.

(c) This subpart O applies to all CCERs submitted to NIOSH for a certificate of approval after April 9, 2012.

Dated: January 14, 2015.

**Sylvia M. Burwell,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2015–01057 Filed 1–28–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 84

**[Docket No. CDC–2013–0004; NIOSH–216]**

**RIN 0920–AA42**

### Respirator Certification Fees

*Correction*

In rule document 2015–01046, appearing on pages 3891–3913 in the issue of Monday, January 26, 2015, make the following correction:

On page 3894, in the second column, in the third paragraph, the entry reading ''[INSERT DATE 120 DAYS AFTER PUBLICATION IN THE **Federal Register**]'' should read May 26, 2015.

[FR Doc. C1–2015–01046 Filed 1–28–15; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Part 225

**RIN 0750–AI49**

### Defense Federal Acquisition Regulation Supplement: Updated Descriptions of Product Service Groups Subject to Trade Agreements (DFARS Case 2015–D004)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update the descriptions of Federal supply groups (now identified as product service groups) subject to trade agreements to conform to the current Federal Procurement Data System Product and Service Codes Manual.

**DATES:** Effective January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, telephone 571–372–6106.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

This final rule amends DFARS 225.401–70 to update the descriptions of the Federal supply groups, now identified as product service groups (PSGs), to conform to the Federal Procurement Data System Product and Service Codes Manual, August 2011 Edition. DFARS 225.401–70 lists end products that are subject to trade agreements when acquired by DoD. There are no changes to the groups covered; however, a number of the PSG descriptions are updated in order to better reflect product coverage. The World Trade Organization Government Procurement Agreement, Free Trade Agreement, and other designated countries will continue to have guaranteed access to the goods committed under U.S. international agreements. The revised descriptions more clearly include some new items that were not previously mentioned in the descriptions, even though included in the product service group.

#### II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it does not change the Federal supply groups covered, but just updates the descriptions of the listed product service groups to reflect the current Product and Service Codes Manual. It does not impact which products are subject to trade agreements.

#### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

#### V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### List of Subjects in 48 CFR Part 225

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 225 is amended as follows:

## PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

#### 225.401–70 [Amended]

■ 2. Amend section 225.401–70 by—

■ a. In the introductory text, removing ''Federal supply groups (FSG)'' and adding ''product service groups (PSGs)'' in its place;

■ b. In the table column heading, removing ''FSG'' and adding ''PSG'' in its place;

■ c. In newly redesignated entry PSG 23, removing ''(except 2350 and buses under 2310)'' and adding ''(except 2305, 2350, and buses under 2310)'' in its place;

■ d. In newly redesignated entry PSG 40, adding a comma after ''chain'';

■ e. In newly redesignated entry PSG 41, removing ''Refrigeration and air conditioning equipment'' and adding ''Refrigeration, air conditioning, and air circulating equipment'' in its place;

■ f. In newly redesignated entry PSG 42, removing ''Fire fighting, rescue and

safety equipment'' and adding ''Fire fighting, rescue, and safety equipment; and environmental protection equipment and materials'' in its place;
■ g. In newly redesignated entry PSG 44, adding a comma after ''plant'';
■ h. In newly redesignated entry PSG 45, removing ''sanitation'' and adding ''waste disposal'' in its place;
■ i. In newly redesignated entry PSG 47, removing ''Piping, tubing, hose, and fitting'' and adding ''Pipe, tubing, hose, and fittings'' in its place;
■ j. In newly redesignated entry PSG 49, removing ''(except 4920–4927, 4931–4935, 4960)'' and adding ''(except 4920–4927, 4931–4935, 4960, 4970)'' in its place;
■ k. In newly redesignated entry PSG 63, removing ''Alarm and signal systems'' and adding ''Alarm, signal, and security detection systems'' in its place;
■ l. In newly redesignated entry PSG 70, removing ''General purpose ADPE, software, supplies, and support equipment'' and adding ''Automatic data processing equipment (including firmware), software, supplies and support equipment'' in its place;
■ m. In newly redesignated entry PSG 74, removing ''Office machines, visible record equipment and ADP equipment'' and adding ''Office machines, text processing systems and visible record equipment'' in its place;
■ n. In newly redesignated entry PSG 77, removing ''home type radios'' and adding ''home-type radios'' in its place;
■ o. In newly redesignated entry PSG 81, adding a comma after ''packaging'';
■ p. In newly redesignated entry PSG 83, removing ''flag staffs'' and adding ''flagstaffs'' in its place; and
■ q. In newly redesignated entry PSG 91, removing ''Fuels, oils, and waxes'' and adding ''Fuels, lubricants, oils, and waxes'' in its place.

[FR Doc. 2015–01434 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Part 252

**RIN 0750–AI25**

### Defense Federal Acquisition Regulation Supplement: Electronic Submission of Technical Reports (DFARS Case 2014–D001)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to require that scientific and technical reports be submitted in electronic format.

**DATES:** Effective January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Veronica Fallon, telephone 571–372–6098.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 51293 on August 28, 2014, to require submission of scientific and technical reports online in electronic media to the Defense Technical Information Center.

#### II. Discussion and Analysis

There were no public comments submitted in response to the proposed rule. No changes were made to the proposed rule.

#### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to require electronic submission of scientific and technical reports (vice paper). Electronic submission of the report is required by DoD Instruction 3200.12, DoD Scientific and Technical Information Program. The rule revises DFARS clause 252.235–7011, Final Scientific or Technical Report, by requiring the contractor to submit an electronic copy of the approved final scientific or technical report. This change will lend efficiency to the submission process by no longer requiring the electronically initiated report to be printed for submission. It will also allow the report to be submitted in the same format as it was created, thereby streamlining and modernizing the report submission process.

No public comments were submitted in response to the initial regulatory flexibility analysis.

According to the Federal Procurement Data System, in fiscal year 2013 DoD made approximately 469,593 contract awards to small businesses, of which approximately 4,143 (less than one percent), were awarded as research, development, test and evaluation contracts. DoD does not expect this rule to have a significant economic impact on a substantial number of small entities because it is not revising any report submission requirements, it is only modernizing the submission process.

This rule does not impose any new reporting requirements. This rule does not impose any new requirements on small entities, and since the rule only changes the mode of submission of the reports from paper to electronic means, this change is expected to have only a negligible impact on small entities.

#### V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) does apply; however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0188, entitled ASSIST Database, which expires on August 31, 2016.

#### List of Subjects in 48 CFR Part 252

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 252 is amended as follows:

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Section 252.235–7011 is revised to read as follows:

**252.235–7011 Final scientific or technical report.**

As prescribed in 235.072(d), use the following clause: FINAL SCIENTIFIC OR TECHNICAL REPORT (JAN 2015)

The Contractor shall—

(a) Submit an electronic copy of the approved final scientific or technical report, not a summary, delivered under this contract to the Defense Technical Information Center (DTIC) through the web-based input system at *http://www.dtic.mil/dtic/submit/* as required by DoD Instruction 3200.12, DoD Scientific and Technical Information Program (STIP). Include a completed Standard Form (SF) 298, Report Documentation Page, in the document, or complete the web-based SF 298.

(b) For instructions on submitting multi-media reports, follow the instructions at *http://www.dtic.mil/dtic/submit.*

(c) Email classified reports (up to Secret) to *TR@DTIC.SMIL.MIL.* If a SIPRNET email capability is not available, follow the classified submission instructions at *http://www.dtic.mil/dtic/submit/.*

(End of clause)

[FR Doc. 2015–01432 Filed 1–28–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**[Docket No. FWS–R2–ES–2013–0056; FXES11130900000–156–FF09E42000]**

**RIN 1018–AY46**

## Endangered and Threatened Wildlife and Plants; Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf; Correction

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule; correction.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on January 16, 2015, that revises the regulations for the nonessential experimental population of the Mexican wolf (*Canis lupus baileyi*). In that rule, we made an error in our description of Phase 2 by stating that dispersal and occupancy of Mexican wolves west of Interstate 17 will be limited to the area west of Highway 89 in Arizona. We intended to state that dispersal and occupancy of Mexican wolves west of Interstate 17 will be limited to the area east of Highway 89. With this document, we correct our error.

**DATES:** This correction is effective February 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Sherry Barrett, (505) 761–4704.

**SUPPLEMENTARY INFORMATION:** In a final rule that published in the **Federal Register** on January 16, 2015, at 80 FR 2512, the following correction is made:

### § 17.84 [Corrected]

■ 1. On page 2564, in the third column, the fourth sentence of § 17.84(k)(9)(iv)(B) is amended by removing the words ''west of Highway 89'' and adding in their place the words ''east of Highway 89.''

Dated: January 26, 2015.

Signed:

**Tina A. Campbell,**

*Chief, Division of Policy and Directives Management.*

[FR Doc. 2015–01687 Filed 1–28–15; 8:45 am]

BILLING CODE 4310–55–P

# Proposed Rules

Federal Register
Vol. 80, No. 19
Thursday, January 29, 2015

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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

**[NRC–2014–0058]**

**RIN 3150–AJ39**

## List of Approved Spent Fuel Storage Casks: NAC International MAGNASTOR® System, Certificate of Compliance No. 1031, Amendment No. 4

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations to add Amendment No. 4 to the Certificate of Compliance (CoC) No. 1031 for the NAC International MAGNASTOR® System. Amendment No. 4 changes a limiting condition for operation in the technical specifications for transportable storage canister vacuum drying and helium backfill times, and corrects a typographical error. The NRC approval of this Amendment would not authorize transportation.

**DATES:** Submit comments by March 2, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to: *http://www.regulations.gov* and search for Docket ID NRC–2014–0058. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallagher@nrc.gov.* For technical questions, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Robert MacDougall, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5175, email: *Robert.MacDougall@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2014–0058 when contacting the NRC about the availability of information for this proposed rule. You may access publicly-available information related to this proposed rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to: *http://www.regulations.gov* and search for Docket ID NRC–2014–0058.
- *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. *The proposed CoC, proposed Appendix A and Appendix B of the* technical specifications*, and preliminary Safety Evaluation Report (SER) are available in ADAMS under Accession Nos.* ML14272A472, ML14272A479, ML14272A484, and ML14272A487, respectively.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID NRC–2014–0058 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at: *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

### II. Procedural Background

This proposed rule is limited to the changes contained in Amendment No. 4 to CoC No. 1031 and does not include other aspects of the NAC International MAGNASTOR® System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on April 14,

2015. If the NRC receives significant adverse comments on this proposed rule by March 2, 2015, however, it will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions that would require republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is one in which the commenter explains why the rule would be inappropriate. This could include challenging the rule's underlying premise or approach, or explaining why the rule would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or (c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or technical specifications.

For additional procedural information, including the regulatory analysis and the availability of the environmental assessment and finding of no significant impact, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

## III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the U.S. Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [U.S. Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' which added a new subpart K within 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule (73 FR 70587; November 1, 2008) that approved the NAC International MAGNASTOR® System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214, ''List of approved spent fuel storage casks,'' as CoC No. 1031.

## IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

## List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR–RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

**Authority:** Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282, 2021); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs. 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K also issued under Nuclear Waste Policy Act sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance No. 1031 is revised to read as follows:

### § 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009.

Amendment Number 1 Effective Date: August 30, 2010.

Amendment Number 2 Effective Date: January 30, 2012.

Amendment Number 3 Effective Date: July 25, 2013.

Amendment Number 4 Effective Date: April 14, 2015.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR®.

Dated at Rockville, Maryland, this 15th day of January 2015.

For the Nuclear Regulatory Commission.

**Mark A. Satorius,**

*Executive Director for Operations.*

[FR Doc. 2015–01691 Filed 1–28–15; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0132; Directorate Identifier 2014–CE–038–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; PILATUS Aircraft Ltd. Airplanes

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for PILATUS Aircraft Ltd. Model PC–7 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the potential for a spring on the compressor clutch plate to shear the oil cooler inlet-hose due to the close routing of these parts without a protective cover. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by March 16, 2015.

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

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

For service information identified in this NPRM, contact PILATUS AIRCRAFT LTD., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *http://www.pilatus-aircraft.com.* You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0132; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0132; Directorate Identifier 2014–CE–038–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued AD HB–2014–008, dated December 9, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for PILATUS Aircraft Ltd. Model PC–7 airplanes and was based on mandatory continuing airworthiness information originated by an aviation authority of another country. The MCAI states:

> This Airworthiness Directive (AD) is prompted due to an unprotected routing of the oil cooler inlet-hose close to the air conditioning compressor clutch plate.
> If a spring on the compressor clutch plate shears it could lead to a damage of the oil hose and the engine oil can spill into the engine bay.
> In order to correct and control the situation, this AD requires the installation of a cover assembly which will be mounted on the attachment points of the compressor.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0132.

### Relevant Service Information

PILATUS Aircraft Ltd. has issued PILATUS PC–7 Service Bulletin No: 21–012, dated November 4, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. The PILATUS PC–7 Service Bulletin No: 21–012, dated November 4, 2014, describes procedures for installing a cover assembly to the compressor to protect the engine oil hose.

### FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

### Costs of Compliance

We estimate that this proposed AD will affect 10 products of U.S. registry. We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,250 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $17,600, or $1,760 per product.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This 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 AD:

**PILATUS Aircraft Ltd.:** Docket No. FAA–2015–0132; Directorate Identifier 2014–CE–038–AD.

**(a) Comments Due Date**

We must receive comments by March 16, 2015.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to PILATUS Aircraft Ltd. Model PC–7 airplanes, all serial numbers, that

(1) have not incorporated the actions of any version of PILATUS PC–7 Service Bulletin No: 21–006, which allows for the installation of a different air conditioning compressor mounted at a different location and thus making the unsafe condition nonexistent; and

(2) are certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 21: Air Conditioning.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the potential for a spring on the compressor clutch plate to shear the oil cooler inlet-hose due to the close routing of these parts without a protective cover. We are issuing this AD to correct the unprotected routing of the oil cooler inlet-hose, which could lead to damage of the oil hose resulting in an engine oil spill into the engine bay.

**(f) Actions and Compliance**

Unless already done, within the next 120 days after the effective date of this AD, install a cover assembly on the attachment points of the compressor following the Accomplishment Instructions in PILATUS PC–7 Service Bulletin No: 21–012, dated November 4, 2014.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(h) Related Information**

Refer to MCAI Federal Office of Civil Aviation (FOCA) AD HB–2014–008, dated December 9, 2014; and any version of PILATUS PC–7 Service Bulletin No: 21–006, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0132. For service information related to this AD, contact PILATUS AIRCRAFT LTD., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *http://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on January 20, 2015.

**Robert Busto,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–01556 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0780; Directorate Identifier 2014–NM–168–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** This document announces the reopening of the comment period for the above-referenced NPRM, which proposed the adoption of a new airworthiness directive (AD) that applies to The Boeing Company Model 747 airplanes equipped with a main deck side cargo door (MDSCD). The NPRM proposed to require revising the airplane flight manual to incorporate limitations for carrying certain payloads. This reopening of the comment period is necessary to ensure that all interested persons have ample opportunity to submit any written relevant data, views, or arguments regarding the proposed requirements of the NPRM.

**DATES:** We must receive comments on this NPRM (79 FR 71037, December 1, 2014) by March 2, 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.

**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–2014–0780; 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 AD action, 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:** Steven C. Fox, Senior Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6425; fax: 425–917–6590; email: *steven.fox@faa.gov.*

**SUPPLEMENTARY INFORMATION:** We proposed to amend 14 CFR part 39 by adding a notice of proposed rulemaking (NPRM) that would apply to The Boeing Company Model 747 airplanes equipped with an MDSCD. The NPRM was published in the **Federal Register** on December 1, 2014 (79 FR 71037). The NPRM proposed to require revising the airplane flight manual to incorporate limitations for carrying certain payloads. The NPRM also invites comments on its overall regulatory, economic, environmental, and energy aspects.

**Events Leading to the Reopening of the Comment Period**

Since we issued the NPRM (79 FR 71037, December 1, 2014), several commenters have requested that the comment period be extended/reopened to provide additional time to comment on the merits of the proposal.

**FAA's Determination**

We found it appropriate to reopen the comment period to give all interested persons additional time to examine the proposed requirements of the NPRM (79 FR 71037, December 1, 2014) and submit comments. We have determined that reopening the comment period for 30 days will not compromise the safety of these airplanes.

**Extension of Comment Period**

The comment period for Docket No. FAA–2014–0780, Directorate Identifier 2014–NM–168–AD, has been revised. The comment period now closes March 2, 2015.

No other part of the regulatory information has been changed; therefore, the NPRM (79 FR 71037, December 1, 2014) is not republished in the **Federal Register**.

Issued in Renton, Washington, on January 16, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–01577 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

**RIN 2900–AP25**

## Loan Guaranty: Adjustable Rate Mortgage Notification Requirements and Look-Back Period

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) Loan Guaranty Service (LGY) regulations that govern adjustable rate mortgages made in conjunction with the Home Loan Guaranty program. These revisions would align VA's disclosure and interest rate adjustment requirements with the implementing regulations of the Truth in Lending Act (TILA), as recently revised by the Consumer Financial Protection Bureau (CFPB). Specifically, the rule would amend the timing, content, and format requirements for the disclosures provided to borrowers prior to an interest-rate adjustment. The proposed regulation would also require that an interest-rate adjustment correspond with the interest rate index available 45 days prior to the adjustment. This proposed rulemaking would ensure VA's consistency with other applicable consumer finance and housing regulations governing adjustable rate mortgages.

**DATES:** Comments must be received by VA on or before March 30, 2015.

**ADDRESSES:** Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP25, Loan Guaranty: Adjustable Rate Mortgage Notification Requirements and Look-Back Period.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** John Bell III, Assistant Director for Loan Policy (262), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 632–8786. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** VA's regulations governing adjustable rate mortgages are set forth at 38 CFR 36.4312(d). VA proposes two amendments in this rulemaking to ensure VA regulations remain aligned with TILA and the implementing regulations set forth by the CFPB. First, VA proposes amending 38 CFR

36.4312(d)(6) so that the requirements for the disclosures and notifications that must be provided to borrowers prior to an interest-rate adjustment are cross-referenced to those set forth in the TILA implementing regulations at 12 CFR 1026.20(c) and (d). The requirements of § 1026.20(d) govern an initial interest-rate adjustment, while the requirements in § 1026.20(c) govern subsequent interest-rate adjustments. Second, in an effort to remain consistent with Department of Housing and Urban Development (HUD) regulations, VA would amend 38 CFR 36.4312(d)(2) to require that lenders adjust interest rates based on the most recent interest rate index figure available 45 days prior to the interest rate adjustment, instead of the interest rate index available 30 days prior to the interest rate adjustment, as is currently required in VA's regulations. (In the mortgage industry, the period of time between an interest rate adjustment and the date the interest rate is selected is commonly called the ''look-back period.'')

**2013 TILA Servicing Rule**

In addition to the laws and regulations administered by VA, lenders making VA-guaranteed adjustable rate mortgages must comply with TILA and the Real Estate Settlement Procedures Act (RESPA), both of which are administered by CFPB. The changes VA proposes in this rulemaking are necessary to align VA's adjustable rate mortgage regulations with amendments to the regulations implementing TILA that were published in the **Federal Register** by the CFPB on February 14, 2013 (78 FR 10902), titled ''Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z),'' hereinafter called the ''2013 TILA servicing rule''.

The 2013 TILA servicing rule revised the requirements of 12 CFR 1026.20(c) and (d) relating to the disclosures and notices that must be provided to borrowers before an adjusted payment is due. Paragraph (c) of section 1026.20 requires that borrowers be provided certain specific disclosures in connection with an adjustment in the interest rate at least 60 days, but not more than 120 days, before the first payment at the adjusted level is due. In publishing the 2013 TILA servicing rule, CFPB stated in the rule's preamble that 25 days was insufficient notice for borrowers with adjustable rate mortgages to react to increased mortgage payments. See 78 FR 10924. Requiring that lenders provide 60 days' advance notice of a payment increase to borrowers will improve borrowers' ability to better able to manage their finances following the interest rate adjustments. See id. CFPB explained that this longer notice period will ensure that borrowers may budget adequately for the increase or pursue loss-mitigation resources that lenders may offer to borrowers facing financial hardship, such as home sale, loan modification, forbearance, deed-in-lieu of foreclosure, or, in particular, refinancing. See 78 FR 10919, 10924. CFPB found that 60 days' notice ''more closely reflects the time needed for consumers to refinance a loan.'' 78 FR at 10924.

Additionally, 12 CFR 1026.20(c) governs the content and format of the disclosures that must be sent to borrowers prior to the periodic interest rate adjustments. Under the revised 12 CFR 1026.20(c), such disclosures must include, amongst other information, the term of the borrower's adjustable rate mortgage, an explanation that the interest rate and mortgage payment will change, and a table displaying relevant information about the borrowers' current and future interest rates and payments. (For the full list of requirements, see 12 CFR 1026.20(c)(2) and (c)(3).) CFPB explained in the rule's preamble that providing borrowers with this information would help them understand that their interest rates were subject to periodic changes and allow them to easily compare current and future payments. See 78 FR 10928–29. This would enable borrowers to better manage the changes to their mortgage payments. See 78 FR 10902, 10928–29. All of the required disclosures must be in a format substantially similar to the sample formats prescribed in the 2013 TILA servicing rule, which includes sample forms and disclosures. See 78 FR 11009–10.

The 2013 TILA servicing rule also revised 12 CFR 1026.20(d), which provides separate disclosure requirements for the initial interest rate adjustment on an adjustable rate mortgages. This rule requires that the first time an adjustment in the interest rate will cause a change to the monthly payment on an adjustable rate mortgage, borrowers must be provided appropriate disclosures at least 210, but not more than 240, days before the first payment at the adjusted level is due. If the new interest rate (or new payment calculated from the new interest rate) is not known as of the date of the disclosure, § 1026.20(d) provides that an estimate shall be disclosed and labeled as such. Section 1026.20(d) also contains the requirements for the content and format of the initial disclosures. These disclosures, the accompanying information, and any related tables must include details such as, but not limited to, an explanation of the terms of the borrower's adjustable rate mortgage, the effective date of the interest rate adjustment and when additional future interest adjustments are scheduled to occur, and the telephone number of the lender for borrowers to call if they anticipate not being able to make their new payments. (For a full list of requirements, see 12 CFR 1026.20(d)(2).) All disclosures required under 12 CFR 1026.20(d) must be made in a format substantially similar to that prescribed by the 2013 TILA servicing rule, which includes sample formats for such disclosures. See 78 FR 11011–12.

Additionally, the preamble to the 2013 TILA servicing rule explains that adjustable rate mortgages with look-back periods of less than 45 days would not be able to comply with the new 60 day minimum notice requirement for the disclosures regulated under 12 CFR 1026.20(c). See 78 FR 10910. It noted that adjustable rate mortgages guaranteed by VA and insured by FHA had look-back periods of between 15 and 30 days. See 78 FR 10926. In explaining why a 45-day look-back period would be necessary for compliance with the 1026.20(c) minimum 60-day notice requirement, the preamble stated that a look-back period of 45 days would allow lenders to prepare the required interest-rate adjustment documents for borrowers 45 days in advance of the interest rate adjustments. The typical mortgage billing cycle is 30 days, which means that there would be 30 days between the first date the adjusted interest rate would take effect and the date the new payment is due. These combined timeframes would give lenders an estimated 75 days between the date the interest rate index figure is chosen and the date that the borrower's first adjusted payment is due. 78 FR 10924. CFPB explained in the preamble that it had determined 75 days should be sufficient time to prepare the required disclosures and comply with the requirement that borrowers receive notice of the interest-rate adjustment no later than 60 days before their adjusted payments are due. See id.

The preamble also explained that a revised look-back period of 45 days would be consistent with the business practices of the majority of adjustable rate mortgage loan servicers, as many utilized a 45 day look-back period even prior to the 2013 TILA servicing rule taking effect. See 78 FR 10924. Further, the preamble described CFPB research showing that changing the length of the look-back period from 30 to 45 days would not meaningfully affect the way

that adjustable rate mortgages are priced at the time of loan origination. See id.

Most provisions of the 2013 TILA servicing rule became effective January 10, 2014. However, CFPB delayed the effective date of the notification requirements for VA-guaranteed loans until January 10, 2015, to give VA time to amend its regulations to eliminate the conflicts between VA's existing regulations and the updated TILA implementing regulations. 78 FR 10927. The delayed effective date means that VA adjustable rate mortgages with a note date before January 10, 2015, may comply with VA's current requirements, but any VA-guaranteed loans with a note date on or after January 10, 2015, must comply with the requirements of the 2013 TILA servicing rule.

**HUD Notice and Look-Back Rule**

Loans insured by the Federal Housing Authority (FHA) in HUD must also comply with the 2013 TILA servicing rule as of January 10, 2015. HUD published a final rule on August 26, 2014, at 79 FR 50838, entitled ''Adjustable Rate Mortgage Notification Requirements and Look-Back Period for FHA-Insured Single Family Mortgages,'' hereinafter called the ''HUD notice and look-back rule.'' This rule made two changes to HUD's regulations at 24 CFR 203.49. First, the HUD notice and look-back rule amended 24 CFR 203.49(h) to cross-reference the timing, content, and format requirements of 12 CFR 1026.20(c) and (d) for the disclosures provided to borrowers with adjustable rate mortgages. Second, the HUD notice and look-back rule amended 24 CFR 203.49(d)(2) to implement a 45-day look-back period for all loans originated on or after January 10, 2015. The final rule adopted the proposed rule (published May 8, 2014, at 79 FR 26376) without change.

In the preamble to its final rule, HUD explained that its proposed rule would revise the look-back period for FHA-insured adjustable rate mortgages from 30 to 45 days, and require that mortgagees of an FHA-insured adjustable rate mortgage provide at least a 60 day, but no more than 120 day, advance notice of an adjustment to a mortgagor's monthly payment. 78 FR 50838. The preamble stated that these changes were made in response to the 2013 TILA servicing rule. Id. It explained that that the 2013 TILA servicing rule set the adjustable rate notice requirement to a period of between 60 and 120 days before the newly adjusted payment is due and established 45 days as the minimum adjustable rate mortgage look-back period. Id. HUD noted that the preamble to the 2013 TILA servicing rule had stated that FHA's 30 day look-back period did not provide sufficient time to notify the mortgagor of an interest rate and monthly payment adjustment. Id. In the preamble to the proposed HUD notice and look-back rule, HUD further explained that ''[r]evising the current 30-day look-back period to 45 days would enable FHA-approved mortgagees to meet the 60 to 120-day notification period prior to any adjustment to a mortgagor's monthly payment that may occur, as required by the 2013 TILA Servicing Rule.'' 79 FR 26377.

**VA's Proposed Rule**

To ensure consistency with other Federal housing agency regulations, VA is proposing two amendments to its regulations at 38 CFR 36.4312(d).

**Section 36.4312(d)(6) Disclosures.**

This rulemaking proposes to amend 38 CFR 36.4312(d)(6), which addresses the disclosures and notifications that must be provided to a borrower prior to an interest-rate adjustment. This change would ensure that VA's regulations are consistent with the disclosure and notification requirements published in the 2013 TILA servicing rule by cross-referencing to the timing, content, and format requirements of the CFPB regulations at 12 CFR 1026.20(c) and (d). This cross-reference follows the example of the HUD notice and look-back rule, as set forth at 24 CFR 203.49(h) and explained above.

Specifically, VA proposes changing the title of paragraph (d)(6) from *Annual disclosure* to *Disclosures.* This change reflects that, in cross-referencing to the timing, content, and format requirements of 12 CFR 1026.20(c) and (d), VA is regulating both the disclosures provided to borrowers prior to the initial interest-rate adjustment and prior to all subsequent interest-rate adjustments. VA would remove the 25-day notice period and the list of VA-specific disclosures that must be provided to a borrower in current § 36.4312(d)(6). VA would replace this text with a cross-reference to the 2013 TILA servicing rule requirements published at 12 CFR 1026.20(c) and (d) so that proposed § 36.4312(d)(6) would state ''[t]he lender must provide the borrower with disclosures in accordance with the timing, content, and format required by the regulations implementing the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) at 12 CFR 1026.20(c) and (d). A copy of these disclosures will be made a part of the lender's permanent record on the loan.''

Cross-referencing to the requirements of 12 CFR 1026.20(c) and (d) would lead to more detailed disclosures than VA currently requires. The first time a change to an interest rate would adjust a monthly payment on a VA-guaranteed adjustable rate mortgage, the lender would be required to provide appropriate disclosures to the borrower at least 210, but not more than 240, days before the first payment at the adjusted level is due. For subsequent changes to interest rates, the lender would need to provide the borrower certain specific disclosures at least 60 days, but not more than 120 days, before the first payment at the adjusted level is due. The content and format requirements for the disclosures can also be found at 12 CFR 1026.20(c) and (d).

By cross-referencing to the timing, content, and format requirements of 12 CFR 1026.20(c) and (d), VA would eliminate any discrepancies in the disclosures required by VA's regulations and the TILA implementing regulations published by CFPB, both of which are applicable to VA-guaranteed mortgages. Additionally, the cross-reference to the TILA requirements would ensure that VA's regulations remain current in the event that CFPB revises 12 CFR 1026.20(c) or (d), without VA having to amend its rule. Further, the cross-reference to 12 CFR 1026.20(c) and (d) would ensure consistency with the HUD notice and look-back rule, which revised 24 CFR 203.49(h) to specifically cross-reference to the disclosure timing, content, and format requirements under 12 CFR 1026.20(c) and (d). This alignment should ensure certainty and simplify any process or system updates required by private industry in response to the 2013 TILA servicing rule.

**Section 36.4312(d)(2) Frequency of Interest Rate Changes**

VA would amend 38 CFR 36.4312(d)(2), *Frequency of interest rate changes*. VA is proposing to remove the last sentence of current § 36.4312(d)(2), which sets a look-back period of 30 days. VA would remove the sentence that states: ''[t]he current index figure shall be the most recent index figure available 30 days before the date of each interest rate adjustment.'' VA would add two sentences to the end of paragraph (d)(2). The first sentence would clarify that loans with a note date before January 10, 2015, would retain the 30 day look-back period. The next sentence would explain that loans with a note date on or after January 10, 2015, would have a look-back period of 45 days.

The proposed regulation text added to paragraph (d)(2) would state that for loans where the date of the note is

before January 10, 2015, the current index figure will be the most recent index figure available 30 days before the date of each interest rate adjustment. It would also state that for loans where the date of the note is on or after January 10, 2015, the current index figure will be the most recent index figure available 45 days before the date of each interest rate adjustment.

VA is proposing to use the term ''date of the note'' instead of referring to the date of mortgage loan origination because the date of the note is the legal date on which the obligations between the borrower and lender are established. This is a precise date for lenders to track. Accordingly, VA is also proposing to revise the sentence in (d)(2) that currently states ''[t]he initial index figure shall be the most recent figure available before the date of mortgage loan origination.'' Under the proposed rule, VA would remove the phrase ''mortgage loan origination'' and replace it with ''the note.'' The revised sentence would read: ''[t]he initial index figure shall be the most recent figure available before the date of the note.'' This change in language is not intended to be substantive, but rather is meant to provide further certainty for lenders determining the regulatory requirements applicable to VA-guaranteed adjustable rate mortgages.

This proposed change to the look-back period would help ensure lender compliance with the 2013 TILA servicing rule 60 day minimum notice requirement before the first adjusted payment is due. This change would also ensure VA regulations remain consistent with other Federal housing agency regulations, thereby adding certainty and clarity for program participants that originate and service VA and FHA-backed adjustable rate mortgages.

As explained above under the heading TILA 2013 Servicing Rule, the 2013 TILA servicing rule has been effective for a large portion of the mortgage market since January 10, 2014. CFPB explained in the preamble to the 2013 TILA servicing rule, however, that it would ''grandfather'' FHA and VA adjustable rate mortgages with look-back periods of less than 45 days originated prior to one year after the effective date of the final rule. 78 FR 10927. Accordingly, the final rule provides until January 10, 2015, for VA-guaranteed adjustable rate mortgages to satisfy the notice and disclosure requirements of the 2013 TILA servicing rule. See id. Since VA is merely conforming its look-back period to accord with TILA, VA is proposing to use the date that is one year after the effective date of the 2013 TILA servicing rule to determine which look-back period should apply to a given loan. For loans where the note is dated before January 10, 2015, the current 30-day period would apply. For loans where the note is dated on or after January 10, 2015 the 45-day look-back period would apply.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/*, by following the link for VA Regulations Published from FY 2004 to FYTD.

**Unfunded Mandates**

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

**Paperwork Reduction Act**

Although this document contains a provision constituting a collection of information at 38 CFR 36.4312(d)(6), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this proposed rule. The information collection provisions for this proposed rule are currently approved by OMB and have been assigned OMB control number 3170–0015.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612).

This proposed rule aligns the disclosure and look-back requirements for adjustable rate mortgages to the revised requirements in the 2013 TILA servicing rule. VA does not have discretion not to align these requirements with the new TILA requirements established by CFPB and implemented by CFPB in the 2013 TILA servicing rule. The revised disclosure and look-back requirements would apply to VA adjustable rate mortgages in January 2015, whether or not VA takes action. VA has initiated this rulemaking because it is important for VA regulations to be consistent with TILA. In this rule, VA would adopt the minimum 45 day look-back period to clarify that lenders must meet the TILA minimum requirements governing notification to borrowers. As discussed in this preamble, CFPB noted in its rulemaking that the majority of adjustable rate mortgages in the conventional market have look-back periods of 45 days or longer. With the 2013 TILA servicing rule having taken effect on January 10, 2014, any lenders making adjustable rate mortgages in the conventional market have adjusted to the new TILA requirements. Additionally, the revisions to the

disclosure requirements simply conform VA requirements to the 2013 TILA servicing rule and the procedures currently followed in the conventional mortgage lending market.

Accordingly, the Secretary certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number and title for the program affected by this document are 64.114, Veterans Housing—Guaranteed and Insured Loans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on January 23, 2015, for publication

**List of Subjects in 38 CFR Part 36**

Condominiums, Flood insurance, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs—Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Dated: January 26, 2015.

**William F. Russo,**

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

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 36 as follows:

## PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and as otherwise noted.

■ 2. Revise § 36.4312(d)(2) and (d)(6) to read as follows:

**§ 36.4312 Interest rates.**

* * * * *

(d) * * *

(2) *Frequency of interest rate changes.* Interest rate adjustments must occur on an annual basis, except that the first adjustment may occur no sooner than 36 months from the date of the borrower's first mortgage payment. The adjusted rate will become effective the first day of the month following the adjustment date; the first monthly payment at the new rate will be due on the first day of the following month. To set the new interest rate, the lender will determine the change between the initial (*i.e.,* base) index figure and the current index figure. The initial index figure shall be the most recent figure available before the date of the note. For loans where the date of the note is before January 10, 2015, the current index figure shall be the most recent index figure available 30 days before the date of each interest rate adjustment. For loans where the date of the note is on or after January 10, 2015, the current index figure shall be the most recent index figure available 45 days before the date of each interest rate adjustment.

* * * * *

(6) *Disclosures.* The lender must provide the borrower with disclosures in accordance with the timing, content, and format required by the regulations implementing the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) at 12 CFR 1026.20(c) and (d). A copy of these disclosures will be made a part of the lender's permanent record on the loan.

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 3170–0015.)

[FR Doc. 2015–01681 Filed 1–28–15; 8:45 am]

**BILLING CODE 8320–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 27 and 73

**[AU Docket No. 14–252; GN Docket No. 12–268; FCC 14–191; DA 15–24; DA 15–60]**

## Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including 1001 and 1002

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; proposed auction procedures.

**SUMMARY:** The *Auction 1000 Request for Comment* initiates the pre-auction process by which the Federal Communications Commission will develop detailed procedures for the broadcast television spectrum incentive auction, taking into account public comment received in response to its proposals. The *Auction 1000 Request for Comment* includes specific proposals, including on determination of the initial broadcast television spectrum clearing target, opening bid prices, benchmarks for the final stage rule, and the final television channel assignment process, and seeks comment on those proposed procedures.

**DATES:** Comments are due on or before February 13, 2015, and reply comments are due on or before March 13, 2015. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before March 30, 2015.

**ADDRESSES:** All filings in response to this notice must refer to AU Docket No. 14–252 and GN Docket No. 12–268. The Federal Communications Commission strongly encourages interested parties to file comments electronically, and requests that an additional copy of all comments and reply comments be submitted electronically to the following address: *auction1000@fcc.gov.* Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

*People with Disabilities:* Contact the FCC to request reasonable

accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

*PRA Comments:* In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

**FOR FURTHER INFORMATION CONTACT:** *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* For auction legal questions: Erin Griffith at (202) 418–0660 and for general auction questions: Linda Sanderson at (717) 338–2868; *Spectrum and Competition Policy Division:* For mobile spectrum holding questions: Amy Brett at (202) 418–1310; and *Broadband Division:* For 600 MHz Band service rule questions: Madelaine Maior at (202) 418–1466. *Media Bureau, Video Division:* For broadcast questions: Dorann Bunkin at (202) 418–1636. *Office of Engineering and Technology:* For repacking and inter-service interference questions: Aspasia Paroutsas (legal) at (202) 418–7285 or Martin Doczkat (technical) (202) 418–2435. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams on (202) 418–2918.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction 1000 Request for Comment* adopted on December 11, 2014 and released on December 17, 2014, as well as the Order adopted and released on January 7, 2015, extending the dates for responding to the Auction 1000 Request for Comment and the *Supplemental Auction 1000 Request for Comment* adopted and released on January 15, 2015. The *Auction 1000 Request for Comment* includes as attachments the following appendices: Appendix A, Incentive Auction General Flow; Appendix B, ISIX Constraints; Appendix C, Clearing Target Optimization; Appendix D, Reverse Auction Pricing and Bid Processing Algorithm; Appendix E, Final Channel Assignment Optimization; Appendix F, Bidding Units, Upfront Payments, and Minimum Opening Bids; Appendix G, Forward Auction Clock Phase; and Appendix H, Forward Auction Assignment Phase. The complete text of the *Auction 1000 Request for Comment,* including all attachments and related Commission documents, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The *Auction 1000 Request for Comment* and its attachments, as well as related Commission documents, also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, FCC 14–191. The *Auction 1000 Request for Comment* and its attachments, as well as related documents, also are available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/1000/,* or by using the search function for AU Docket No. 14–252, GN Docket 12–268 on the Commission's Electronic Comment Filing System (ECFS) Web page at *http://www.fcc.gov/cgb/ecfs/.*

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13.

Comments should address: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) 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 (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

*OMB Control Number:* None.

*Title:* Application by a Broadcast Licensee to Participate in a Broadcast Spectrum Incentive Auction (BSIA), FCC Form 177; and 47 CFR 1.22002.

*Form No.:* FCC Form 177.

*Type of Review:* New collection.

*Respondents:* Business or other for profit entities; not-for-profit institutions; State, local or Tribal government.

*Number of Respondents and Responses:* 2,254 respondents; 2,254 responses.

*Estimated Time per Response:* 3 hours.

*Frequency of Response:* One time reporting requirement.

*Obligation to Respond:* Required to obtain benefits. The statutory authority for this information collection is contained in sections 154(i) and 309 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 6,762 hours.

*Total Annual Costs:* N/A.

*Privacy Act Impact Assessment:* N/A.

*Nature and Extent of Confidentiality:* Pursuant to statute, pending the effective date of related license reassignments and spectrum reallocations, the Commission will take all reasonable steps necessary to protect the confidentiality of Commission-held data of a broadcast licensee participating in the broadcast spectrum incentive auction, pursuant to 47 CFR 1.22006.

*Needs and Uses:* Any broadcast licensee choosing to participate in the broadcast spectrum incentive auction must provide information to demonstrate that it is legally, technically, and financially qualified to participate, pursuant to 47 CFR 1.22000 and 1.22004. Information collection on the form will include information regarding the relevant broadcast license, information regarding parties with an ownership interest in the license, and if applicable, information regarding any agreement that the applicant may have to share a broadcast channel in the event that it relinquishes some of its spectrum usage rights through the auction.

*Statutory Authority:* The statutory authority for this information collection is contained in sections 154(i) and 309 of the Communications Act of 1934, as amended.

*OMB Control Number:* 3060–0600.

*Title:* Application to Participate in a FCC Auction; FCC Form 175; 47 CFR 1.2105, 1.2110 and 1.2112.

*Form No.:* FCC Form 175.

*Type of Review:* Revision of currently approved collection.

*Respondents:* Business or other for-profit; Not-for-profit institutions; State, local or Tribal governments.

*Number of Respondents and Responses:* 500 respondents; 500 responses.

*Estimated Time per Response:* 90 minutes.

*Frequency of Response:* On occasion reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits.

*Total Annual Burden:* 750 hours.

*Total Annual Costs:* N/A.

*Privacy Act Impact Assessment:* N/A.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information. Applicants may request confidential treatment of information collected in FCC Form 175 pursuant to 47 CFR 0.459.

*Needs and Uses:* The Commission will revise the FCC Form 175 to require a party to certify compliance with requirements applicable to the incentive auction prior to submitting the Form.

*Statutory Authority:* The statutory authority for this information collection is contained in sections 154(i) and 309 of the Communications Act of 1934, as amended.

## I. Introduction

1. With the *Auction 1000 Request for Comment,* the Commission takes another important step toward conducting the broadcast television spectrum incentive auction, a new tool to help meet the Nation's accelerating spectrum needs. The Commission established the rules and policies for the incentive auction in the Report and Order, ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction,'' 79 FR 48441, August 15, 2014 (*Incentive Auction R&O).* The *Auction 1000 Request for Comment* initiates the pre-auction process by which the Commission will develop, based on additional public input, the detailed procedures necessary to carry out the auction. It includes specific proposals on crucial auction design issues such as determination of the initial broadcast television spectrum clearing target, opening bid prices, benchmarks for the final stage rule, and the final television channel assignment process. The legal authority for the Commission's proposals is set forth in the rules the Commission adopted in the *Incentive Auction R&O.*

2. The incentive auction will include a ''reverse auction'' in which broadcasters will offer to voluntarily relinquish some or all of their spectrum usage rights, and a ''forward auction'' of new, flexible-use licenses suitable for providing mobile broadband services. Forward auction proceeds will be used to pay broadcasters that relinquish rights in the reverse auction. As part of the reverse auction, the Commission will reorganize or ''repack'' the broadcast TV spectrum so that the television stations that remain on the air after the incentive auction occupy a smaller portion of the UHF band. For the incentive auction to succeed, the reverse and forward auctions and the repacking process must work seamlessly.

3. To encourage voluntary broadcaster participation, the Commission is striving to make the reverse auction design simple and transparent from the perspective of the broadcaster bidder. Broadcasters will be able to participate online through an easy-to-use computer interface and will be able to react to prices provided by the auction system rather than having to formulate their own bids. They will have multiple options to relinquish their spectrum usage rights in exchange for a share of auction proceeds—including to cease broadcasting, to continue broadcasting in a different band, or to share a channel with another station. Broadcasters can decide whether to participate after opening prices are announced, and may drop out of the bidding in any subsequent round if they decide the prices are too low. Stations will be treated the same in the repacking process whether or not they participate in the reverse auction. Except for broadcasters that receive auction proceeds in exchange for relinquishing spectrum usage rights, the identities of broadcasters that participate in the auction will remain confidential for a period of two years after the incentive auction.

4. Because the reverse auction and the repacking process are interdependent, the *Auction 1000 Request for Comment* includes proposals that may affect broadcasters that do not choose to participate in the reverse auction, such as objectives for optimizing final channel assignments in the remaining television bands. In making such proposals, the Commission is mindful of Congress's directive to make all reasonable efforts to preserve the coverage area and population served of eligible broadcasters that remain on the air following the auction, and the Commission seeks to avoid unnecessary disruption to free, over-the-air television service.

5. The proposals in the *Auction 1000 Request for Comment* are organized into three major sections. First, the integration section addresses how the reverse and forward auctions will be integrated. Among other things, the integration section addresses the determination of an initial spectrum clearing target, how much market variation to accommodate, and the process of moving to subsequent stages of the auction if necessary. The issues and proposals discussed in the integration section may be of interest to potential participants in both the reverse and the forward auctions, as well as to broadcasters that do not choose to participate in the reverse auction. The second and third sections of the *Auction 1000 Request for Comment* focus on the reverse and forward auctions, respectively. They address opening prices, details of the application process, and bidding procedures for each auction, as well as issues unique to each auction, such as how the repacking process will work in the context of the reverse auction and the final frequency assignment process for licenses won in the forward auction.

6. The *Auction 1000 Request for Comment* also includes a number of technical appendices, which detail the mechanics of the proposed auction design, such as use of data from the inter-service interference (ISIX) methodology in order to identify potential ''impairments'' to 600 MHz Band spectrum blocks, optimization procedures for determining the spectrum clearing target and final TV channel assignments, and algorithms for the reverse and forward auctions. The information in the appendices supplements the description of these elements in the *Auction 1000 Request for Comment,* but the *Auction 1000 Request for Comment* contains the information necessary for an interested party to evaluate participation in the reverse or forward auction.

7. The major steps of the incentive auction process, based on the proposals in the *Auction 1000 Request for Comment,* together with the decisions in the *Incentive Auction R&O,* are illustrated in Appendix A of the *Auction 1000 Request for Comment.* From the perspective of potential bidders, the major steps will be as follows. (1) *Procedures PN:* After considering the record produced in response to the *Auction 1000 Request for Comment,* the Commission will adopt final auction procedures and provide detailed explanations and instructions for potential auction participants in a future public notice (*Procedures PN*). (2) *Auction application:* Any party wishing to participate in the bidding in either the reverse auction or the forward auction must submit an auction application by

a date to be specified in the *Procedures PN.* Opening prices in the auction will be made available at least 60 days in advance of the deadline for applications to participate in either the reverse or the forward auction. An auction applicant must disclose to the Commission on the application, among other things, specified information about the applicant's identity, certifications, and, for reverse and forward auction applications, respectively, selections regarding bid options or licenses it may wish to bid on. Each applicant will be informed whether its application is complete or deficient in particular respects after Commission staff reviews it for completeness and consistency with the relevant auction rules. Any applicant whose application is incomplete will have a specified period of time within which to resubmit its application to correct deficiencies. (3) *Reverse auction initial bid commitment:* In order to qualify to bid in the reverse auction, each reverse auction applicant that successfully completes an application must identify one of the bid options it selected on its application as its preferred option, thereby indicating its commitment to relinquish the spectrum usage rights associated with that option at the opening price for that option. (4) *Clearing target determination:* Based on the commitments of broadcasters in response to the opening prices, the auction system will determine the broadcast TV spectrum clearing target for the initial stage of the auction, which will have an associated 600 MHz Band plan. (5) *Forward auction upfront payment:* After the clearing target along with the associated band plan is determined, forward auction bidders must submit upfront payments to qualify to bid. Each applicant's upfront payment will establish its bidding eligibility in terms of bidding units. (6) *Reverse auction bidding clock phase:* Reverse auction bidding will begin. Each qualified bidder will have an opportunity to bid by responding in successive clock bidding rounds to price offers, which may be reduced as bidding progresses. If at any time the price offered is lower than a bidder wants to accept, the bidder can drop out of the bidding. (7) *Forward auction bidding clock phase:* Forward auction bidding will begin on two different categories of licenses. The license categories will reflect the extent of potential impairments from television stations to a given license. Each qualified bidder will have an opportunity to bid by indicating in successive clock bidding rounds its demands for categories of generic license blocks in specific geographic areas. The auction system will check after each round of clock bidding to determine whether the final stage rule has been satisfied. If bidding stops in ''high-demand'' markets before the final stage rule is satisfied, the auction system will initiate an extended round of bidding for licenses in those markets aimed at satisfying the final stage rule. If the final stage rule is met after any forward auction round (clock or extended), the auction system will implement the market-based spectrum reserve. Bidding rounds will continue in all markets after the final stage rule is met, ending when demand does not exceed supply. (8) *Subsequent auction stage if necessary:* If the final stage rule is not satisfied in the forward auction portion of the initial stage, the auction system will move to the next stage of the auction. (9) *Final TV channel assignment optimization:* After the final stage rule is satisfied, the auction system will determine final television channel assignments for all television stations that will remain on the air following the incentive auction. (10) *Forward auction assignment phase:* After bidding stops in the clock phase of the forward auction, the forward auction assignment rounds will be conducted to assign frequency-specific 600 MHz Band licenses consistent with the demands of specific bidders in specific geographic areas.

8. The Commission intends to begin accepting applications to participate in the broadcast television spectrum incentive auction in the fall of 2015, and to start the bidding process in early 2016. The Commission will finalize specific deadlines in the *Procedures PN,* but recognizes the need to give parties adequate notice prior to the application filing date. The Commission will endeavor to give several months' notice prior to the application filing deadline. Parties who may be interested in participating in the reverse or forward auction should regularly monitor the LEARN Web site. The broadcast spectrum incentive auction, which is designated as Auction 1000, will begin with bidding in the reverse auction, designated as Auction 1001, followed by bidding in the forward auction, designated as Auction 1002. Since adopting the *Incentive Auction R&O* in May, the Commission has made progress on a number of auction-related issues, including how to predict potential inter-service interference in certain areas and the auction's potential impact on low-power television stations, wireless microphones, and unlicensed white space devices. The staff also has released additional information regarding the reverse auction and the repacking process. Well in advance of the auction, the *Procedures PN* will establish final auction procedures and provide detailed explanations and instructions for potential auction participants. The Commission will resolve outstanding issues outside the scope of the pre-auction process in advance of the *Procedures PN.*

## II. Background

### *A. Incentive Auction Order*

#### i. 600 MHz Band Plan

9. Pursuant to the *Incentive Auction R&O,* in the forward auction the Commission will offer licenses for the UHF band spectrum that is repurposed through the incentive auction on a geographic area basis. The service areas for these licenses will be Partial Economic Areas (PEAs). The 600 MHz Band will be licensed in 5+5 megahertz paired uplink and downlink blocks, which will be authorized for fixed and mobile Frequency Division Duplex (FDD) operations.

10. The 600 MHz Band Plan the Commission adopted in the *Incentive Auction R&O* consists of an uplink band that will begin at channel 51 (698 MHz), followed by a duplex gap, and then a downlink band. Because the incentive auction may be conducted in several stages, each for a different ''spectrum clearing target,'' the Commission adopted a set of band plan scenarios based on the number of television channels cleared.

11. The first stage of the forward auction will offer licenses corresponding to one of these band plan scenarios, and subsequent stages, if necessary, will offer licenses for scenarios corresponding to lower clearing targets. The 600 MHz Band Plan can accommodate variation in the amount of spectrum recovered in different geographic areas in order to prevent the most restricted market from limiting the quantity of spectrum the Commission can offer generally across the nation. If not all PEAs can be cleared, the 600 MHz Band Plan will accommodate market variation either by including some spectrum blocks subject to inter-service interference, or alternatively, fewer spectrum blocks than in most PEAs across the country.

#### ii. Repacking Process

12. Repacking involves reorganizing television stations in the broadcast television bands so that the stations that remain on the air after the incentive auction will occupy a smaller portion of

the UHF band, thereby freeing up a portion of that band for new wireless uses. Prior to the commencement of the reverse auction, the staff will determine the coverage area and population served of every television station whose coverage area and population served the Commission will make ''all reasonable efforts'' to preserve in the repacking process, using the methodology described in the Office of Engineering and Technology Bulletin No. 69. Based on this data, the staff will develop ''constraint files'' for each station that will be used to check the feasibility of assigning permissible channels to stations that will remain on the air.

13. Before bidding in the reverse auction begins, the initial ''clearing target'' for how much broadcast TV spectrum will be repurposed through the reverse auction and the repacking process will be determined based on broadcasters' collective willingness to relinquish spectrum usage rights at the opening prices announced by the Commission. The clearing target will dictate the total number of remaining television channels available for the repacking process.

14. At the start of the reverse auction bidding process, television stations will fall into two general categories: Non-participating stations that will remain on the air after the incentive auction, and participating stations that may or may not remain on the air, depending on the reverse auction outcome. The auction system will use a ''repacking feasibility checker'' to ensure that every non-participating station is assigned a television channel in its pre-auction band consistent with the Commission's statutory obligation to make reasonable efforts to preserve its population and coverage area. Each time a participating station drops out of the auction, it will be assigned a channel in its pre-auction band consistent with this obligation, and the repacking feasibility checker will determine whether a channel that meets these requirements is available for each individual station that continues to participate in the bidding.

15. Television station channel assignments in the remaining television bands will be provisional throughout the bidding stages of the auction. Final channel assignments will be made after the final stage rule is satisfied and bidding ends in the reverse and forward auctions. At that point, the assignments for each television station that will be assigned a channel in the remaining TV bands will be optimized to ensure efficient final channel assignments that preserve the coverage area and population served of each station and account for the additional goals that the Commission has adopted or will adopt in this pre-auction process.

iii. Auction Process

16. The incentive auction will consist of reverse and forward auctions. The reverse auction will collect information about the prices at which broadcast television licensees would be willing to voluntarily relinquish some or all of their spectrum usage rights. The forward auction will consist of a clock phase and an assignment phase. The clock phase will identify the prices that potential users of repurposed broadcast television spectrum will pay for generic spectrum blocks. In the assignment phase, winners of blocks in the clock phase will bid for specific licenses to use the spectrum. The results of both auctions will be used to determine whether the overall reserve price, or final stage rule, has been satisfied. Once the reserve price requirements of the final stage rule are met and bidding meets the conditions of a stopping rule, the overall results of the bidding in both auctions will determine those broadcasters selected to relinquish spectrum usage rights and the amounts of their incentive payments from the reverse auction, as well as the winning bidders for flexible-use 600 MHz Band licenses and the prices they will pay for those licenses from the forward auction. After the final stage rule is satisfied and there is no excess demand for licenses, broadcasters that will remain on the air will receive final channel assignments and winners of generic licenses will have the opportunity to bid for specific frequencies. Then the incentive auction will close.

17. The reverse and forward auctions will be integrated in one or more stages. Each stage will consist of a reverse auction and a forward auction bidding process; multiple stages will be run only if necessary. The forward auction bidding process will follow the reverse auction bidding process. If bidding in the forward auction does not satisfy the final stage rule, additional stages will be run with progressively lower spectrum clearing targets in the reverse auction and fewer licenses available in the forward auction, until the final stage rule is satisfied.

18. In the *Incentive Auction R&O,* the Commission adopted a descending clock format for the reverse auction in which, in each bidding round, stations will be offered prices for one or more bid options and indicate their choices at those prices. The prices offered to each station for options will be adjusted downward as the rounds progress in a way that accounts for the availability of television channels in different bands in the repacking process. A station will continue to be offered prices for bid options until its voluntary relinquishment of rights becomes needed to meet the current spectrum clearing target. When all remaining bidders' relinquishments are needed in this way, the reverse auction for the stage will end. If the final stage rule is satisfied in that stage, then those bidders will be winning bidders, and the price paid to each will be at least as high as the last price it agreed to accept.

19. For the clock phase of the forward auction, the Commission adopted an ascending clock auction format in which bidders will be able to bid for generic spectrum blocks in one or more license categories, to be followed by an assignment mechanism for frequency-specific licenses. Consistent with the *Mobile Spectrum Holdings R&O,* 79 FR 39977, July 11, 2014, the forward auction will incorporate a market-based spectrum reserve of blocks for certain eligible bidders. There will be a separate clock price for each license category in each PEA, and bidders will indicate the number of blocks that they demand at the current prices. The prices generally will rise from round to round, as long as the demand for blocks exceeds availability. Bidders still demanding blocks when the clock prices stop rising in every license category in every PEA will become winners provided the final stage rule is satisfied. If the rule is not satisfied, bidders will have an opportunity to make additional bids to meet the rule in an extended bidding round. Once the final stage rule is satisfied, winners may indicate their preferences for frequency-specific licenses in the assignment phase of the forward auction. Final license prices will reflect the winning bid amounts from the clock bidding rounds as well as any adjustments from the extended bidding and assignment rounds.

*B. Inter-Service Interference (ISIX) Order and Further Notice*

20. The Commission recently issued an order establishing a methodology for use during the incentive auction to predict inter-service interference in areas where broadcast and wireless services operate on the same or adjacent channels as a result of market variation. In such areas, television channels may not be available in the remaining television bands for all of the stations that will remain on the air, and one or more stations may have to be assigned channels in the 600 MHz Band, that is, in the portion of the UHF spectrum that generally will be repurposed. Assigning channels to television stations in the 600 MHz Band creates a potential for

harmful interference to both broadcast and wireless operations. In addition, some areas may be subject to inter-service interference resulting from existing television stations along the borders in Canada and Mexico. The *ISIX Order* established a methodology (the ISIX methodology) for predicting such interference.

21. The ISIX methodology varies depending on the applicable interference scenario or case. Cases 1 and 2 relate to interference from television to wireless operations (base stations and user equipment, respectively). Cases 3 and 4 relate to interference from wireless operations (base stations and user equipment, respectively) to digital TV receivers. The applicable interference case depends on where television stations are placed in the 600 MHz Band.

22. In the *Incentive Auction R&O,* the Commission defined an ''impaired'' PEA as one in which a 600 MHz Band licensee is restricted to some extent from operating within the geographic boundary of the PEA in order prevent harmful interference to television operations in the 600 MHz Band; and conversely, one in which a 600 MHz Band licensee may receive harmful interference from television operations in the 600 MHz Band. In the *ISIX Order,* the Commission further clarified that impairments may result in ''restricted'' and ''infringed'' areas within a 600 MHz Band service area. A ''restricted'' area is one in which the wireless operator could cause harmful interference to a television station. An ''infringed'' area is one in which the wireless operator may receive harmful interference from a television station. The Commission proposed in the *ISIX Further Notice,* 79 FR 76282, December 22, 2014, to allow wireless carriers to operate in areas where they may *receive* interference from TV stations, but not in areas where they may *cause* any harmful interference to television operations in the 600 MHz Band. The Commission further proposed that a 600 MHz Band licensee with an ''impaired'' license would hold the license for the entire PEA but would be limited to operations within the boundaries permitted under the inter-service interference rules. The *ISIX Further Notice* also proposed a methodology for use after the auction to prevent inter-service interference based on actual deployment of wireless networks, including a zero-percent threshold for interference to TV stations from wireless services.

*C. Mobile Spectrum Holdings Order*

23. The Commission established the *maximum* amount of licensed spectrum that will be reserved in each PEA for eligible entities (reserve-eligible entities) in the forward auction for different initial stage spectrum clearing targets. A spectrum clearing target will include licensed spectrum and guard bands; however only licensed spectrum is relevant to determination of the reserve. If the auction does not close in the initial stage, the maximum amount of reserved licensed spectrum in each PEA in subsequent stages will be the smaller of (1) the maximum amount in the previous stage, or (2) the amount that the reserve-eligible bidders demanded at the end of the previous stage. The maximum amount of reserved spectrum is 30 megahertz for initial clearing targets with more than 100 megahertz of licensed spectrum. The *Mobile Spectrum Holdings R&O* inadvertently omitted the 80 megahertz clearing scenario established by the Commission (as set forth in the technical appendix to the *Incentive Auction R&O*) from an accompanying chart. Consistent with the Commission's finding that a maximum spectrum reserve of 30 megahertz is appropriate for most levels of total available spectrum licenses except for levels less than 70 megahertz, the maximum amount of reserved spectrum for an 80 megahertz clearing scenario is 30 megahertz. The actual amount of reserved spectrum will depend on the demand by reserve-eligible bidders when the auction reaches a ''spectrum reserve trigger.'' The auction system will set the spectrum reserve trigger at the point when the final stage rule is satisfied.

**III. Proposed Procedures for Overall Incentive Auction Structure, Including Integration of Reverse and Forward Auctions**

24. The Commission seeks comment on integrating the reverse and forward auction bidding processes consistent with the staged structure it established in the *Incentive Auction R&O.* In particular, the Commission seeks comment on procedures for setting the broadcast television spectrum clearing target and for determining whether the final stage rule is satisfied, as well as on the steps triggered by the determination that the final stage rule is satisfied.

*A. Setting an Initial Spectrum Clearing Target and Determining Impairments*

25. The Commission proposes procedures for setting the initial clearing target for the auction. The approach the Commission proposes will establish the highest clearing target possible from among the available options given broadcaster participation in the reverse auction. Alternatively, the Commission seeks comment on whether it should omit any initial clearing targets, such as the 108 MHz clearing target. The auction system will use mathematical optimization techniques to identify provisional TV channel assignments that protect the coverage area and population served of non-participating television stations as required by the Spectrum Act. Where necessary, non-participating stations will be assigned to channels in the 600 MHz Band. Any stations assigned to channels in the 600 MHz Band will be entitled to the same protection in the repacking process as other TV stations, and will be protected from inter-service interference under the standards the Commission adopted in the *ISIX* proceeding, in which it has proposed strict standards to protect TV stations from such interference. In making such assignments, the Commission proposes that the auction system will minimize potential inter-service interference to 600 MHz Band licenses. To limit the extent of market variation in the provisional TV channel assignment plan, the Commission proposes to limit impairments on a nationwide aggregated basis to less than 20 percent of the total U.S. population (measured on a weighted basis). If a provisional channel plan does not exceed this limit, the auction system may apply any secondary objectives for TV channel assignments that the Commission establishes. If a provisional channel plan exceeds the less than 20 percent limit, however, the process will start again with the next lower clearing target.

26. The Commission first addresses its proposed approach to measuring the extent of potential inter-service interference to 600 MHz Band PEAs in order to set the clearing target. Second, the Commission addresses objectives for determining the location of any TV stations that must be assigned to the 600 MHz Band to accommodate market variation. Third, the Commission explains its proposal to use ''weighted-pops'' to calculate the market variation associated with a clearing target and propose a standard for limiting market variation. Fourth, the Commission addresses the use of optimization techniques under its proposed approach to setting a clearing target.

i. Measuring the Extent of Potential Impairments

27. In order to determine a clearing target, the auction system must be able to evaluate the extent of any potential impairments to licenses in the 600 MHz Band as a result of market variation. In the *ISIX R&O,* the Commission adopted

the ISIX methodology to predict potential inter-service interference between TV and wireless services. Appendix B of the *Auction 1000 Request for Comment* details how the Commission proposes to use the data produced using this methodology to generate mathematical constraints that enable the auction system to measure the extent of potential impairments to 600 MHz Band licenses in order to set a clearing target. Under the proposed procedure, the raw data the ISIX methodology produced at the two-by-two kilometer cell level would be aggregated into uplink and downlink, county-level data sets (a table cross-referencing counties to PEAs is available on the Commission's Web site at *http://transition.fcc.gov/oet/info/maps/areas/*) and mapped to specific 600 MHz Band licenses in advance of the incentive auction. The percentage of the population of each county subject to inter-service interference then would be calculated for every TV station eligible for protection in the repacking process on every possible channel in the 600 MHz Band. Consistent with the ISIX methodology, which defines each cell as ''impaired'' or ''unimpaired'' depending on whether it is subject to any inter-service interference, the procedure would apply a threshold to determine whether a county is ''impaired'' for each possible TV station and channel combination.

28. The Commission invites comment on a threshold for determining whether a county is ''impaired'' for purposes of determining impairments for a given clearing target. In particular, the Commission invites comment on setting a threshold within the range of 10-to-20 percent. Under the Commission's proposed methodology, a county with predicted impairment above the threshold for a specific station-channel assignment would be considered wholly impaired, *i.e.,* 100 percent of the county population, for purposes of measuring the extent of impairment in the PEA when setting the clearing target. In considering the impaired population to which the Commission will apply the threshold, it also proposes to distinguish between uplink and downlink impairments. In this regard, a TV station in the uplink portion of the 600 MHz Band might allow unimpaired use of the downlink portion of a paired 5+5 megahertz license. Accordingly, the Commission proposes that rather than consider uplink impairments above the threshold to be wholly impaired as it does with downlink impairments, it consider a county with uplink impairments above the threshold to be 50 percent impaired. Commenters that advocate a different threshold or approach should explain why they believe their approach would better inform the setting of a clearing target.

29. The Commission proposes to aggregate the data in order to reduce the volume of data inputs to a quantity that reasonably can be utilized in setting a clearing target. The data would be aggregated to this level only for use in the optimization procedure to set a clearing target; the Commission proposes that the auction system would provide more detailed data on the location and extent of impairment to 600 MHz Band licenses during the forward auction.

30. Under the Commission's proposed procedure for setting an initial clearing target, the mathematical constraints for measuring impairments that are the inputs to the optimization procedure would be generated before the auction, so that during the auction the optimization can dynamically calculate the percentage of impaired population within each license for any possible combination of TV stations and channel assignments in the 600 MHz Band by adding the total population of the ''impaired'' counties within the PEA and dividing that sum by the total population of all of the counties within the PEA. The Commission proposes that if a 600 MHz Band license is more than 50 percent impaired by the assignment, the optimization procedure will consider all of the associated weighted-pops to be impaired, consistent with its proposal not to offer such licenses in the forward auction.

ii. Assigning TV Stations to the 600 MHz Band as Necessary To Accommodate Market Variation

31. The Commission seeks comment on certain details for assigning television stations to the 600 MHz Band as necessary to accommodate market variation. Under the Commission's proposed approach, the auction system will use mathematical optimization techniques to identify a provisional TV channel assignment plan for stations that elect not to participate in the auction that best meets certain primary objectives. While these techniques will identify channels in the remaining TV bands for as many of these stations as possible, the auction system may not be able to assign channels in the remaining bands to all of the stations that must be assigned channels in areas that are constrained due to factors such as lack of broadcaster participation in the reverse auction or international border-related issues. Under such circumstances, the auction system will assign television stations to channels in the 600 MHz Band. Any television stations assigned to channels in the 600 MHz Band will be entitled to the same protection in the repacking process as other TV stations, and will be protected from inter-service interference under the standards the Commission adopts in the *ISIX* proceeding, in which it has proposed not to allow any harmful interference to TV stations from wireless services.

32. Importantly, although TV channel assignments in the broadcasting portion of the band will be provisional until the final channel assignment process, which occurs after bidding ends in the final stage of the auction, under the Commission's proposed approach any assignments of television stations to channels in the 600 MHz Band will be fixed prior to the start of the forward auction for that stage, and those assignments will be final if no subsequent stages of the auction are necessary. Thus, a television station's assignment to a channel in the 600 MHz Band for purposes of setting a clearing target may determine both its post-auction channel assignment and the specific impairments to 600 MHz Band blocks that will be offered in the forward auction, depending on whether the final stage rule is satisfied in that stage. If subsequent stages are necessary, the auction system will generate a new band plan that may involve different provisional TV station and channel assignments in the 600 MHz Band. In contrast to any TV channel assignments in the 600 MHz Band, the vast majority of assignments to channels in the remaining television bands will change constantly during the repacking process.

33. Because of differences in wireless uplink and downlink transmission technologies, location of a television station in the downlink or uplink portion of the 600 MHz Band is likely to affect the extent of impairments to affected PEAs and, therefore, 600 MHz Band license prices. In particular, uplink impairments are likely to affect larger geographic areas than downlink impairments, although whether that interference to a larger area translates into a significantly larger impact on value to the forward auction licenses depends on the population density within a PEA. Uplink impairments also may affect fewer spectrum blocks than downlink impairments, however, because they would allow for unimpaired use of the downlink portion of a 600 MHz Band license by carriers with below-1 GHz uplink spectrum. On the other hand, assigning stations to the downlink band would limit the geographic reach of impairments and

promote greater contiguity with television stations in the remaining TV bands. Assigning stations to the downlink band, and/or only to the licensed portion of the uplink band, would also result in more consistently usable nationwide spectrum for wireless microphones and unlicensed devices that will operate in the duplex gap, *i.e.,* the guard band between 600 MHz Band uplink and downlink services. In cases where a television station must be assigned to a channel in the 600 MHz Band in order to meet a given clearing target, the Commission proposes to assign these stations based on its goal of minimizing the loss of value due to impairments, *i.e.,* minimizing the total impaired weighted-pops nationwide. Under this proposal, the optimization procedure could assign TV stations to any frequency in the 600 MHz Band. This could lead to assignments in the uplink portion of the 600 MHz Band in some markets, and in the downlink portion in others. The Commission proposes to include this objective in the optimization procedure consistent with its goals of limiting the potential for inter-service interference and maintaining a generally consistent band plan. In addition, the proposed objective will increase the likelihood of meeting the incentive auction reserve price conditions at the initial clearing target. On the other hand, the Commission recognizes that this approach may result in assigning television stations to the duplex gap or other guard bands in some markets, and limit the contiguity of TV stations if they are not assigned to the downlink portion of the 600 MHz Band.

34. Alternatively, the Commission seeks comment on whether it should assign stations to the downlink portion of the 600 MHz Band whenever feasible to do so, in the interest of greater contiguity and ensuring more consistently usable nationwide unlicensed spectrum. The Commission notes that by limiting the choice of assignments, a downlink-only approach may make it more difficult to identify an assignment of TV stations that meets the less than 20 percent standard than would its more flexible proposed approach and, therefore, could result in setting a lower clearing target. The Commission invites commenters to address the costs and benefits of its proposal and the alternative, including the potential impact on broadcast and wireless licensees, as well as on wireless microphones and unlicensed devices, and to discuss how the Commission should prioritize objectives where multiple outcomes are possible. In the *Part 15 NPRM,* 79 FR 69709, November 21, 2014, the Commission proposed technical criteria for wireless microphones and unlicensed devices for each possible guard band size (7, 9, or 11 megahertz).

iii. Standard for Limiting Market Variation

35. In the *Incentive Auction R&O,* the Commission established that the 600 MHz Band Plan will allow for market variation, while recognizing that it is important to limit the potential for inter-service interference and maintain a generally consistent band plan nationwide by applying a ''near-nationwide'' standard. The Commission therefore proposes to limit the amount of market variation associated with the initial spectrum clearing target by limiting impairments on a nationwide aggregated basis to less than 20 percent of ''weighted-pops.'' The Commission believes that its proposed approach will promote the central goal of a successful auction that allows market forces to determine the highest and best use of spectrum. By accommodating market variation, it will ensure that broadcasters have the opportunity to participate in the reverse auction in markets where interest is high, and avoid the need to restrict the licenses offered in the forward auction to the number available in the most constrained market. At the same time, by strictly limiting the total amount of market variation associated with a clearing target, it will limit the potential for inter-service interference and help 600 MHz Band licensees achieve economies of scale when deploying their new networks. The Commission's proposed approach also takes into account the relative costs and benefits of impairing licenses in different PEAs.

36. For purposes of applying the near-nationwide standard, the Commission proposes to measure the impact of potential impairments in terms of ''weighted-pops,'' weighting the affected population in a license area by an index of area-specific prices from prior auctions. The same weighted-pops amount will be applied for each spectrum block in a PEA. This index is the same index used for calculating bidding units before applying the proposed decile approach. Both indices are provided in Appendix F of the *Auction 1000 Request for Comment.* The Commission proposes to incorporate the final results of the auction of AWS–3 licenses (Auction 97) when calculating the indices. The Commission seeks comment on whether it should group the index by deciles for purposes of applying the near-nationwide standard as it proposes for calculating bidding units. Under this approach, for a given clearing target and assignment of TV stations to channels, the Commission calculates the percentage of the population impaired in every PEA for each license using the county level data generated using the measurement approach. The Commission multiplies that percentage by the weighted-pops associated with the PEA to determine the ''impaired weighted-pops'' for the license. To calculate a nationwide total of impaired weighted-pops, the impaired weighted-pops for all licenses associated with a clearing target will be added together. This total will then be divided by the nationwide total number of weighted-pops for all licenses associated with that clearing target to determine whether the maximum aggregate nationwide impairment standard or threshold is satisfied. The Commission believes that its proposed approach to applying a threshold provides for flexibility in balancing the population that will be affected by potential inter-service interference with the number of markets that will be affected, and accounts for the relative value of the market to wireless providers based on past auction prices. Alternatively, the Commission seeks comment on whether it should use a metric that does not weight population by the amount of bandwidth and/or by a price index. For example, an alternative metric could require that 80 percent of the U.S. population (or price-weighted population) must be in areas not considered impaired, regardless of the quantity of impaired spectrum in any one area.

37. The Commission proposes to set the near-nationwide standard at less than 20 percent. Under this standard, a clearing target could be chosen only if 80 percent or more of the weighted-pops in the targeted amount of spectrum nationwide is considered unimpaired according to its methodology. If the provisional TV channel assignment plan associated with a clearing target results in potential impairments to 20 percent or more of the total number of weighted-pops nationwide, the auction system would consider a lower clearing target. The Commission believes that a less than 20 percent limit is appropriate to avoid reducing the amount of spectrum that will be available in most areas nationwide while ensuring that, for any given clearing target, 600 MHz Band Plan licenses generally will not be affected by inter-service interference. The Commission's proposal to use weighted-pops also will help to ensure that most of the spectrum in the most

heavily-weighted PEAs remains unimpaired.

38. The Commission seeks comment on these proposals. The Commission also invites comment on alternatives to its proposed near-nationwide standard. For example, should the Commission set a lower standard? Should the Commission require that certain PEAs, or a specific number of PEAs (*e.g.,* 40 of the top 50 PEAs as measured by total population), not have any Category 2 licenses in order to choose a clearing target? The Commission encourages commenters to address the trade-offs involved in any alternative approach that they advocate.

iv. Clearing Target Optimization Procedure

39. Consistent with the *Incentive Auction R&O,* the process the Commission will use to set the initial clearing target will incorporate mathematical optimization techniques. The proposed optimization procedure is set forth in detail in Appendix C of the *Auction 1000 Request for Comment.* This process will also provisionally assign television stations to channels under an assignment plan that best meets the rules and objectives the Commission proposes. Once a clearing target is set, the resulting provisional assignment plan of television stations to channels in the television bands will be used by the reverse auction system as the initial tentative assignment, and information about license impairments due to stations assigned in the 600 MHz Band will be used in the forward auction portion of the stage.

40. The proposed procedure will apply a number of rules or constraints that any provisional assignment plan must satisfy. It will ensure that any assignment plan includes a permissible channel in its pre-auction band for every television station that is not participating in the reverse auction. The procedure will apply the technical repacking constraints established in the *Incentive Auction R&O,* taking into account any fixed constraints specific to an area or a channel that would prevent an assignment of a station to a channel, as well as all other stations that cannot be located on a co- or adjacent channel. The procedure also will determine an initial assignment of participating stations to relinquishment options consistent with the station's initial commitments made during the application process and will attempt to assign as many stations as possible to their preferred option.

41. The Commission proposes that the primary objective of the proposed clearing target optimization procedure will be to minimize the total impaired weighted-pops nationwide. The optimization procedure will measure the percentage of population impaired in a PEA for a given television station and channel assignment using the measurement approach and described in more detail in Appendix C of the *Auction 1000 Request for Comment.* Thus, the optimization procedure will determine a feasible assignment of television stations to channels in the remaining TV bands where possible and, as necessary, assign stations to channels in the 600 MHz Band so as to minimize potential impairments to 600 MHz Band licenses.

42. In addition to these primary rules and objectives, the procedure could consider additional criteria in setting a clearing target. For example, should the procedure apply criteria to account for operation of the proposed dynamic reserve price process? Should it apply criteria to increase the likelihood of satisfying the final stage rule? The Commission seeks comment on whether to apply additional criteria in setting a clearing target. The Commission asks commenters to keep in mind that the tradeoff from stricter requirements may be to move to a lower clearing target, where fewer licenses will be available and fewer stations will be needed to relinquish spectrum usage rights.

43. Any channel assignment plan that satisfies the primary rules and objectives also may be modified for secondary objectives, provided that it does not violate the Commission's less than 20 percent standard for impairments. Should the Commission incorporate a secondary objective that would favor an initial channel assignment with at least a minimum level of vacancy in the broadcasting portion of the band, so as to give the auction system more flexibility to find feasible assignments during the bidding rounds, potentially avoiding the need to move to a lower clearing target because it failed to meet the final stage rule? In this context, should the Commission consider requiring that the 20 percent nationwide standard include sufficient vacancy to accommodate additional impairments created during any reverse auction dynamic reserve pricing procedures? The Commission seeks comment on possible secondary objectives to be applied in the optimization procedure. Because the optimization procedure may identify more than one possible assignment plan that satisfies the primary rules and objectives, the Commission particularly seeks comment on how the procedure should choose between plans to best meet the goals of the incentive auction. For example, the Commission asks commenters to consider whether the procedure should favor an assignment in which the number of 600 MHz Band blocks, or the number of Category 1 blocks (a Category 1 license is any license with potential impairments that do not exceed 15 percent of the population) is most nearly the same in the largest number of PEAs, in order to promote the geographic contiguity of the band plan. Alternatively, the Commission invites comment on whether the optimization procedure should try to minimize the number of PEAs—or the number of particular PEAs—in which Category 2 blocks outnumber Category 1 blocks, to avoid having PEAs with significantly fewer Category 1 blocks than are available in most areas nationwide.

*B. Final Stage Rule*

44. The final stage rule the Commission adopted in the *Incentive Auction R&O* incorporates an aggregate reserve price based on the bids in the forward auction. Satisfaction of the rule conditions will cause the current stage to become the final stage for the auction's clock bidding rounds. The rule has two components, both of which must be satisfied. The first and second components are complementary and not cumulative. The auction must satisfy both components, but it need not raise sufficient proceeds to satisfy the first in addition to the second. Rather, the same bids and proceeds can be considered when satisfying each component. The Commission seeks comment on determining the price and spectrum clearing benchmarks for the first component of the rule, as well as on other rule implementation issues.

i. First Component: Average/Aggregate Prices in Forward Auction

45. The Commission proposes an average price per MHz-pop (the term MHz-pop is defined as the product derived from multiplying the number of megahertz associated with a license by the population of the license's service area, *i.e.,* PEA, for the 600 MHz band, specifically) benchmark of $1.25 for spectrum offered in the largest 40 PEAs by population in the forward auction and a forward auction spectrum benchmark of 70 megahertz, corresponding to a broadcast spectrum clearing target of 84 megahertz. The Commission also seeks comment on its proposal to consider a subset of those licenses in applying the first component of the final stage rule.

46. The first component ensures that winning bids for the licenses in the forward auction reflect competitive

prices. The Commission explained in the *Incentive Auction R&O* that the first component of the reserve price will be satisfied if, for a given stage of the auction: (1) The average price per MHz-pop for licenses in the forward auction meets a price benchmark that will be set by the Commission in the pre-auction process; or (2) the total proceeds associated with licenses in the forward auction exceed the product of the price benchmark, the forward auction spectrum benchmark, and the total number of pops for those licenses. The determination of the average price and spectrum clearing benchmarks is therefore essential to the implementation of the first component of the final stage rule.

47. Setting an average unit price benchmark of $1.25 per MHz-pop in the largest 40 PEAs by population will accomplish the Commission's goal of ''assuring that prices for licenses in the forward auction reflect competitive values without reducing the amount of spectrum repurposed for new, flexible-use licenses.'' The closest comparable spectrum auction—Auction 73—generated an auction-wide average price per MHz-pop of $1.28 and an average price among paired spectrum blocks of $1.36. Since that auction closed in early 2008, spectrum prices generally appear to have increased, although the growth rate cannot be validated based on comparable data due to the absence of final results for a large-scale auction in that period. Moreover, because the prices of 600 MHz Band licenses will be determined by the forward auction bidding, the Commission believes that any aggregate reserve price it sets should reflect a ''floor'' and not a ''ceiling'' of the ''competitive values'' of these licenses, in order to provide sufficient margin to account for the inherent price uncertainty present in any auction.

48. The Commission proposes to set the forward auction spectrum benchmark to correspond with the spectrum recovery scenario in which the Commission clears 84 megahertz of broadcast TV spectrum and offer licenses for 70 megahertz of spectrum in the forward auction. The spectrum benchmark will be used as part of the alternative formulation of the final stage rule's first component, which ''recognizes that if the incentive auction repurposes a relatively large amount of spectrum for flexible uses, per-unit market prices may be expected to decline consistent with the increase in available supply.'' An 84 megahertz broadcast TV spectrum clearing target, which would repurpose all of the spectrum between TV channel 37 and the 700 MHz Band and provide 70 megahertz of spectrum in the forward auction, would promote the Commission's competitive goals by enabling multiple bidders to obtain low-band spectrum. Therefore, the Commission believes that this threshold is appropriate for the forward auction spectrum benchmark.

49. The Commission proposes to determine whether the first component of the final stage rule is satisfied based on the average prices for a subset of PEAs likely to be subject to the greatest level of demand. The Commission proposes to include in the subset the 40 largest PEAs by population because they cover geographic areas that have usually generated the highest average prices per MHz-pop in prior spectrum license auctions. In previous auctions, prices for licenses in these ''high-demand'' areas have accounted for a substantial fraction of total auction revenues, and further, licenses in ''high-demand'' areas tend to reach their final prices well before bidding stops on all licenses, making these markets a good leading indicator of final auction revenues. Further, using this subset of PEAs will promote a speedy auction by enabling the auction system to determine quickly when the final stage rule will not be met necessitating a new stage with a lower clearing target. The Commission seeks comment on this use of ''high-demand'' PEAs and the proposed definition of this ''high-demand'' subset.

50. The Commission further proposes, in considering whether average prices meet the benchmark, to consider only bids for spectrum blocks in Category 1. The Commission proposes to offer spectrum blocks in two categories of generic licenses for bidding in the forward auction. Specifically, the Commission defines a Category 1 license as any license with potential impairments that affect zero to 15 percent of the population of a specific PEA, and as Category 2, any license with potential impairments that affect greater than 15 percent but less than or equal to 50 percent of the population. Limiting the Commission's consideration of blocks in this manner is consistent with its proposed use of data from other auctions in determining the relevant average price, as the licenses in those prior auctions were not impaired in a manner comparable to the proposed licenses in Category 2.

51. Applying the Commission's proposals to the first component of the final stage rule, as explained in more detail in Appendix G of the *Auction 1000 Request for Comment,* the first component will be satisfied if the average price per MHz-pop for Category 1 licenses in ''high-demand'' PEAs in the forward auction equals or exceeds $1.25 per MHz-pop at clearing targets at or below the benchmark clearing target. For clearing targets above the benchmark clearing target, the Commission proposes to consider current auction proceeds for all licenses when comparing to the proceeds that would be generated by the benchmark price for ''high demand'' PEAs and the benchmark clearing target. This simplifies the evaluation of the formulation since the Commission will compare a number publicly announced at the end of every round (the total forward auction proceeds) to a fixed number known in advance (the product of the price and spectrum benchmarks that it adopts, and the total number of pops covered by licenses in ''high-demand'' PEAs). Under this formula, the first component of the final stage rule may be satisfied even if the overall average price per MHz-pop in the ''high-demand'' PEAs fails to meet the proposed $1.25 price benchmark.

52. In evaluating whether the first component of the final stage rule is satisfied, the Commission also proposes not to take into account any adjustments to final clock prices. Thus, the Commission proposes to rely on gross bids, rather than bids net of individual bidders' bidding credits or any adjustments for impairments. The first component is intended to assess whether the bids reflect competitive prices for the licenses. The Commission tentatively concludes that the clock prices will adequately measure competitive prices for the licenses in the proposed Category 1, even though the full amount of the clock price may not be collected from every winning bidder. Moreover, since winning bidders will not yet be determined at the time the final stage rule is met, it will not be clear which licenses will be subject to bidding credits. The clock price reflects a common metric for pricing the licenses and is appropriate to use in assessing whether the first component of the final stage rule has been satisfied.

ii. Second Component: Covering Costs

53. The second component of the final stage rule requires that the proceeds of the forward auction be sufficient to meet mandatory costs and expenses set forth in the Spectrum Act and any Public Safety Trust Fund amounts needed in connection with FirstNet. Given the purpose of assuring sufficient proceeds for specified purposes, the Commission proposes a conservative approach to estimating the proceeds resulting from

forward auction bids for evaluating whether the second component is met.

54. The Spectrum Act requires that the forward auction generate proceeds sufficient to pay three types of expenses: payments to winning bidders in the reverse auction; the Commission's relevant administrative costs of the auction; and an estimate of broadcaster relocation costs eligible for reimbursement. In addition, the Commission concluded that the forward auction proceeds also must cover a fourth expense: any Public Safety Trust Fund amounts still needed to provide funding for FirstNet as contemplated in the Spectrum Act.

55. The reverse auction itself will determine the amount of the first expense. With regard to the second expense, the Commission cannot yet provide a reliable estimate of the amount of its expenses in conducting the incentive auction because there is still much work to do before it can conduct the auction. The Commission therefore proposes here to provide an estimate in the *Procedures PN* and a maximum percentage by which the final amount might vary from that estimate. The final amount for purposes of the final stage rule would be provided no later than the commencement of bidding. The flexibility in this approach will enable the Commission to discharge its statutory obligation to recover the relevant expenses from auction proceeds while providing adequate information to potential and actual auction participants to make informed decisions about participating and bidding.

56. With regard to the third expense that must be covered, the actual amount that will be needed to reimburse broadcasters from the TV Broadcaster Relocation Fund (Reimbursement Fund) will not be known until sometime after the auction. In any event, the Spectrum Act provides that the forward auction must generate proceeds sufficient to meet the Commission's estimate of the total expenses, as opposed to the actual amount. The Commission proposes to estimate this amount at $1.75 billion, the maximum amount that the Spectrum Act permits it to deposit in the Reimbursement Fund. The Commission considers setting this expense at the maximum amount to be prudent in light of the difficulty of estimating the amount in advance and the substantially conflicting range of estimates suggested in the record to date.

57. With regard to the fourth expense, the Commission proposes to announce in the *Procedures PN* any amount needed in the Public Safety Trust Fund to provide funding for FirstNet. The maximum amount of the Public Safety Trust Fund deposits to be made available to FirstNet for build out under the Spectrum Act is $7 billion. The amount that the incentive auction must provide will depend on the proceeds generated for FirstNet by the auction of AWS–3 licenses (Auction 97) and whether, once Auction 97 has been concluded, there are any Public Safety Trust Fund amounts still needed to provide funding for FirstNet as contemplated in the Spectrum Act. The Commission is optimistic that upon the conclusion of Auction 97, it will be clear that deposits to the Public Safety Trust Fund will be sufficient to fully fund requisite amounts for FirstNet.

58. The Commission proposes to take into account discounts that may affect actual amounts paid by winning bidders when evaluating whether the second component of the final stage rule is satisfied. Given the second component's purpose of assuring sufficient proceeds for specified purposes, the Commission believes a more conservative approach to estimating the ultimate proceeds resulting from forward auction bids is appropriate than for the first component of the final stage rule. Accordingly, in determining whether the second component has been satisfied, the Commission proposes to take into account any discounts based on impairments, as well as discounts based on small business bidding credits applicable to particular bidders.

59. A final license price may be adjusted to take into account the extent of any impairments that exist in the license. Accordingly, the Commission proposes here that it use the available information regarding the extent of the impairments when evaluating the final stage rule to discount the current clock price by the impairments. Doing so effectively will apply the same percentage discount that will be applied to the final price for the license, presuming the final stage rule is satisfied. The estimate used will be the lowest amount possible for the final price, which ultimately may be larger based on bidding in clock rounds and any additional bidding on the license in the assignment phase.

60. It is more difficult to estimate the final effect of small business bidding credits on auction proceeds prior to the conclusion of the auction. In order to do so, the Commission proposes that the auction system will presume that the bidder with the largest bidding credit will win the blocks it is bidding on and then proceed to the bidder with the next largest bidding credit and so on, until there are no more blocks left. Moreover, the Commission proposes to presume that the bidders with the largest bidding credits will win the blocks that are least impaired and thus, subject to the least adjustment based on the extent of impairment. The Commission believes that this approach is appropriate in light of the purpose of the second component. The Commission notes that a more conservative approach would be to discount all bids by the largest bidding credit claimed by any bidder in the auction, thereby assuring that the final winning bids could not be any lower than the estimate. However, the Commission does not propose to take this more conservative approach because it likely would overestimate substantially the discounts on final winning bids.

61. Unlike other bidding credits, winning bidders initially apply for Tribal lands bidding credits after the close of bidding, and so the amount of any Tribal lands bidding credits will not be known until after the auction, making it very difficult to assess their effect on auction proceeds. In past auctions, the Commission addressed this difficulty with a rule (47 CFR 1.2110(f)(3)(v)) that limits any amounts disbursed as Tribal lands bidding credits based on the available funds that exceed the relevant reserve price. The rule thus allows the award of Tribal lands bidding credits so long as the awards do not reduce the amount of funds otherwise required by a reserve price. The second component of the final stage rule specifically functions to assure that auction proceeds will equal or exceed the total of the four expenses that the second component reflects. Accordingly, the Commission proposes to apply 47 CFR 1.2110(f)(3)(v) with respect to the amount of the second component to preclude the possibility that the post-auction award of Tribal lands bidding credits could reduce auction proceeds below the total of the four expenses. Under this proposal, so long as there are sufficient proceeds to fund both the four expenses and any Tribal lands bidding credits, the credits will be awarded in full. If the proceeds are not sufficient to cover both the four expenses and any such Tribal lands bidding credits, the credits will be reduced proportionally as provided in 47 CFR 1.2110(f)(3)(v) so that the four expenses will be covered in full and any credits awarded will use only proceeds in excess of the total of the four expenses. Commenters objecting to this proposal should specify an alternative approach to prevent total auction proceeds from falling below the amount of the final stage rule's second component.

*C. Stage Structure*

62. In the *Incentive Auction R&O,* the Commission decided that the incentive auction will begin with reverse auction bidding followed by forward auction bidding in the initial stage and that, if necessary, bidding will continue over multiple stages, each including reverse and forward auctions, for successively lower clearing targets, until the final stage rule is met. Here the Commission seeks comment on remaining issues related to the stage structure. In particular, the Commission proposes procedures to determine whether the auction is in its final stage. The Commission also proposes procedures for moving to an extended round if certain conditions are met, as well as steps for transitioning to a new stage if necessary.

i. Sequence of Reverse and Forward Auctions

63. Consistent with the Commission's decision in the *Incentive Auction R&O* regarding the first stage, the Commission intends that in any stage, the reverse auction will occur first, to be followed by the forward auction. Under this proposal, the reverse auction will run until the reverse auction stopping rules are met. The forward auction will commence once the reverse auction has stopped.

64. The Commission seeks to provide the minimum necessary time between the reverse and forward auctions in any stage. The Commission therefore proposes to start forward auction bidding in the initial stage on the second business day after the close of bidding in the stage's reverse auction. With respect to any subsequent stages, the Commission proposes to start forward auction bidding on the next business day after the close of reverse auction bidding. Before forward auction bidding commences in any stage of the auction, forward auction bidders will be informed of the number of blocks to be offered in each PEA and the degree to which any of those blocks are impaired. The Commission seeks comment on this proposal. If commenters suggest a longer interval, the Commission asks that they provide details on why a longer period is desirable.

ii. Final Stage Determination and Implementation of Extended Round

65. The Commission proposes to evaluate whether the final stage rule is met throughout forward auction bidding in order to determine as quickly as possible whether the auction is in its final stage. This approach will allow the auction system to implement procedures triggered by satisfaction of the rule as early as possible and promote the speedy conclusion of the overall auction process. Specifically, the auction system will evaluate whether forward auction proceeds are sufficient to satisfy the final stage rule as part of the bid processing that occurs after each round of forward auction bidding. As prices and associated auction proceeds increase during the forward auction, the auction system will have the needed information to evaluate whether all required conditions of the final stage rule have been met.

66. The Commission also proposes to implement an ''extended round'' in which bidders will have the opportunity to increase their bids to make up any shortfall in the final stage rule under specified circumstances. The purpose of an extended round is to attempt to satisfy the final stage rule without moving to a new stage and lower clearing target. In the absence of an extended round, the current stage of the auction would be deemed to have failed and the auction would move to a new stage with a reduced clearing target.

iii. Transition to Any Subsequent Stages

67. After the conclusion of a stage that has ended without satisfying the final stage rule, and prior to beginning of any subsequent stage, the Commission proposes that the auction system will announce the new bidding schedule, including the date and time that bidding will start in the reverse auction portion of the next stage. If the auction must move to a new stage, the Commission proposes to set the clearing target for the next stage as the next lowest clearing target. Alternatively, the Commission seeks comment on whether the benefits outweigh the costs of skipping some clearing targets. For example, should the Commission skip the 108 MHz clearing target when moving to a lower clearing target because under that scenario two downlink blocks are separated from the remaining downlink blocks by channel 37?

*D. After the Final Stage Rule Is Satisfied*

68. When forward auction bidding satisfies the final stage rule, that stage of the auction will be the final stage. Meeting the final stage rule will not ''close'' the forward auction, however, as long as demand exceeds supply in any PEA. Rather, bidding will continue until demand does not exceed supply for all blocks in all PEAs. When this clock phase of the auction ends, the next step in the forward auction will be the assignment phase in which successful forward auction bidders will bid for frequency-specific licenses equal to the number of blocks they won in the clock phase. The Commission proposes that bidding in the assignment phase of the forward auction will start five business days after the auction system provides more detailed information about the assignment phase. The Commission recognizes that forward auction bidders will need a period of time to develop bidding strategies for the assignment phase, particularly since this is the first time it has conducted a frequency assignment phase. However, the Commission's goal is to conclude the incentive auction as efficiently as possible. Thus, the Commission believes the interval it proposes before beginning the assignment phase should be adequate.

## IV. Proposed Reverse Auction Procedures

*A. Relinquishment Options and Information Available*

69. The Commission explained in the *Incentive Auction R&O* that the purpose of the reverse auction is to identify broadcasters willing to relinquish some or all of their spectrum usage rights, and the corresponding incentive payments those broadcasters will require, in order to clear a stage-specific spectrum clearing target. To this end, the Commission adopted a descending clock auction format, relinquishment options, and a repacking methodology that will be incorporated into the reverse auction system. Bidding will take place in a series of rounds in which a bidder will be presented with price offers for each of its valid options for relinquishing spectrum usage rights. The Commission seeks comment on procedures to implement the various relinquishment options it established. The Commission also addresses the information that will be made available to bidders and to the public during the reverse auction bidding process.

i. Options for Relinquishing Spectrum Usage Rights

70. The Commission proposes to implement the relinquishment options established in the *Incentive Auction R&O* by giving each bidder the opportunity to bid for the various options that are open to it given the station's pre-auction band location (UHF, High-VHF, or Low-VHF). Specifically, a licensee with a UHF station can bid to relinquish all spectrum usage rights and go off-air, or to move to a High-VHF channel or a Low-VHF channel. A licensee with a High-VHF station can bid to go off-air or to move to a Low-VHF channel. A licensee with a Low-VHF station can bid

only to go off-air. To incorporate the channel sharing option into the bidding process, the Commission proposes that a participant that wishes to relinquish rights in order to share another licensee's channel will bid to go off-air, following the same bidding procedures as bidders that wish to go off-air without retaining a license. Throughout the auction, all bidders will maintain the option of declining to accept a price offer for an option, indicating that at this price or lower, they choose to drop out of the bidding.

71. The Commission proposes to treat the various options available to broadcasters, from license relinquishment to remaining on the air in their pre-auction bands, as a hierarchy in order of relinquishment and value to the auction. With regard to a UHF station, bidding to go off-air would be at the top, or first, in the hierarchy, followed by a move to Low-VHF, then to High-VHF, and finally, remaining on the air in its pre-auction band. Bidding to go off-air would be first in the hierarchy for High-VHF and Low-VHF stations as well, followed by a move to Low-VHF (for High-VHF stations only), and then remaining on the air in their respective pre-auction bands. The Commission will later refer to this ordering in addressing several of its proposed reverse auction implementation procedures.

72. The Commission proposes that a bidder will not be permitted to bid for options that would involve greater relinquishments than the most recent option selected. Under the Commission's proposal, the auction system will permit a bidder to move up (from greater relinquishment to less), but not down. For example, assuming a bidder with a UHF station selects all three relinquishment options in its application and then indicates its preferred option is to go off-air, the auction system will allow the bidder to choose the option of moving to a Low-VHF channel (if there is a vacancy in the Low-VHF band) later in the bidding, but not vice versa. If and when the auction system accepts that change in the bidder's preferred option, the bidder will not be allowed to request to go off-air later because that would represent a move down in the hierarchy of options. Likewise, selecting the option of moving to a High-VHF bid would preclude later bidding to go off-air. The Commission proposes this approach so that the auction system can calculate price offers based on consistent indications of bidder preferences, which will simplify bidding choices and lead to a speedier reverse auction.

73. The Commission proposes to treat a channel-sharing bid as the Commission does a bid to go off-air because, from the perspective of the auction system, a channel sharing bid is identical to a license relinquishment bid. Under this proposal, a bidder that seeks to relinquish its rights and share a channel with another broadcaster will be required to enter into a channel sharing agreement before the bidding, and will continue to hold a broadcasting license following the auction, but will not be subject to different bidding procedures during the auction than other participants that are going off the air. A broadcaster that relinquishes spectrum usage rights in order to share a channel will have its post-auction channel determined according to its contract with its channel sharer—that is, another broadcaster that remains on-air. The Commission notes that parties to a channel sharing agreement bear the consequences of any defects in the agreement or the failure of either party to perform pursuant to its terms. The Commission is not a guarantor or an enforcer of channel sharing agreements.

ii. Reverse Auction Information Available During the Auction

74. The Commission proposes to limit the disclosure of information regarding bidding during the auction. This proposal is separate and apart from the Commission's statutory obligation to maintain the confidentiality of information regarding the identity of participating broadcasters.

75. Specifically, the Commission proposes that the auction system will offer each reverse auction bidder only the prices for options specific to its station(s). Under the Commission's proposed approach bidders will not know the prices being offered to other bidders.

76. The Commission proposes that while the incentive auction is open, it will disclose to the public the current stage status, specifically the stage number and whether or not bidding is still open in the reverse auction for that stage. When bidding in the reverse auction for a stage is closed, the Commission also will disclose to the public the total of reverse auction bids that the forward auction proceeds must satisfy as part of the second component of the final stage rule.

*B. Application To Participate and Commitment to Initial Relinquishment Option*

77. The Commission seeks comment on particular aspects of the reverse auction application process. Specifically, the Commission seeks comment on information to be provided from potential channel sharers, *i.e.,* stations that may or may not participate directly in the auction and that have agreed to share a channel with an auction participant that relinquishes its spectrum usage rights in the auction. The Commission also seeks comment on information to be required from certain participants whose eligibility is uncertain, and from all participants with respect to their exercise of due diligence prior to participating. In addition, the Commission describes how each applicant will identify—and commit to—its initial preferred option among the available options for relinquishing spectrum usage rights.

i. Information From Channel Sharing Participants

78. The Commission proposes that any auction applicant submitting a channel sharing agreement with its application also be required to submit a separate certification by the channel sharer that the channel sharing agreement submitted is a true, correct, and complete copy of the channel sharing agreement between the parties. This certification must be executed by a party with authority to make such representations on behalf of the channel sharer. The Commission adopted rules in the *Incentive Auction R&O* outlining the information required of an applicant seeking to participate in the auction in order to share a channel after the auction. Under these rules, channel sharers—stations that agree to share their channels after the auction with stations that relinquish rights in the auction in order to channel share—need not apply to participate in the auction. However, they must provide any ''necessary'' certifications. The Commission believes that the proposed certification is necessary in order to smooth the post-auction transition by helping to assure the accuracy of the channel sharing agreement submitted with the application.

ii. Agreement to Escrow, if Necessary for Participation

79. The *Incentive Auction R&O* considered the circumstances of broadcasters that have licenses that have expired or are subject to a revocation order (collectively a ''license validity proceeding''), or that have Class A stations subject to a downgrade order, when the license validity proceeding or Class A downgrade order has not become final and non-reviewable by a date prior to commencement of the auction that will be specified in the *Procedures PN.* If the license invalidity determination becomes final between

the time a broadcaster is found to be qualified to participate in the reverse auction and commencement of reverse auction bidding, the broadcaster will be excluded from participating in the reverse auction. In those circumstances, the Commission established that the broadcaster is allowed to participate provided that its reverse auction proceeds would be placed in escrow pending the final outcome of the license validity proceeding or order. The Commission similarly established that a broadcaster with a pending enforcement matter or a pending license renewal application that raises an enforcement issue is allowed to participate in the reverse auction, on condition that such a broadcaster that no longer would hold any broadcast licenses upon acceptance of a license relinquishment bid agrees that a share of its reverse auction proceeds be placed by the Commission in escrow to cover potential forfeiture costs. The Commission now proposes the mechanism for implementing this arrangement in those circumstances where it is appropriate. Specifically, the Commission proposes that broadcasters with pending enforcement, license renewal, or other potential eligibility impediments must agree, as part of their application to participate in the auction, that auction proceeds which they otherwise could receive for relinquishing spectrum usage rights will be held by the U.S. Treasury. The U.S. Treasury would maintain the funds that are held back in a manner that accounts for each broadcaster's potential share pending the final resolution of specified issues, or for two years, as described in the *Incentive Auction R&O.* In addition, all such broadcasters that would not control any other television stations if its bid or bids were accepted must agree to remain subject to the Commission's jurisdiction and authority to impose enforcement or other FCC liability post-auction. The Commission seeks comment on this proposal.

80. This proposal implements the Commission's determination that such broadcasters may be qualified to participate even though they (a) have uncertain eligibility to participate due to particular circumstances or (b) have certain outstanding potential liabilities to the Commission. More specifically, the Commission provided that a broadcaster that has a license that is subject to pending proceedings that, if resolved against the broadcaster, would make the broadcaster ineligible to participate, might become qualified to bid if the broadcaster agrees to have the full amount of any incentive auction proceeds it might win held by the U.S. Treasury, pending resolution of the outstanding proceedings.

81. The Commission also concluded that a broadcaster might participate in the reverse auction even though the relinquishment of its broadcast spectrum usage rights might otherwise limit the Commission's ability to recover potential liabilities to it, provided that the broadcaster agrees that some of any incentive payment would be held by the U.S. Treasury to cover potential forfeiture amounts. In the second case, when such a broadcaster is notified of its eligibility to participate in the reverse auction after filing an application, the Wireless Telecommunications, Media, and Enforcement Bureaus will provide that broadcaster with information about any pending enforcement matter that cannot be resolved before the reverse auction. In addition, the Bureaus will indicate the amount of reverse auction proceeds that will be held should the broadcaster relinquish its license(s) as a result of the auction and therefore otherwise no longer be subject to the Commission's jurisdiction.

82. As to the amount to be held with respect to a particular broadcaster, all of the relevant auction proceeds would be held pending the final resolution of the status of the license in the case of a broadcaster with a license that may be determined post-auction not to have been eligible for relinquishment at the time of the auction. In the case of a broadcaster that has outstanding potential liabilities and might cease to be subject to Commission jurisdiction after relinquishing all of its broadcast spectrum usage rights, the amount determined prior to the auction by the Bureaus would be held. As described in the *Incentive Auction R&O,* amounts held will be released to the broadcaster or the Commission, as appropriate in light of the final resolution of the relevant specified issues.

83. The Commission also invites comment on an alternative proposal, under which, instead of holding the funds in the U.S. Treasury, it would deposit the relevant amounts in a third party financial institution to serve as a private escrow agent. Under this alternative, prior to the auction, the Commission would designate a private escrow agent for each broadcaster agreeing to the escrow in its application. The Commission will require that any escrow agent maintain the confidentiality of Commission-held data of broadcasters participating in the reverse auction. The Commission seeks comment on this alternative, including the terms of any escrow agreement with a third-party agent.

iii. Certification Regarding Due Diligence

84. The Commission proposes that all applicants will be required to certify the truth of the following statement as a part of their application to participate in the reverse auction: ''The applicant acknowledges and agrees that any information provided by the Commission's outside contractors who are advising and assisting it with education and outreach in connection with the reverse auction is for informational purposes only and that neither the Commission nor any of its outside contractors makes any representations or warranties with respect to any such information and shall have no liability to the applicant in connection therewith.'' The Commission's rules already provide that an applicant to participate in the reverse auction must certify that it has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the bids it submits in the reverse auction. The Commission's proposed additional certification will likewise help assure that each applicant accepts responsibility for its bids and will not attempt to place responsibility for its bids on either the Commission or the information provided by third parties as part of the Commission's outreach. Requiring this proposed certification is also consistent with the Commission's rule providing that an application will contain ''such additional information as may be required,'' 47 CFR 1.2204(c)(11).

iv. Committing to an Initial Relinquishment Option

85. The specific opening prices for each bidding option available to each station eligible to participate in the reverse auction will be provided at least 60 days in advance of the deadline to apply to participate in the reverse auction. The Commission proposes that each applicant to participate in the reverse auction will indicate for each of its stations listed in its application all of the spectrum relinquishment options available to it that it may be willing to consider. After Commission staff reviews a submitted application and the applicant has resolved any issues regarding the information provided, the applicant will be required to indicate a single preferred relinquishment option for each of its stations from among those that it previously indicated it would be willing to consider. An applicant must indicate a preferred relinquishment option and in certain cases may also specify alternative(s) for that preferred option. An applicant must specify a

preferred option (and any alternative(s), if it so chooses) for each station listed in its application in order to qualify as a bidder with respect to those stations in the reverse auction. This step will constitute a commitment by the applicant to fulfilling the terms of its preferred option (or alternative(s)) for a particular station, *i.e.,* relinquishing the relevant spectrum usage rights in exchange for the opening price in the event the auction system can accommodate the preference (or an alternative). This first commitment will establish the starting point for bidding in the clock rounds.

86. In order for an applicant's commitment for a station to be a valid starting point for bidding, it must be feasible for the auction system to accommodate an option for that station. The auction system can always accommodate going off-air as a preferred option because going off-air does not require finding a feasible channel assignment. However, the auction system may not be able to accommodate moving to either the Low-VHF or High-VHF band as a preferred option if there are not enough channels available in that band (vacancy) at the start of the auction to accommodate all stations with such a preference. Accordingly, the Commission proposes that an applicant that selects moving to either Low-VHF or High-VHF as its preferred option for a station may indicate alternative options for that station, which would be used in the event that the preferred option cannot be accommodated. Under the Commission's proposal, the auction system will attempt to accommodate the preferred option. If it cannot and the applicant indicated one or more alternative options for the station, the system will attempt to accommodate one of the alternative options when determining an initial assignment of stations to relinquishment options. If the system assigns the station to one of its alternative options, that option will constitute the applicant's commitment and become that station's assigned option at the start of bidding. If the auction system cannot accommodate an applicant's preferred option or any of its alternative options for a station, that station will be assigned a channel in its pre-auction band. Thus, an applicant that wants to guarantee a station's participation in the bidding should indicate going off-air as either its preferred option or as an alternative option, as a vacancy for every station to move to Low-VHF or High-VHF cannot be guaranteed.

87. The Commission proposes that once bidding begins in the clock rounds a bidder will not be permitted to bid for options that would involve greater relinquishments than the previous option selected. Thus, under the Commission's proposal, an applicant considering multiple relinquishment options for a station will need to consider the restriction on moving one way up the hierarchy of options in deciding which option to commit to at the commitment stage of the application process, since its choice may preclude later being able to bid for other options below it. For example, initially committing to moving to Low-VHF would preclude later switching options to going off-air; initially committing to moving to High-VHF would preclude later switching options to going off-air or moving to Low-VHF; and initially committing only to moving to either Low-VHF or High-VHF, without committing as an alternative to going off-air, could result in non-participation if there is no vacancy in either of these bands at the start of the auction.

88. *Initial Assignment.* Once each station has made an initial commitment(s), the auction system will determine an initial assignment of stations to relinquishment options using optimization techniques. This initial assignment will determine the relinquishment option for which a station will be offered prices at the beginning of the reverse auction. Due to the limited availability of VHF channels, the Commission proposes to prioritize rules that will be used to determine, in the event that all participating stations cannot be assigned to their preferred options, how to choose an alternative option for some stations. If a station cannot be assigned to its preferred option or an alternative option, it will not participate in the reverse auction bidding and will be assigned to a channel in its pre-auction band. As set forth in detail in Appendix C of the *Auction 1000 Request for Comment,* the Commission proposes the following rules in order of priority: (1) Minimize the number of UHF participating stations that must be assigned to their pre-auction band; (2) minimize the number of VHF participating stations that must be assigned to their pre-auction band; (3) maximize the number of participating stations that can be assigned to their preferred relinquishment option; (4) maximize the number of participating stations that can be assigned to go off the air as an alternative option; and (5) minimize the sum of impaired weighted-pops across all licenses (*i.e.* solve for the primary objective of the clearing target optimization). The Commission proposes to give rules (1) and (2) the highest priority to minimize the number of stations that are assigned to their pre-auction band and, therefore, cannot participate in the reverse auction. Rule (1) precedes all others to minimize the likelihood of creating additional impairing stations in the 600 MHz Band. If not all stations can simultaneously be assigned to their preferred option pursuant to rule (3), rule (4) would ensure that the maximum number of stations that must be assigned an alternative option are assigned the option to go off the air, in order to provide the most opportunities for bidding in the reverse auction. Finally, rule (5) would require the optimization to choose among the remaining options based on the primary objective of minimizing the sum of impaired weighted-pops across all licenses in the 600 MHz Band.

*C. Descending Clock Bidding Procedures*

89. In adopting a descending clock format for the reverse auction, the *Incentive Auction R&O* explained that ''bidders will be faced with relatively simple choices of determining whether or not they are still willing to accept the current prices for bid options.'' It determined that price offers for bid options generally will start high and descend between rounds for each participating station, and indicated that price offers for each station may be adjusted based upon factors reflecting that particular station's impact on the repacking process. In the *Incentive Auction R&O,* the Commission adopted rules allowing for the use of reserve pricing in the reverse auction, and noted that it may adopt procedures to implement a form of dynamic reserve pricing (DRP). The Commission also explained in general terms the descending clock auction procedures for selecting winning bids and determining prices to be paid to winning bidders.

90. The Commission proposes procedures for determining the prices reverse auction bidders will be offered during the bidding rounds. The Commission then address the bidding process in detail, proposing procedures for the types of acceptable bidder responses to price offers in a round, including procedures for bidding for multiple relinquishment options. The Commission also addresses how the auction system will process bidder responses to determine which stations will have their bids accepted. Finally, the Commission proposes procedures to implement bidding activity and stopping rules.

i. Determining Price Offers

91. The Commission clarifies that a ''bid'' in this descending clock auction means a response to a price that is offered to the bidder. This is consistent with the fundamental premise of a clock auction, where bidders do not initiate bids but rather indicate over a series of rounds whether they are willing to accept offered prices that increase or decrease, depending upon whether it is an auction to sell or buy. The clock prices stop increasing or decreasing when there is no longer competition among the bidders to buy or sell an item. For example, in a simple procurement auction to buy one item, the auction stops when only one bidder is left that is willing to supply the item at the current price offer. In the reverse auction, the Commission will aim to ''procure'' a targeted amount of cleared television spectrum and bidders will compete to relinquish spectrum usage rights to enable that clearing. Through their bids in each round, bidders will indicate their continued willingness to accept a given offer price for a relinquishment option, which will constitute a commitment to relinquish their spectrum usage rights at that price, or they will reject the offer, possibly indicating a lowest price they are willing to accept.

a. Opening Price Methodology

92. Opening prices must be high enough to encourage robust participation in the reverse auction, but not so high that the reverse auction requires many hundreds of rounds to reach final clearing prices. In designing a system of competitive bidding, which includes setting opening prices, the Commission promotes several statutory goals, including ''recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource,'' 47 U.S.C. 309(j)(3)(C). To balance these objectives, the Commission proposes to calculate an opening bid price for each station, using a station-specific ''volume'' factor and an underlying base clock price for a UHF station going off air. The opening bid for the UHF off-air and channel sharing options will be the same, as both would result in the return of a full six megahertz of UHF spectrum for reallocation to flexible-use licenses. Because the Commission will not know the initial clearing target prior to accepting bidder applications, and therefore will not exclude any stations or markets from the auction in advance, the Commission intends to provide opening prices to every eligible broadcaster. If, upon establishing the initial clearing target, the auction system identifies markets where broadcaster participation is not needed, it will so inform broadcasters in any such market and provisionally assign each of them channels in their pre-auction bands. The opening prices may be zero for stations that the auction system determines do not constrain the Commission from reorganizing the UHF band. The opening off-air bid for UHF stations would be the product of each station's volume factor and the base clock price. Opening bid prices for a move from the UHF band to the Low-VHF or High-VHF band would be calculated by applying a specific discount to the off-air bid amount for each of these options.

93. The Commission proposes to calculate a station's volume using this formula: Station Volume = $(\text{Interference})^{0.5} * (\text{Population})^{0.5}$. The Commission proposes to set interference equal to the number of co- and adjacent channel constraints a station would impose on repacking on a pairwise basis. The interference component measures a station's potential impact on repacking. More specifically, for each station pairing, the Commission first determines the maximum number of constraints that can exist between the two stations on any channel in bands into which both stations can be repacked. Thus, between two UHF stations, the Commission would consider all channels in the UHF, High-VHF or Low-VHF bands (channels 2–51) to determine the maximum number of constraints that exist between the two stations consistent with the hierarchy of relinquishment options. Between a UHF station and a High-VHF station, the Commission would consider only channels in the High-VHF band (channels 7–13) and Low-VHF band (channels 2–6) to determine the maximum number of constraints that exist between the two stations. Between a UHF station and a Low-VHF station, the Commission would consider only channels in the Low-VHF band (channels 2–6) to determine the maximum number of constraints that exist between the two stations. The Commission then sums up these maximums for each station to set its interference metric. The Commission proposes to measure population as the number of people residing within the station's interference-free service area. A fuller description of this calculation is set out in Appendix D of the *Auction 1000 Request for Comment.*

94. To calculate a station's opening bid price, the Commission will multiply its volume times a base clock price. The base clock price is a constant amount per unit of volume. Based on the Commission's work to date on the design of the incentive auction, it expects that a base predicated on an opening bid price of $900 million for the station with the highest volume will achieve robust participation by stations across multiple markets. The Commission therefore proposes to set the base clock price so as to yield an opening bid of $900 million for this station. It should be noted that if this highest volume station is not in UHF, its base clock price would be decreased by the discount applied to its pre-auction band. This discount is detailed in Appendix D to the *Auction 1000 Request for Comment.* The Commission will calculate volume for all stations and then rescale so that the maximum station volume is one million. Dividing the $900 million opening bid price for the highest volume station by one million results in a base clock price of 900. The base clock price will drop in each round of the reverse auction, while a station's volume will remain constant. The price offered to a bidder to go off air in a given round will be the product of the base clock price in that round and the station's volume. The markets and stations needed in the reverse auction will depend on which stations choose to participate, and actual compensation to stations will be determined by the auction.

95. The Commission tentatively concludes that this formula appropriately balances the manifold goals that Congress has charged it with in connection with the incentive auction. First, a combined interference-population volume establishes opening bid prices that should provide the necessary incentive for broadcaster participation. Consistent with the Commission's determination in the *Incentive Auction R&O,* its proposed approach will yield opening bid prices that reasonably approximate underlying relative differences in value of stations to the auction. The Commission's proposed formula is not based on a station's market or enterprise value. If a station has many constraints and blocks many other stations from being repacked, then under the Commission's proposal, its opening price will reflect that contribution to the auction's ability to clear spectrum. The population component complements the interference metric by enabling the Commission to clear more spectrum in markets where the forward auction

value of relinquished spectrum usage rights is apt to be higher. Second, the opening bid price set using the proposed methodology will enable the Commission to close the auction in a reasonable number of rounds, providing ease of participation for broadcasters and enhancing the prospects for a successful auction. Third, the balanced approach the Commission proposes will meet its statutory obligation to promote the interests of taxpayers in getting a portion of the value of the spectrum sold at the forward auction. Finally, use of a population factor is consistent with the fact that the spectrum recovered from broadcasters will enable flexible use licenses to be offered in the forward auction subject to procedures that are based, among other things, on the population covered by each PEA.

96. Under the Commission's proposed approach, opening bid prices for moving from the UHF band to the Low-VHF or to the High-VHF band (the VHF options) will be set at a value relative to the opening price for going off-air. For moving from UHF or High-VHF to Low-VHF, the Commission tentatively concludes that a station's opening price should be between 67 and 80 percent of the station's price to go off-air. For moving from UHF to High-VHF, the Commission tentatively concludes that a station's opening bid price should be between 33 and 50 percent of the station's off-air price. The Commission seeks comment on where in these ranges it should set the discounts or whether some other discount is appropriate for these bid options. The Commission emphasizes that these would only be opening discounts. Final discounts for the VHF options will be determined by the demand by bidders for VHF channels and the availability of those channels.

97. The Commission proposes to calculate the opening prices for the VHF options as a discount off the off-air opening price because a winning bidder electing one of the VHF options will retain a full six megahertz channel, and thus should not receive the same compensation as bidder that relinquishes its rights to a six megahertz channel. The proposed level of the discounts reflects a comparison of the technical characteristics of UHF and VHF channels and of the characteristics of Low-VHF and High-VHF channels. In particular, VHF frequencies are more susceptible to interference than UHF frequencies. Specifically, noise from nearby electrical devices can disrupt reception on these lower frequencies, especially indoor reception. While present across the VHF bands, this issue is more pronounced on low-VHF channels than on High-VHF channels. Thus, while the opening price for a VHF option should not be the same as for the off-air relinquishment option, it should be high enough to offset the potential loss in value associated with this increased interference potential.

98. The smaller discount for the Low-VHF option as compared to High-VHF reflects that television receivers are subject to greater interference in the Low-VHF band. The proposed respective discounts for the Low-VHF and High-VHF options also reflect the relative number of unoccupied channels in each band. There are substantially more unoccupied Low-VHF channels than High-VHF channels. As a result, in nearly all markets, a station could move to a Low-VHF channel without the need to reassign any channels in that band. Conversely, there are relatively few markets where a station could move to High-VHF channels unless other stations vacate that band or are repacked within the band. In at least some scenarios, therefore, the Commission may need to pay two stations in connection with a UHF-to-High-VHF move: A High-VHF station to vacate its channel, and UHF licensee to move to High-VHF. A smaller discount, *i.e.,* a higher opening price, for the Low-VHF option would signal the greater value of this option to the auction. The Commission seeks comment on its proposed approach to setting opening prices for the VHF options, the appropriate discount levels, or whether there are additional factors or approaches that the Commission should consider.

b. Price Offers in Initial and Subsequent Rounds

99. The Commission proposes that, in the first clock round of the reverse auction, a bidder whose commitment to a preferred or assigned alternative option at the opening price is not provisionally accepted by the auction system will be offered a lower price for the assigned option. As long as the bidder indicates it is willing to accept the offered prices, and if a feasible channel assignment exists for the station in its pre-auction band, the auction system will progressively offer lower prices for that option. When the Commission refers to checking a feasible channel assignment in a station's pre-auction band when determining price offers, for stations with a pre-auction band of UHF, the Commission is referring to the remaining television portion of the UHF band. A bidder that indicates it will consider multiple bidding options will be informed of current prices for those options and will have the opportunity to request to switch to bidding for another option. A bidder that switches bidding options will then be offered progressively lower prices for that option, but only so long as a feasible channel assignment exists for the station in its pre-auction band.

100. The Commission proposes to offer a bidder lower prices for relinquishment options as long as the bidder is still competing with other stations to relinquish rights, consistent with the basic clock auction's competitive framework. When a station's relinquishment becomes essential to meeting the clearing target (because there is no longer room for it in its pre-auction band), the auction system will stop offering lower prices to that station, and will provisionally accept the station's offer to relinquish its usage rights.

101. More specifically, whenever a station is provisionally assigned to a band, either because it dropped out of bidding or because its bid to switch to a different relinquishment option was applied, the repacking feasibility checker will consider for each station that remains active whether a channel can still be found in its pre-auction band, given all other stations that need to be assigned channels in that band (*i.e.,* non-participants and other stations that have previously dropped out of the bidding and are assigned to that band). When the feasibility checker cannot find a way to repack a station into its pre-auction band because of the other stations that must be accommodated, the auction system will not reduce the station's price in that auction round. If the feasibility checker determines that the station cannot be repacked in its pre-auction band for the remainder of the stage, then the auction system will notify the bidder that the station's prices and relinquishment offer are ''frozen'' for the remainder of the stage. An exception to the general case may occur for VHF stations. For a VHF station, the amount of vacancy in its pre-auction band may increase as bidding rounds progress, so a station that had a relinquishment bid frozen because it was infeasible to accommodate in its pre-auction band can later become feasible. For instance, if a UHF station is currently assigned to move to upper-VHF but subsequently drops out of the bidding to remain in UHF, that move may create a vacancy in upper-VHF. Because of this, unlike UHF stations, stations with pre-auction channels in the VHF band may unfreeze in later rounds of the same stage if it becomes possible to accommodate the station in its pre-auction VHF band. If the system determines that the station can feasibly

be assigned a channel, the station will be offered a lower price in the next bidding round.

102. Price reductions in each round, explained in detail in Appendix D of the *Auction 1000 Request for Comment,* will be based on the base clock price. The base clock price is calculated for the case of a station whose pre-auction band is UHF that is still feasible to repack in the UHF band and still bidding to go off-air. The Commission proposes to reduce this base clock price by between three percent and 10 percent per round. The Commission also proposes that the amount may be changed at any point during the reverse auction based on bidding activity during the auction. Using smaller decrements is likely to increase the number of rounds necessary to reach final auction prices. The Commission seeks comment on the possibility of using proxy bidding, which could reduce the bidders' need to closely monitor numerous, frequent bidding rounds. With proxy bidding, a bidder could ask the system to continue to bid for its current relinquishment option in every round until either its price falls below a bidder-specified threshold or the bidder intervenes to change its bid, whichever happens first. In each round, the bidder would be informed of the first round in which the price of its option could possibly fall below its specified threshold. This notice would allow the bidder to anticipate the timing of when it may need to change its bid or update its proxy bid. The range of potential reductions will enable the auction to move at an appropriate pace while also providing the flexibility to offer bidders appropriate price choices as the auction progresses. For instance, if the decrement in a round is four percent, this means that the price offered per volume in this round to a UHF station for going off-air is four percent lower than what the base clock price was after the bid processing of the previous round. Appendix D of the *Auction 1000 Request for Comment* describes how the Commission proposes to compute the prices that are offered to VHF stations for going off-air and/or for relinquishment options that are different from going off-air. Appendix D alternatively considers adjusting the decrement of each station as a function of its vacancy in the various bands. The Commission seeks comment on this alternative proposal.

c. Dynamic Reserve Prices in Early Rounds of the First Stage

103. The Commission proposes to implement dynamic reserve price (DRP) procedures in the early rounds of the reverse auction in the first stage. The DRP procedures the Commission proposes implement a limited exception to the proposal regarding price reductions and enable the auction system to reduce the price offered a station below the opening or previous round's price even when the station cannot feasibly be assigned a channel in its pre-auction band, so long as assigning the station a channel in the 600 MHz Band will not result in inter-service interference that exceeds the nationwide standard for market variation. Accordingly, while DRP procedures are in effect, a UHF station may be offered a lower price for an option even if it cannot feasibly be assigned a channel in the remaining TV portions of the UHF band; if it refuses the offer, it may be assigned to a channel in the 600 MHz Band. By mitigating the risk that a station may be awarded its opening price merely because there is no channel to offer in its pre-auction band—a result that would have little or nothing to do with what the station would be willing to accept in exchange for relinquishing its spectrum usage rights—these procedures will increase the likelihood of a successful auction. This is because DRP procedures make it possible to offer higher opening prices, thereby attracting greater broadcaster participation, than would otherwise be the case. Absent DRP, lower opening prices would be necessary. Because the procedures the Commission proposes for discontinuing DRP will limit the extent to which opening prices can fall, even as reduced by DRP, the higher opening prices may ultimately provide higher incentive payments to broadcasters. In addition, by enabling the reduction in broadcaster payments where such payments are acceptable to broadcasters, the proposed DRP procedures will make it easier to satisfy the second component of the final stage rule.

104. Under the Commission's proposed approach, the reverse auction will begin in the first stage with DRP procedures in effect. While DRP procedures are in effect, participating UHF stations that cannot feasibly be assigned a channel in the remaining TV portion of the UHF band will be treated differently than when DRP procedures are not in effect: the prices offered to such stations will be reduced. In contrast, the prices of such stations will not be reduced when DRP procedures are not in effect. Regardless of whether dynamic reserve pricing procedures are in effect, the prices of a participating VHF station will not be reduced during bid processing if that station cannot be feasibly assigned a channel in its pre-auction band. Should a UHF station decline to accept a price offer when DRP procedures are in effect, the station may provisionally be assigned a channel in the 600 MHz Band, creating potential impairments to one or more 600 MHz Band blocks.

105. The Commission proposes to discontinue DRP procedures when their application risks exceeding the less than 20 percent nationwide standard for limiting market variation proposed. More specifically, the Commission proposes that DRP procedures be discontinued when, if the Commission were to assign all of the participating UHF stations for which the auction system cannot find a feasible channel in the remaining TV portion of the UHF band, the predicted aggregate level of impairments to licenses in the 600 MHz Band would exceed this standard.

106. The Commission seeks comment on this proposal and on how to determine whether the standard would be exceeded, as a full channel assignment optimization would be too time consuming to run during the reverse auction clock rounds. One approach would be for the auction system to use a limited version of the channel assignment optimization procedures proposed for setting a clearing target to determine when the aggregate level of potential impairments from participating stations dropping out of the auction could exceed the proposed national standard. Once DRP procedures are discontinued, however, the Commission proposes that the system fully optimize the provisional channel assignments to minimize the impact of any impairments created during DRP.

107. The Commission also seeks comment on alternative approaches for determining when DRP would be discontinued in order to avoid these risks. For instance, DRP procedures could be discontinued when there is the potential that the next participating station for which the auction system cannot find a feasible channel in the remaining TV portion of its pre-auction band, if it chose to drop out of the auction, would cause the predicted aggregate level of impairments to licenses in the 600 MHz Band to exceed this threshold. This alternative approach would always result in aggregate impairment that is just one station short of the threshold, while the proposed approach could result in a lower level of impairment, and possibly even no additional impairment, due to DRP. The Commission also seeks comment on whether, instead of determining when to discontinue DRP

using predicted aggregate impairments, the Commission should use the population served by UHF stations that cannot be feasibly assigned a channel in the TV portion of UHF as a proxy for predicted aggregate impairments.

ii. Bidding and Bid Processing

108. Some bidders in the reverse auction will be interested in only a single relinquishment option (single-option bidder). Other bidders may wish to consider price offers for multiple relinquishment options (multiple-option bidder). The Commission proposes detailed procedures for bidder responses and bid processing for bidders in both categories.

a. Bidding for a Single Relinquishment Option

109. At the start of the clock rounds, the Commission proposes that a single-option bidder whose commitment to a bid option at the opening price is not provisionally accepted will be presented with a price offer lower than the opening price it committed to accept and asked if it is willing to accept the lower price. The Commission proposes that the bidder will have three choices: it may accept the offered price (*i.e.,* submit a bid at the clock price), submit an intra-round bid, or not respond. If the bidder accepts the offered price, it will be finished bidding for that round and can await the results of the round.

110. If the bidder does not place a bid, the auction system will treat the bidder as unwilling to relinquish its rights for less than it previously accepted. If the bidder places an intra-round bid, the bidder's intra-round bid will indicate to the auction system that, at prices at least as high as the intra-round bid (including the opening price), the bidder is willing to relinquish its spectrum usage rights, but at lower prices the bidder's station must be provisionally assigned a channel in its pre-auction band.

111. During each subsequent bidding round, a bidder that continues to participate in the bidding—that is, a bidder that accepted the clock price offered during the previous round—will be presented with a new, lower price offer, and will have the same response choices as during the first round.

112. Under the Commission's proposed procedures, which are described in detail in Appendix D of the *Auction 1000 Request for Comment,* the auction system will process the bids submitted during a bidding round at the close of the round based on bid prices. If prices in the round drop below the level of an intra-round bid, the single option bidder will drop out of further bidding in the auction. The auction system will then evaluate the feasibility of repacking (that is, assigning permissible channels to) all other stations that continue to participate in the bidding in their pre-auction bands. If the system determines that a participating station cannot feasibly be accommodated in its pre-auction band, the system will stop reducing the station's price at the point at which the station is infeasible to repack. Acceptance of a bid will be provisional until the final stage rule is satisfied, at which point provisionally-accepted bids will become winning bids. Appendix D describes in detail the process by which the Commission proposes to integrate the repacking feasibility checking methodology into the reverse auction process.

113. As the auction system iteratively considers bids and potential channel assignments, it may determine that it will accept a relinquishment offer at a price higher than the lowest price the bidder indicated it would accept. Hence, a bidder that makes an intra-round bid during a round may have its bid accepted at a price higher than the intra-round bid.

114. Once the auction system has processed all of the bids submitted in a round and the results of the round have been determined, the auction system will indicate to each bidder its status—that is, whether its relinquishment bid has been provisionally accepted, whether it is still bidding for the option, or whether it is designated to be assigned a channel in its pre-auction band because it dropped out of the bidding. A bidder that accepted the clock price offered during the round whose station feasibly can be repacked in its pre-auction band will be offered a lower price for the next round.

115. The Commission invites comment on whether it should simplify the reverse auction bidding process by not providing the option to place an intra-round bid, and instead simply ask each bidder if it is willing to accept the new lower price for its relinquishment option. If the bidder is unwilling to accept the lower offered price, the auction system would not ask for an intra-round bid. This approach could simplify both bidding and bid processing, as all bids would be processed at the clock prices. This would eliminate uncertainty about the price a bidder may receive at the start of the next round for the different relinquishment options. Implementing this alternative would require that the Commission use generally smaller increments for price reductions, and could reduce to some degree the flexibility afforded to bidders to choose specific price points within a round.

b. Multiple Option Bidding

116. The Commission has proposed that with respect to a particular station a bidder's initial commitment will determine which option the bidder will be bidding for initially and explained that the station's bid option selections on the pre-auction application will determine which options it may later consider, consistent with the proposed hierarchy of options. Accordingly, at the start of the first clock round, as for a single-option bidder, a multiple-option bidder in an area where there are more stations willing to accept relinquishment options than needed to meet the clearing target will be presented with a price offer for its option that is lower than the opening price it committed to accept. The multiple-option bidder will also be able to see current prices for each of its other bid options.

117. In addition to being able to accept the lower price for its preferred option or place an intra-round bid, a multiple-option bidder will have the option, at current prices, to request to switch to any other of its eligible relinquishment options, consistent with the option hierarchy. The auction system will implement the switch if the feasibility checker determines that it is feasible to assign the station to a channel in the band associated with the new option. The bidder will then be offered a lower price for the new relinquishment option in the next round unless the bidder becomes frozen. However, if the system is unable to assign the bidder a channel in its newly preferred option, the system will still consider the bidder to be bidding for its previous option at the last price it agreed to accept.

118. In the event that multiple bidders request to switch to bid on moving to the same band in the same round, the auction system may not be able to accommodate each request. As a result, the Commission proposes that a multiple-option bidder requesting to switch options must also indicate whether it is willing to accept the lower clock price for its currently assigned option, in case the system cannot accommodate its request to switch. A bidder unwilling to accept the lower price offer for its current option may place an intra-round bid to indicate a specific price at which it wishes to drop out of bidding for its current option. If there is not a channel available in the option to which a multiple-option bidder requests to switch, and the price for its assigned option drops below the

intra-round bid amount during bid processing for the round, the bidder will drop out of the bidding and be designated to be assigned a channel in its pre-auction band.

119. At the close of the bidding round the auction system will process the bids submitted during the round as in the single option bidder scenario, by considering the bids in decreasing order of bid price, consistent with the descending clock format. Once the auction system has processed all of the bids submitted in a round, the auction system will indicate to each bidder whether its request to switch bidding options was accepted, as well as whether it had a bid provisionally accepted or whether it dropped out of the bidding during the round.

120. Under the alternative ''no intra-round bidding,'' multi-option bidders would simply respond to single price offers without the opportunity to place intra-round bids. Submitted bids would be processed by attempting to accommodate a station's requests to switch options (if any) and processing the station's election to drop out of the bidding (if any). If as a result of another station's bid, a bidder cannot be feasibly assigned a channel in its pre-auction band, the system would not lower the bidder's prices.

iii. Stopping Rule

121. The Commission proposes a stopping rule for the reverse auction whereby bidding rounds will continue until no stations are still bidding—that is, each participating station either has had a bid to relinquish rights accepted or has been assigned to a channel in its pre-auction band. Both acceptance of a bid and assignment to a channel will be provisional until the final stage of the auction.

*D. New Stage Procedures*

122. If a stage of the auction fails to satisfy the final stage rule, the Commission will run a new stage of the auction at the next lower clearing target as identified in the Technical Appendix of the *Incentive Auction R&O.* The Commission proposes that at the start of any subsequent stages of the incentive auction, the auction system will conduct another clearing target optimization that will take into account the additional channel that will be available for broadcasting in the UHF band as a result of the reduction in the amount of UHF spectrum reallocated for flexible-use licenses under the next lower clearing target. The optimization procedure will ''re-shuffle'' the assignment of stations in the UHF band (both the television portion and the 600 MHz Band) using the ISIX constraints and based upon the new clearing target with the objective of minimizing the number of impaired ''weighted-pops.''

123. With a reduced clearing target, the auction system may be able to find a feasible channel assignment for some bidders that had been provisional winners in the prior stage, that is, bidders that were frozen in a relinquishment option when the auction system determined that they could no longer be assigned a channel in their pre-auction bands. These bidders will resume bidding. Stations that dropped out of the bidding in a prior stage to be assigned a channel in their pre-auction band will retain that status and will not resume bidding. The Commission proposes to reset the base clock price to the highest point at which any newly-feasible bidder was frozen in a prior stage. Then, in each round, as the clock price descends to reach the point at which a newly-feasible bidder was frozen in the previous stage, the bidder will again see lower price offers and will resume active bidding. Consequently, in a new stage, such bidders may not see their prices decrease for many rounds as the clock catches up to the point where each station had been previously frozen.

124. The auction system will calculate price offers for bidders that can now be assigned a channel in their pre-auction bands using the descending clock pricing procedures, provided that the clock price is at or below the level at which these bidders had their relinquishment offers provisionally accepted in the prior stage. Bidders will respond to these prices, and reverse auction bidding rounds in the new stage will continue, according to the bidding procedures.

125. The Commission seeks comment generally on these proposed procedures for initiating bidding in a new stage of the reverse auction. The Commission also seeks comment more specifically on whether, in order to reduce the number of rounds, especially where some bidders may have had their offers accepted in significantly earlier rounds of the prior stage, the Commission should increase the rate at which price offers descend for all newly-feasible bidders that are again actively bidding.

*E. Determining a Final Television Channel Assignment Plan*

126. The Commission invites comment on appropriate objectives in optimizing the final television channel assignment plan and on how to prioritize those objectives. Further detail on this process can be found in Appendix E of the *Auction 1000 Request for Comment.* At the end of each reverse auction stage, all channel assignments in the remaining television bands will be provisional. After the final stage rule is satisfied, the Commission will determine final television channel assignments. The reassigned broadcasters will have the opportunity, after the release of the final channel assignment plan, to seek an alternative channel. Like the provisional assignments made during the clearing target optimization and repacking processes, final TV channel assignments will be subject to the constraints adopted in the *Incentive Auction R&O* in order to preserve each eligible station's coverage area and population served. Unlike the provisional assignments made during the reverse auction clock rounds, which will be based solely on such constraints, final channel assignments will be made applying optimization techniques that take into account additional objectives. The Commission stated in the *Incentive Auction R&O* that it would seek comment on the details of the final channel assignment optimization in the *Auction 1000 Request for Comment,* and expressed its intention to optimize the final channel assignment plan to minimize relocation costs. In the recent *ISIX R&O and Further Notice,* the Commission adopted two additional objectives for the final optimization: Avoiding channel assignments that would result in aggregate new interference to any individual station over one percent and avoiding significant viewer losses due to terrain losses. The Commission deferred a decision as to how to optimize for the latter objective, recognizing that it could be accomplished in different ways.

127. Consistent with the Commission's prior determinations, it now proposes to determine the final TV channel assignment plan based on the following objectives, listed in order of priority: (1) Maximizing the number of stations assigned to their pre-auction channel; (2) minimizing the number of stations predicted to receive aggregate (that is, from multiple stations) new interference above one percent; and (3) avoiding reassignments of stations with high anticipated relocation costs in order to minimize total relocation costs. The Commission discusses these objectives and how they might work together and seeks comment on any other possible final TV channel assignment plan objectives.

128. *Maximizing Channel ''Stays.''* In order to repurpose a contiguous portion of the current UHF television band for new, flexible uses, some television stations currently operating on higher

UHF channels will need to be reassigned lower channels in the UHF band. While some channel reassignments are inevitable in order to clear any spectrum, the Commission seeks to minimize the disruption that channel reassignments will have on both broadcasters and their viewers, as well as to reduce the overall cost of the repacking process. In addition, avoiding new channel assignments where possible will help to avoid viewer losses due to terrain losses that can result when a station is reassigned to a different channel. The Commission therefore proposes to maximize the number of stations that stay on their pre-auction channel as its first objective in the final channel assignment optimization. By maximizing the number of stations that stay on their pre-auction channels, the Commission can reduce repacking costs, avoid disruption to broadcasters and their viewers and avoid losses in viewers and coverage area due to terrain that may result from channel reassignments.

129. *Minimizing Aggregate New Interference Over One Percent.* As the Commission previously determined, it will optimize the final channel assignment plan to avoid channel assignments that would result in aggregate new interference of more than one percent to any individual station. The Commission invites comment on two possible approaches to implementing this objective using optimization techniques. The first approach is to minimize the maximum amount of aggregate new interference that any one station could receive. The second approach is to minimize the *number* of stations predicted to receive aggregate new interference above one percent. The former approach will ensure that the amount of aggregate new interference that any one station receives is as small as possible but could have the drawback of creating more stations with aggregate new interference above one percent. The latter approach ensures that the number of stations with aggregate new interference above one percent is minimal but could have the drawback of not explicitly restricting the amount of aggregate new interference for any one station. As the Commission discussed recently in the *ISIX Order,* however, it anticipates that the worst cases will be limited in number and will not exceed two percent, and stations may remedy any such situations by seeking alternative channel assignments in the post-auction transition process. The Commission also invites comment on combining the two approaches. The Commission seeks comment on these and other possible approaches to optimizing to reduce aggregate new interference.

130. *Minimizing Relocation Expenses.* The costs associated with reassigning a station to a new channel in the repacking process vary from station to station. For example, some stations broadcast from antenna structures that may be particularly difficult to modify due to height, geography, or weather conditions; other stations may need to acquire significant new equipment in order to broadcast from their reassigned channels. In the *Incentive Auction R&O,* the Commission stated its intention to disburse funds from the $1.75 billion TV Broadcaster Relocation Fund as fairly and efficiently as possible. In order to carry out this intention, the Commission proposes to minimize the total relocation costs using the most accurate publicly available data to measure such costs. Recognizing that the Commission may not have perfectly accurate data on equipment, facilities, and other factors relevant to determining anticipated relocation costs, the Commission seeks comment on this proposal and specifically on how to determine these expenses.

131. *Prioritizing Multiple Objectives.* The Commission further seeks comment on prioritizing objectives in the final TV channel assignment plan objectives. In order to combine the objectives into a single process, the Commission proposes that the final TV channel assignment procedure first solve or optimize for a primary objective and use that outcome as a constraint on solving the secondary objective, which would then constrain solving the tertiary objective. Given that minimizing channel moves will promote multiple objectives, the Commission proposes to make it the primary objective. Under the Commission's proposed approach, the final channel optimization procedure first would determine an assignment of stations that maximizes the number of stations assigned to their pre-auction channel. The procedure then would apply the Commission's proposed secondary objective by determining another assignment that minimizes the total number of stations predicted to receive new aggregate interference over one percent, but would restrict that assignment such that the number of stations assigned to their pre-auction channel is within 95 percent of the maximum number in the first step. The Commission proposes to set the percentage to 95 percent to allow some flexibility in the second assignment while mostly restricting the assignment to maintain the maximum number in the first assignment. Finally, the procedure would apply these two restrictions to the determination of a third assignment of stations that minimizes anticipated relocation expenses. The Commission seeks comment on these priorities given that the objective with highest priority necessarily restricts the objective with next priority and so on.

*F. Incentive Payments*

132. As noted in the *Incentive Auction R&O,* the process by which auction proceeds will become available to pay reverse auction participants their shares precludes a specific deadline for sharing proceeds. The Commission will share auction proceeds with broadcasters relinquishing spectrum usage rights as soon as practicable following the conclusion of the incentive auction. The Commission notes that circumstances regarding the post-auction clearing and relocation of broadcasters may make it in the public interest to prioritize payments to some broadcasters over others in order to expedite the entire post-auction transition process. For example, the Commission determined in the *Incentive Auction R&O* that winning bidders in the reverse auction would be required to vacate their pre-auction channels within three months of receiving payment of their share of auction proceeds. As the Commission explained in the *Incentive Auction R&O,* the ability of stations that are assigned to new channels in the repacking process may be dependent on other stations' moves. Hence, there may be situations in which prioritizing payment to a particular winning bidder may expedite the transition process for other broadcasters. The Commission retains discretion to take factors that facilitate the transition process into account when determining the sequence of payments sharing auction proceeds.

## V. Proposed Forward Auction Procedures

*A. Information Available During the Auction, Inventory, and Implementation of the Spectrum Reserve*

133. This section addresses proposals regarding the information that will be available to forward auction bidders at various times during the auction, the categories of generic licenses that will be available for forward auction bidding, and creation of separate categories of ''reserved'' and ''unreserved'' spectrum blocks at the time the final stage rule is met pursuant to the *Mobile Spectrum Holdings R&O,* 79 FR 39977, July 11, 2014.

i. Forward Auction Information Available During the Auction

134. As with most recent spectrum license auctions, the Commission proposes to limit information available in the forward auction in order to prevent the identification of bidders placing particular bids until after the auction is over. More specifically, the Commission proposes to not make public the PEAs that an applicant selects for bidding in its application, the amount of any upfront payment made by or on behalf of the applicant, or any other bidding-related information that might reveal the identity of the bidder placing the bid. Concerns about anti-competitive bidding and other factors that the Commission has relied on to prevent identification of particular bidders during auctions also apply to the forward auction portion of the incentive auction. The Commission invites commenters that disagree with its proposal to address why they support a different approach.

135. Notwithstanding the foregoing, in order to facilitate compliance with 47 CFR 1.2105(c) which prohibits parties seeking licenses in the same geographic area from communicating with one another regarding certain bidding-related information, the Commission proposes to notify each forward auction applicant of the identities of other forward auction applicants that have selected geographic areas that overlap with the applicant's own selection and, therefore, fall within the scope of the rule. As the information the Commission will provide relates to the bids and bidding strategies of the other participants, applicants are prohibited from communicating the information that they receive to other auction participants unless doing so comes within one of the exceptions provided in the rule.

136. The Commission also proposes that the auction system will provide forward auction bidders with the following information, at the times indicated: (1) Prior to bidding in the clock phase of each stage, the clearing target for that stage; (2) after the reverse auction portion of any stage ends, the number of spectrum blocks in each license category in each PEA and the percentage impairment of each block and the location of those impairments, as well as the ISIX data for such impairments; and (3) after the reverse auction portion of each stage ends, the total dollar amount of forward auction proceeds needed to satisfy the second component of the final stage rule.

137. In connection with the reverse auction, the Commission proposes to make public the total of reverse auction bids when bidding in the reverse auction for a stage is closed, as that is part of the second component of the final stage rule. Similarly, the Commission will make public the forward auction bid amounts at the end of each round, as those are the amounts that will be used to determine whether the first component of the final stage rule has been satisfied.

ii. Forward Auction Inventory: Determining Categories of Generic Licenses

138. In the *Incentive Auction R&O,* the Commission decided it would conduct bidding for categories of generic licenses in the clock phase of the forward auction, recognizing that the Commission would need to consider ''a number of factors, such as proximity to television stations or guard bands'' when determining how to group license blocks into categories for bidding. Here the Commission seeks comment on a proposal to offer two categories of licenses in the clock phase of the forward auction based on relative levels of impairment caused by proximity to television stations in the 600 MHz Band.

139. The Commission proposes to offer spectrum blocks in two different categories of generic licenses for bidding in the forward auction (''Category 1'' and ''Category 2''), based on the extent of potential impairments in those specific PEA license areas. The Commission also proposes thresholds for distinguishing between the two categories, as well as for determining when a license is sufficiently impaired that it will not be offered for sale in the clock phase of the forward auction. In addition, the Commission proposes a price adjustment procedure to account for varying degrees of impairment in the licenses offered. The Commission emphasizes that, consistent with its determination in the *Incentive Auction R&O* to accommodate market variation to a limited extent only, and with its proposal to strictly limit the amount of market variation in determining an initial clearing target, the Commission anticipates that most licenses offered in the forward auction will fall into Category 1, therefore, will have potential impairments affecting 15 percent or less of the population in the license area. Nevertheless, the Commission must be able to distinguish between Category 1 and Category 2 licenses in order to achieve its auction goals. The *Incentive Auction R&O* adopted a strong interoperability rule that requires that any user equipment certified to operate in any portion of the 600 MHz Band must be capable of operating, using the same technology that the licensee has elected to use, throughout the entire 600 MHz Band. The Commission emphasizes that offering multiple categories of licenses during the auction will have no effect on interoperability because the same rules apply to all 600 MHz Band licenses regardless of whether the license is offered in Category 1 or Category 2.

140. Minimizing the number of separate bidding categories to the extent possible serves the Commission's goal of speeding up the forward auction bidding process. In light of this goal, and because the Commission created the 600 MHz Band guard bands in the *Incentive Auction R&O* to provide sufficient protection from harmful interference to make 600 MHz Band licenses fungible in areas not affected by market variation, the Commission does not propose to establish separate categories of generic licenses based on proximity to television stations or guard bands in areas that are not affected by market variation.

141. The Commission proposes to categorize as Category 1 any license with potential impairments that affect zero to 15 percent of the population of the PEA and as Category 2 any license with potential impairments that affect greater than 15 percent but less than or equal to 50 percent of the population. Under this proposal, a license with potential impairments that affect more than 50 percent of the population will not be offered in the forward auction. The Commission proposes to calculate the extent of impairment on a granular basis, using cell-level data. Specifically, the Commission proposes to calculate the percentage of population impaired in each block at a two-by-two kilometer cell level by applying the ISIX methodology to the assignment plan determined by the clearing target optimization procedure. With regard to the proposed 15 percent threshold for Category 1 licenses, wireless operators normally can expect some degree of interference to service in their license areas due to terrain and other factors. A 15 percent threshold would provide flexibility for the auction system to assign licenses to Category 1 even if they are subject to a limited degree of inter-service interference, and winners of generic licenses will have the opportunity to bid for frequency-specific licenses within each category during the assignment phase of the forward auction. Moreover, the Commission proposes to apply discounts at the end of the assignment phase to reflect the extent to which a generic license is subject to impairment,

*i.e.,* the Commission would discount Category 1 licenses based on their specific degree of predicted impairment. Accordingly, the Commission believes that licenses with potential impairments that affect between zero and 15 percent of the population reasonably may be considered fungible. The Commission invites comment on this proposal. As an alternative, the Commission seeks comment on whether to limit the proposed Category 1 to licenses that are not predicted to be subject to any inter-service interference, that is, with potential impairments that affect zero percent of the PEA population. This would enhance fungibility but reduce the number of licenses available in Category 1.

142. The Commission proposes a 50 percent threshold for determining whether an impaired license will be offered in the clock phase of the forward auction for several reasons. The Commission believes that even with up to 50 percent impairment, particularly given the proposed availability of discounts based on degree of impairment at the end of the assignment phase, bidders would find a license usable. At the same time, the Commission recognizes that there is a limit to the extent that impaired licenses reasonably can be considered fungible, and even assuming that bidders would be interested in bidding for highly impaired licenses, its goal of simplicity militates against creation of an additional generic category. Under the circumstances, the Commission believes that 50 percent represents a reasonable threshold. The Commission seeks comment on this proposal. If given the opportunity, would bidders be interested in bidding on licenses that are more than 50 percent impaired? If the Commission adopts the alternative proposal of strictly limiting Category 1, should the Commission modify the proposed range of Category 2 licenses or expand it to between one and 50 percent? Commenters who advocate alternative thresholds or approaches should address the potential tradeoffs associated with their proposed alternatives.

143. The Commission further proposes to incorporate a price adjustment into the auction system at the end of the assignment phase of the forward auction to account for varying degrees of predicted impairment to the licenses offered for sale, regardless of whether such licenses are in Category 1 or Category 2. Specifically, the Commission proposes to discount the final clock price by one percent for each one percent of predicted impairment. For example, under this proposal a 10 percent discount would be applied to a license that is 10 percent impaired following the clock phase of the forward auction impairment. The Commission proposes such price adjustments in order to help accommodate a range of values among generic licenses within a proposed category, while minimizing the number of bidding categories in the interest of simplicity. The Commission also seeks comment on an alternative approach, under which the proposed discount would be applied only to licenses in Category 2 in light of the wider range of degrees of impairment in that category.

144. The Commission also invites comment on how to treat heavily impaired spectrum blocks (*i.e.,* those in which more than 50 percent of the population is impaired in a PEA) that the Commission does not propose to offer in the clock round of the forward auction. Should the Commission make such ''overlay'' licenses available to bidders in the assignment phase in conjunction with adjacent licenses offered in the same PEA? Under this alternative, in the assignment phase, the Commission would bundle these heavily impaired licenses with the most impaired frequency-adjacent licenses. The Commission asks commenters to address tradeoffs of this alternative compared to its main proposal and, specifically, to address performance requirements in the context of heavily-impaired overlay licenses.

iii. Implementation of the Spectrum Reserve

145. Here the Commission seeks comment on implementing the market-based spectrum reserve at the time the final stage rule is satisfied, consistent with the decisions made in the *Mobile Spectrum Holdings R&O* to reserve a portion of the licensed spectrum made available in the forward auction for reserve-eligible entities and to determine the amount of reserved spectrum through a market-based process during the auction. The Commission proposes procedures for implementing the market-based spectrum reserve in various potential contexts, including how the Commission will offer Category 2 licenses and the presence of only one reserve-eligible bidder in a PEA.

a. Determining the Number and Category of Reserved Licenses.

146. The Commission proposes that the maximum number of reserved licenses, as set forth in the *Mobile Spectrum Holdings R&O,* will be based on the total number of Category 1 and Category 2 blocks offered in a PEA. For example, if there are 60 megahertz of Category 1 blocks and 10 megahertz of Category 2 blocks made available in a PEA, under its proposal the Commission will consider the available amount of spectrum offered in that PEA to be 70 megahertz, with a corresponding reserve of 30 megahertz.

147. The Commission proposes that only Category 1 blocks will be designated for bidding by reserve-eligible entities. The *Mobile Spectrum Holdings R&O* determined that the actual amount of reserved spectrum will be based on the quantity of blocks demanded by reserve-eligible bidders. Under the Commission's proposal, the actual number of blocks reserved in a PEA will be based on demand for Category 1 blocks by reserve-eligible bidders at the time the auction reaches the trigger, *i.e.,* when the final stage rule is satisfied. That is, if demand for Category 1 blocks in a PEA by reserve-eligible bidders is less than the maximum reserved spectrum, then fewer reserved blocks will be available in that PEA. Consistent with this proposal, the actual amount of reserved spectrum can be no greater than that corresponding to the supply of Category 1 blocks in the PEA. The Commission seeks comment on this proposal. Alternatively, the Commission seeks comment on whether it should include Category 2 blocks in the spectrum reserve in any PEAs with fewer Category 1 blocks than in the maximum spectrum reserve, assuming sufficient demand for Category 2 blocks by reserve-eligible bidders at the time the auction reaches the final stage rule trigger. Under this approach, the total number of Category 1 and Category 2 blocks in the reserve would be no greater than the maximum spectrum reserve.

148. Overall, the Commission's approach seeks to ensure that the need to offer fewer Category 1 blocks in certain PEAs in order to accommodate market variation does not reduce the benefits to competition and consumers from providing opportunities for multiple providers to gain access to low-band spectrum. First, because the Commission anticipates that most licenses offered for sale in the forward auction will fall into Category 1 the impact of the proposals should be limited to the relatively few markets that are affected by market variation. In such markets, however, the Commission believes its proposal to count both categories of licenses toward determining the maximum number of reserved licenses is consistent with the competition goals discussed in the *Mobile Spectrum Holdings R&O,*

including facilitating access to below-1–GHz spectrum by multiple providers.

149. The Commission's competition goals will be further accomplished by designating only Category 1 blocks for reserve-eligible bidders, which are likely to be more reliant on 600 MHz Band spectrum to expand coverage and to compete in the mobile wireless marketplace. As discussed in the *Mobile Spectrum Holdings R&O,* the Commission is striving ''to promote competition by ensuring that in the near future, more providers would hold a sufficient mix of spectrum to compete robustly.'' The Commission believes this proposal is also consistent with its statutory obligation to promote access to spectrum for a variety of licensees, including entities seeking to serve rural areas or improve services in rural areas.

150. It would significantly complicate the auction to create an additional generic bidding category to implement separate reserved categories for both Category 1 and Category 2 licenses. Doing so would undercut the benefits from bidding for categories of generic licenses, potentially extending the length of the auction, necessitating additional procedures for dividing bidder demands, and making it harder for bidders to switch their demands across categories. Therefore, the Commission's proposed approach of reserving only Category 1 licenses for reserve-eligible bidders promotes good auction design and is consistent with its established policy to promote access to spectrum for a variety of licensees, including entities seeking to serve rural areas or improve services in rural areas.

151. *One Reserve-Eligible Bidder.* In the *Mobile Spectrum Holdings R&O,* the Commission indicated that it intended, after opportunity for comment in the *Auction 1000 Request for Comment,* not to allow reserve-eligible bidders to acquire more than 20 megahertz of reserved spectrum in a PEA unless there is another bidder for reserved spectrum in that PEA. The Commission does not believe the public interest benefits of a maximum of 30 megahertz of reserved spectrum would be realized without more than one reserve-eligible bidder in a PEA. In particular, the Commission explained in the *Mobile Spectrum Holdings R&O* that a maximum of 30 megahertz of reserved spectrum could permit at least two reserve-eligible bidders to acquire paired 5+5 megahertz blocks in a PEA for deployment of next-generation networks, with one of the bidders potentially acquiring two paired blocks (20 megahertz). The Commission also anticipated that a maximum of 30 megahertz—three paired 5+5 megahertz spectrum blocks—would facilitate competition among bidders seeking to acquire two paired 5+5 megahertz blocks. In contrast, more than 20 megahertz of reserved spectrum is neither necessary for a single reserve-eligible bidder to deploy next-generation networks nor likely to facilitate competitive bidding. Accordingly, the Commission proposes to limit the maximum amount of reserved spectrum in a PEA to 20 megahertz if there is only one reserve-eligible bidder demanding blocks when the trigger is reached.

b. Bidding on Reserved Licenses

152. The Commission proposes specific procedures to govern bidding on the reserved licenses after the final stage rule is met. The Commission proposes to implement separate bidding for the reserved licenses in the clock bidding round that follows the round in which the final stage rule is met, regardless of whether the final stage rule is met in the course of regular clock bidding rounds or an extended round. Up to the point at which the auction reaches the spectrum reserve trigger, all bidders, including reserve-eligible bidders, will be bidding on a single category of Category 1 blocks in a PEA. In order to implement bidding on reserved spectrum after the final stage rule is met, the Commission proposes to split the Category 1 licenses in each PEA into two new categories, a reserved category, on which only reserve-eligible bidders may bid, and an unreserved category, on which any bidder may bid. Because a uniform clock price will apply to all the Category 1 spectrum blocks in a PEA at the time of the split, the clock price will be the same for both the reserved and the unreserved Category 1 blocks in the first bidding round after the auction reaches the spectrum reserve trigger. From that point forward, however, the Commission proposes to treat the reserved and the unreserved Category 1 blocks as separate bidding categories. That is, bids will be processed separately following the split for the license categories in each PEA of reserved Category 1, unreserved Category 1, and Category 2, as they were for Category 1 and Category 2 prior to the split. Prices for generic blocks in each category will be based on relative supply and demand for each, and thus may diverge based on the bidding in subsequent rounds.

153. The Commission proposes to allocate the demands for Category 1 blocks in each PEA among the available reserved and unreserved blocks. The auction system will have to allocate demand for that single category between the two new categories (reserved Category 1 and unreserved Category 1) of blocks as a starting point for bidding in the following round. Under the Commission's proposal, the auction system first will assign all demand by non-reserve-eligible bidders to unreserved Category 1, and then will assign demand by reserve-eligible bidders to the reserved category up to the point where demand for reserved Category 1 blocks is equal to supply. The auction system will apply the remaining demand of reserve-eligible bidders to unreserved Category 1. Accordingly, the auction system will first allocate demand for one block to the reserved category for each reserve-eligible bidder in turn, then a second block, and so on until the total demands allocated to the reserved category equal the supply of reserved blocks. The Commission proposes to choose the order of reserve-eligible bidders pseudo-randomly. In the bidding rounds that follow the implementation of the spectrum reserve, bidders will be able to switch their bids between the separate categories of reserved Category 1, unreserved Category 1, and Category 2 blocks, subject to their eligibility for reserved blocks and procedures on acceptable bids proposed.

154. Once the Commission applies its proposed approach, demand in the reserved category will equal supply, and any excess demand for the pre-split Category 1 blocks will be allocated to the unreserved category. The Commission proposes to allocate demands in this way—as opposed to assigning all demand by reserve-eligible bidders to the reserved category—to avoid the possibility of excess supply for unreserved blocks after the split in the case that the pre-split Category 1 does not have excess supply, which could result in auction revenue declining below the level required by the final stage rule at a point at which the final stage rule had been declared satisfied.

*B. Forward Auction Application Process*

155. The Commission's general competitive bidding rules, as modified in the *Incentive Auction R&O,* apply to the forward auction. Those rules require that parties apply to participate in the forward auction and that applicants satisfy certain requirements before bidding in the auction. The Commission seeks comment on discrete issues relating to the upfront payment each applicant must make and on how an applicant must certify its eligibility to bid for reserved licenses if it wishes to do so. The Commission will provide detailed instructions for the pre-auction

application process in the *Procedures PN.*

i. Bidding Units

156. Consistent with prior FCC spectrum license auctions, the Commission proposes to assign to each spectrum block that will be available in the forward auction a specific number of bidding units. The Commission proposes to use the bidding units for purposes of calculating minimum opening bids, upfront payments, and bidder eligibility, and for measuring bidding activity. Under the Commission's proposed approach, the number of bidding units for a given license will be fixed and will not change during the auction, regardless of price changes.

157. In assigning bidding units to licenses, the Commission proposes to use a weighted population method similar to what the Commission proposes for its ''near nationwide'' threshold. The Commission starts with the total population in each PEA. Because the 600 MHz Band Plan consists entirely of paired 5+5 megahertz blocks, bidding units do not need to reflect differences in bandwidth across licenses; thus, there is no need to use megahertz per population (MHz-pops), as the Commission typically does for spectrum license auctions. Further, the Commission proposes to assign Category 1 and Category 2 blocks in a PEA the same number of bidding units to facilitate bidding across categories. Hence, all generic licenses in a PEA would be assigned the same number of bidding units.

158. The Commission proposes to weight population using an index of relative prices for each geographic area based on data from previous auctions. Consistent with the approach the Commission used for Auction 97, the auction of Advanced Wireless Services (AWS–3) licenses, it will multiply the population of each PEA by an index value for the PEA. As the Commission did for Auction 97, it proposes to group the price index by deciles and apply the lowest index value in each decile to all PEAs in that decile. Appendix F of the *Auction 1000 Request for Comment* sets forth the indices and number of bidding units that would be assigned to licenses in each PEA under its proposed approach using currently-available data. The Commission further proposes to incorporate the final results of Auction 97 (the AWS–3 auction) in calculating the index of relative prices for PEAs that will be used to determine bidding units, upfront payments, and minimum opening bids.

159. By incorporating past prices, the Commission's proposed approach better reflects the relative weight bidders have assigned to the different markets in the past than would a calculation based solely on population. Consequently, service areas that have received similar winning bid amounts in past auctions will be similar to one another with respect to the activity rule. To simplify the number of units, the Commission proposes to divide the result of the calculation by 1,000 and round it using its standard rounding procedures for auctions. Specifically, the Commission would round numbers greater than 10,000 to the nearest thousand; numbers less than 10,000 and greater than 1,000 to the nearest hundred; numbers less than 1,000 and more than 10 to the nearest ten; and numbers less than 10 to the nearest one. All PEAs would have at least one bidding unit. Thus, the Commission proposes to calculate bidding units for most licenses as (pops * index)/1000, rounded. Because there were no winning bidders for several licenses covering US territories and protectorates in past auctions, for licenses in the PEAs for Puerto Rico, Guam-Northern Mariana Islands, US Virgin Islands, and American Samoa, the Commission proposes to divide the results of the weighted population calculation by 2,000 and round the results. Finally, the Commission proposes to assign one bidding unit to licenses for the Gulf of Mexico.

ii. Upfront Payments

160. In keeping with the Commission's usual practice in spectrum license auctions, it proposes that applicants be required to submit upfront payments as a prerequisite to being found qualified to bid. An upfront payment is a refundable deposit made by each bidder to establish its eligibility to bid on licenses. Upfront payments protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. A Commission rule, 47 CFR 1.2106(a), requires that any auction applicant previously in default on a Commission license or previously delinquent on a non-tax debt to a Federal agency must submit upfront payments equal to 50 percent more than otherwise would be required.

161. The Commission proposes to base the upfront payment for each license on the number of bidding units associated with that license. Specifically, the Commission proposes an upfront payment amount of $2,500 per bidding unit, rounded. These bidding unit amounts pertain to a single 5+5 megahertz generic license for each PEA. To the extent that bidders wish to bid on multiple generic licenses simultaneously, they will need to ensure that their upfront payment provides enough eligibility to cover more than one 5+5 megahertz generic license in a given PEA. The number of bidding units for a given license will be fixed and will not change during the auction as prices change. Appendix F of the *Auction 1000 Request for Comment* shows the upfront payment amounts that would be calculated based on current data. The Commission proposes to incorporate the final results of Auction 97 in the calculation of bidding units.

162. Under the Commission's proposed approach, a bidder's upfront payment will not be attributed to a specific license or licenses. Rather, the bidder may place bids on any combination of the licenses it selects on its application to participate in the forward auction, provided that the total number of bidding units associated with those licenses will not exceed its eligibility when it places the bid(s). Bidders will not be able to increase their eligibility during the auction; bidders only will be able to maintain or decrease their eligibility. Thus, in calculating its upfront payment amount and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid in any single round and submit an upfront payment amount covering that total number of bidding units. The Commission seeks comment on these proposals.

163. For the forward auction, the Commission proposes to set a deadline for the submission of upfront payments that will occur after determination of the initial clearing target, based on commitments of reverse auction applicants. This proposed deadline will enable a participant to take into account the number of licenses in the initial clearing target when determining the amount of its upfront payment. The Commission notes that an applicant will be able to consider the amount of its upfront payment and prepare accordingly well in advance of this date. For example, an applicant would be able to determine the number of licenses it is likely to seek in various PEAs prior to knowing the number of licenses that will be available. Nevertheless, given that the upfront payment will determine the participant's maximum bidding eligibility in the forward auction, the Commission concludes that it should require the submission of the upfront payment only after the determination of the initial clearing target.

iii. Eligibility for Spectrum Reserve

164. The Commission proposes to require an applicant seeking to participate in the forward auction as a reserve-eligible entity to certify in its application that it is a reserve-eligible entity with respect to each PEA in which it wishes to be able to bid for reserved blocks. The Commission further proposes that an applicant must make this certification in its application and that it shall not be able to revise its certification thereafter. Under the *Mobile Spectrum Holdings R&O,* reserve-eligible entities may bid on unreserved spectrum blocks as well as reserved spectrum blocks. Nevertheless, applicants that otherwise would be eligible to bid on reserved spectrum blocks may prefer to forego reserved-eligible status generally, or with respect to licenses in particular areas. In particular, reserved spectrum blocks will be subject to restrictions on subsequent transactions to which unreserved spectrum blocks will not be subject. The approach the Commission proposes will enable potentially reserve-eligible applicants to forego reserve-eligible status on a PEA-by-PEA basis. In addition, by requiring applicants intending to bid for reserved spectrum blocks to affirmatively declare their eligibility to do so the Commission's proposed approach will avoid any subsequent ambiguity or uncertainty regarding an applicant's status.

*C. Clock Phase Bidding Procedures*

165. The first phase of the forward auction will include the clock bidding rounds, and after the clock bidding for generic licenses ends in the final stage, the assignment phase will commence. The Commission proposes specific bidding procedures for the clock rounds of the forward auction. The Commission seeks comment on setting the minimum opening prices, setting prices between rounds of the auction and between stages of the auction. Consistent with a clock auction format with categories of generic licenses, a uniform minimum opening price or clock price applies to all the blocks in a category and a PEA. The Commission proposes and seeks comment on specific types of bids that participants will be able to place in the forward auction, including how those types of bids will be processed by the auction system, as well as the activity rule that bidders must meet to retain their eligibility. The Commission proposes a number of changes to the procedures it has traditionally used when holding forward auctions, such as bid withdrawals and proactive waivers. The Commission is changing these procedures for this auction to reduce complexity and uncertainty about bidder demand for spectrum. The Commission seeks comment on what effect these changes could have on participation by small business in the forward auction. The Commission also sets out detailed proposals on implementing the extended round and seeks comment on those.

i. Setting Prices in the Clock Rounds

166. *Minimum Opening Bids in the First Stage.* At the beginning of the clock phase of the forward auction in the initial stage, a bidder will indicate how many blocks in a generic license category in a PEA it demands at the minimum opening bid price. The Commission proposes to establish initial clock prices, or minimum opening bids, for each license based on the number of bidding units associated with the license. The Commission's proposed approach is intended to be consistent with section 309(j) of the Communications Act, as amended, which calls for prescribed methods of establishing minimum opening bid amounts when FCC licenses are subject to auction, unless it determines that a minimum opening bid amount is not in the public interest.

167. Specifically, the Commission proposes a minimum opening bid amount of $5,000 per bidding unit. This proposal is consistent with the precedent of the Commission's AWS–3 auction procedures, where it set the minimum opening bid amount at twice the upfront payment for each license. Because the number of bidding units for each license incorporates pricing information from previous auctions, this proposal appropriately adjusts opening bids to reflect value differences that bidders have placed on different geographic areas. Appendix F of the *Auction 1000 Request for Comment* shows the minimum opening bid amounts that would be calculated based on current data. The Commission proposes to incorporate the final results of Auction 97 in the calculation of bidding units.

168. The Commission's experience in past auctions indicates that minimum opening bid amounts calculated in this manner will be an effective tool for accelerating the competitive bidding process, a particularly important goal for the incentive auction given the interdependency between the reverse and forward auctions. One of the primary purposes of a minimum opening bid is to speed up the course of an auction. By incorporating past pricing information into the Commission's calculation of minimum opening prices, it intends to reduce the number of rounds it will take for demand to equal supply in markets that have historically commanded relatively higher prices.

169. The Commission seeks comment on its proposal. If commenters believe that this approach will result in unsold licenses or unreasonable minimum opening bid amounts, they should explain why this is so, suggest an alternative approach, and explain why such an alternative is desirable. The Commission also seeks comment on whether it should discount minimum opening bids for licenses in Category 2.

170. *Clock Price Increments Across Rounds.* After bidding in the first round and before each subsequent round, the system will announce a clock price for the next round, which is the highest price to which bidders can respond during the round. The Commission proposes to set the clock price for each category available in each specific PEA for a round by adding a fixed percentage increment to the price for the previous round. As long as total demand for blocks in a category exceeds the supply of blocks, the percentage increment will be added to the clock price from the prior round. If demand equaled supply at an intra-round bid price in a previous round, then the clock price for the next round will be set by adding the percentage increment to the intra-round bid price.

171. The Commission proposes to apply an increment that is between five and 15 percent and generally to apply the same increment percentage to all categories in all PEAs. The Commission proposes to set the initial increment within this range, and to adjust the increment as stages and rounds continue. The proposed five-to-15 percent increment range will allow the auction system to set a percentage that manages the auction pace, taking into account bidders' needs to evaluate their bidding strategies while moving the forward auction along quickly. The Commission also proposes that increments may be changed during the auction on a PEA-by-PEA or category-by-category basis based on bidding activity to assure that the system can offer appropriate price choices to bidders.

ii. Acceptable Bids

a. Types of Bids

172. Here the Commission proposes specific bidding procedures for the clock phase of the forward auction, and addresses how the auction system will process the proposed types of permitted bids. The Commission provides

complete forward auction clock phase bid types and bid processing details in Appendix G of the *Auction 1000 Request for Comment.* As an initial matter, the Commission proposes that the auction system not allow a bidder to reduce the quantity of blocks it demands in a category if the reduction will result in aggregate demand falling below the available supply of licenses in the category. The alternative would risk significant reductions in aggregate forward auction proceeds from round to round, impeding progress toward satisfying the final stage rule. It could also potentially undermine a prior determination that the final stage rule had been satisfied. Under the ascending clock format adopted for the forward auction, a bidder will indicate in each round the quantity of blocks in each category in each PEA that it demands at a given price, indicating that it is willing to pay up to that price for its current quantity. In addition to making bids at the clock price, the adopted clock auction format will permit bidders to make bids at amounts smaller than the clock price (intra-round bids).

173. Under the Commission's proposal, if a bidder demands fewer blocks in a category than it did in the previous round, the auction system will treat the bid as a request to reduce demand which will be implemented only if aggregate demand will not fall below the available supply of licenses in the category.

174. Once a round ends, the auction system will process the bids submitted in the round and determine the extent to which there is excess demand for each category in each PEA in order to determine whether a bidder's requested change(s) in demand can be implemented.

175. In order to facilitate bidding for multiple licenses in a category, and to help bidders manage their bidding given the requirement that a request to reduce demand may not be accepted, the Commission proposes that bidders will be permitted to make the following three types of bids: simple bids, all-or-nothing bids, and switch bids. All three types of bids can indicate multiple quantities of licenses. Appendix G of the *Auction 1000 Request for Comment* provides examples of each of the proposed types of bids and discusses how the auction system would treat them under the Commission's proposal. First, a ''simple'' bid indicates a desired quantity of licenses in a category at a price (either the clock price or an intra-round price). A simple bid may be implemented partially if it involves a reduction from the bidder's previous demands, and aggregate excess demand is insufficient to support the entire reduction. Second, an ''all-or-nothing'' bid also indicates a desired quantity of licenses in a category, but allows the bidder to indicate that it wants the bid to be implemented fully or not at all. And, third, a ''switch'' bid allows the bidder to request to move its demand for a quantity of licenses from one category of generic licenses to another category within the same PEA. A switch bid may be applied partially, but the increase in demand in the ''to'' category will always match in quantity the reduction in the ''from'' category.

176. The Commission emphasizes that the proposed bid types will allow bidders to express their demand for blocks in the next clock round without running the risk that they will be forced to purchase more spectrum at a higher price than they wish. When a bid can be applied only partially, the uniform price for the category will stop increasing at that point, since the partial application of the bid results in demand falling to equal supply. Hence, a bidder that makes a simple bid or a switch bid that cannot be fully applied will not face a price for the remaining demand that is higher than its bid price. On the other hand, if a bidder uses an all-or-nothing bid to request a reduction that cannot be applied because excess demand is insufficient to cover the entire requested reduction, the price for the category may continue to increase if there is any excess demand. In such cases, the Commission provides for an optional ''backstop'' bid to ensure the price for the category does not go above the amount the bidder specifies in its bid, as explained and illustrated with examples in Appendix G of the *Auction 1000 Request for Comment.*

177. Because bids to reduce demand will not be accepted (or not fully accepted) to the extent they would bring demand below the available supply, and because in any given round some bidders may increase demands for licenses in a category while others may request reductions, the order in which the bids are considered can affect which bids are accepted. The Commission proposes that bids be considered by the auction system first in order of increasing ''price point'' (expressed as a percentage of the bidding interval for the round) and in the case of ties, then using a pseudo-random number applied to the bid when it is submitted. The Commission further proposes that bids not accepted because of insufficient aggregate demand or insufficient eligibility be held in a queue and considered, again in order, if there should be excess supply or sufficient eligibility later in the processing after other bids are processed.

178. More specifically, under the Commission's proposed procedures, once a round closes, the auction system will process the bids by first considering the bid submitted at the lowest price point and determine whether it can be accepted given aggregate demand as determined most recently and given the associated bidder's eligibility. If the bid can be accepted, or if it is a simple bid or a switch bid that can be only partially accepted, the number of licenses the bidder demands will be adjusted, and aggregate demand will be recalculated accordingly. If the bid cannot be accepted in part or in full, the unfulfilled bid, or portion thereof, will be held in a queue to be considered later during bid processing for that round. The auction system will then consider the bid submitted at the next highest price point, accepting it in full, in part, or not at all, given recalculated aggregate demand and given the associated bidder's eligibility. Any unfulfilled requests will again be held in a queue, and aggregate demand will again be recalculated. Every time a bid or part of a bid is accepted and aggregate demand has been recalculated, the unfulfilled bids held in queue will be reconsidered, in the order of their original price points (and by pseudo-random number, in the case of tied price points). The auction system will not carry over unfulfilled bid requests to the next round, however. The auction system will advise bidders of the status of their bids when round results are released.

179. After the bids are processed in each round, the auction system will announce new clock prices to indicate a range of acceptable bids for the next round. Each bidder will be informed of the number of blocks in a category on which it holds bids, the extent of excess demand for each category, and, if demand fell to equal supply during the round, the intra-round price point at which that occurred.

b. No Bidding Aggregation

180. In the *Incentive Auction R&O,* the Commission stated that it did not intend to incorporate package bidding procedures into the forward auction because of the additional complexity such procedures would introduce into the auction, but that the Commission would seek input in the *Auction 1000 Request for Comment* on an alternative to package bidding under which the Commission would create an aggregation of the largest PEAs in advance of the auction. The Commission has significant concerns

with a ''major markets'' aggregation approach, however. The Commission tentatively concludes that such an approach would not be consistent with its goal of encouraging entry by providers that contemplate offering wireless broadband service on a localized basis. As the Commission discussed when adopting PEAs rather than the larger Economic Area (EA) service areas, offering single PEA licenses in the largest markets will best promote entry by the broadest range of potential wireless service providers. In addition, the Commission is concerned an aggregation approach would discourage bidders, particularly small or regional entities with an interest in only a subset of ''major markets,'' from participating in the forward auction. For these reasons, the Commission does not propose to adopt a ''major markets'' aggregation. The Commission invites comment on its tentative conclusion. Commenters supporting a ''major markets'' aggregation should explain how such an approach would be consistent with the Commission's goals of promoting competition in the provision of mobile wireless services and broad participation in the forward auction.

181. In the event the Commission decided to adopt a ''major markets'' aggregation approach, it seeks comment on which PEAs should be included in the ''major markets'' aggregation, and on how to apply the market-based spectrum reserve to the aggregation.

iii. Activity Rule

182. To ensure that the auction moves as quickly as possible, the Commission proposes to require that bidders maintain a fixed, high level of activity in each round of the auction in order to maintain bidding eligibility. Specifically, the Commission proposes to require that bidders be active on between 92 and 97 percent of their bidding eligibility in all regular clock rounds. The Commission proposes to calculate activity using bidding units. Thus, the activity rule would be satisfied when a bidder has bidding activity on blocks with bidding units that total 92 to 97 percent of its current eligibility in the round. If the activity rule is met, then the bidder's eligibility does not change in the next round. The Commission further proposes to calculate bidding activity based on the bids that are accepted by the auction system. That is, if a bidder requests a reduction in the quantity of blocks it demands in a category, but the auction system does not accept the request because demand for the category would fall below the available supply, the bidder's activity will reflect its unreduced demand. If the activity rule is not met in a round, a bidder's eligibility automatically would be reduced. The Commission invites comment on this proposal, in particular on where to set the activity requirement between 92 and 97 percent. Commenters may wish to address the relationship between the proposed activity rule and the ability of bidders to switch their demands across PEAs or across categories of licenses within a PEA. The Commission encourages any commenters that oppose an activity rule in this range to explain their reasons with specificity.

183. In addition, the Commission proposes that if subsequent stages of the auction are required, a bidder will begin the first round of a new stage with its eligibility reset to equal its bidding activity when the final round of the previous stage concluded. This eligibility will be based on bidding in the extended round for licenses for which there was bidding in the extended round, and for other licenses on bidding in the last regular clock round.

184. The Commission does not propose to provide for activity rule waivers to preserve a bidder's eligibility. In previous FCC multiple round auctions, when a bidder's eligibility in the current round was below a required minimum level, the bidder was able to preserve its current level of eligibility with a limited number of activity rule waivers. The clock auction portion of the forward auction, however, relies on precisely identifying the point at which demand falls to equal supply to determine winning bidders and final prices. Allowing waivers would create uncertainty with respect to the exact level of bidder demand, interfering with the basic clock price-setting and winner determination mechanism. Moreover, uncertainty about the level of demand would affect the way bidders' requests to reduce demand are processed by the auction system. Under the Commission's proposal, bidders would be required to reconfirm their bids in every round.

iv. Extended Round

185. In the *Incentive Auction R&O,* the Commission provided for an extended bidding round ''to increase the likelihood that the auction will conclude at the end of the current stage, thereby avoiding the need to move to another stage in which less spectrum would be available for licensing in the forward auction.'' The Commission proposes to implement an extended round whenever a round of the forward auction ends and (1) the demand for licenses in ''high-demand'' PEAs does not exceed the available supply, and (2) the final stage rule has not been met. The extended round will interrupt the clock phase of the forward auction, which will resume if bidding in the extended round satisfies the final stage rule. If the final stage rule is not satisfied at the conclusion of the extended round, the auction stage will end and a new stage will commence with a reduced clearing target.

186. The Commission proposes to base the extended round clock price on the additional proceeds needed to meet the final stage rule, which is consistent with the purpose of the extended round of attempting to meet the final stage rule and avoid the need for a new stage with a lower clearing target. Specifically, the Commission proposes to increase the extended round clock prices for Category 1 in the ''high-demand'' PEAs in aggregate by 33 percent more than the additional proceeds needed to meet the final stage rule. The Commission proposes a percentage that is greater than the minimum amount required to meet the final stage rule to account for the possibility that, in some PEAs, demand may not be sufficient to increase prices to the minimum amount required, whereas in others, demand may be more than sufficient to meet the minimum, in order to increase the likelihood of satisfying the final stage rule.

187. The Commission further proposes to conduct extended round bidding only for Category 1 blocks in the ''high-demand'' PEAs with no excess supply. This approach is consistent with the Commission's proposal to implement an extended round when bidding activity for such blocks stops in such areas (that is, when demand does not exceed supply). Because spectrum auctions typically reach near-final auction prices in such areas much sooner than in other areas, this approach will obviate the need to wait for bidding to stop in all areas before deciding that a subsequent stage is necessary.

188. The Commission proposes to permit bidders in the extended round to make a single simple bid for Category 1 blocks in each ''high-demand'' PEA, indicating a desired quantity of blocks, and it proposes to allow for intra-round bidding as in the regular clock rounds of the forward auction. Under the Commission's proposal, in each ''high-demand'' PEA, a bidder can either maintain its current demand or request to reduce its demand by one block at a specified intra-round price point. The auction system will process requested

demand reductions differently depending upon whether the final stage rule is met, in keeping with its proposed rule that bidders will not be allowed to reduce their demand if the reduction would result in demand falling below the available supply. Accordingly, if the final stage rule cannot be met in the extended round, so that the auction will move to a new stage with fewer available licenses, the system will process a demand reduction of up to one block per ''high-demand'' PEA, because there is little likelihood of demand being below supply when bidding resumes in the next stage. However, if the final stage rule is met in the extended round, the system will not process any requested reductions in demand, to avoid reducing demand below supply at the current clearing target with the current supply of blocks.

189. Once bids in the extended round are placed, the Commission proposes that the auction system will consider the bids sequentially in ascending order of price points for the regular clock rounds of the forward auction. The auction system will process bids and set clock prices for the subsequent bidding round—either a regular clock bidding round with the spectrum reserve in place or the first round of a new stage—differently according to whether the final stage rule is satisfied. If the final stage rule cannot be met in the extended round, the auction system will allow for a single reduction and otherwise process bids as they are processed in regular clock rounds.

190. If the final stage rule can be met in the extended round, the auction system will process extended round bids only up to the lowest price point at which the rule is satisfied. Clock prices for the next round will be based on that price point, unless a reduction was requested at a lower price point in a PEA, in which case the clock price in that PEA will be based on the intra-round price at which the reduction was requested (but not accepted). Regular clock bidding rounds will resume for all categories in all PEAs, with the spectrum reserve in place. For those blocks not subject to extended round bidding, that is, non-''high-demand'' PEAs as well as Category 2 blocks of the ''high-demand'' PEAs, rounds will resume with clock prices for the next round based on prices from the round preceding the extended round. If the final stage rule is not met, clock prices for the next round—that is, the first round of the new stage—will also be based on prices from the round preceding the extended round for blocks not subject to extended round bidding. Under the Commission's proposed procedures, the price for blocks in the same category in a PEA will be the same for all bidders at the end of an extended round, as is also the case for the other clock rounds. Accordingly, in a PEA, clock prices for reserved spectrum blocks going into the next round will be the same as for unreserved spectrum blocks.

v. Stopping Rule

191. Consistent with the Commission's practice of using stopping rules in multi-round auctions to ensure completion within a reasonable time, it proposes to employ a simultaneous stopping rule for the clock phase of the forward auction in the final stage. Under this proposal, all categories of licenses in all PEAs would remain available for bidding until the bidding stops on every category. More specifically, if the final stage rule has been met, with or without an extended round, the clock phase of bidding will end for all categories of licenses following the first round in which there is no excess demand in any category in any PEA. Since bidding will remain open on all categories of licenses until bidding stops on every category, it is not possible to determine in advance how long the forward auction will last. The Commission seeks comment on permitting new bids to be made in one additional bidding round following the first round in which there is no excess demand.

vi. New Stage Transition

192. The Commission proposes to initiate bidding in any subsequent stage of the forward auction based on the bidder demands and prices from the end of the previous stage. In some cases, these demands and prices will have been determined in the extended round, and in others, from the last regular clock round. The price increment in the first round of the next stage will be added to the last clock price from the previous stage, or to the intra-round price at which a reduction that brought demand down to equal supply was processed.

193. The Commission proposes that for categories of blocks for which all bidders indicated that they were willing to accept the full extended round price increment, bidder demands will carry over from the extended round. Because the Commission's proposed procedures for processing extended round bids when the final stage rule is not met will allow at most one request for a reduction in demand to be accepted in each category, in categories where a reduction was accepted, bidder demands from the start of the extended round will carry over to the new stage for all but the bidder whose requested reduction was accepted. That bidder's demand will reflect the reduction, consistent with extended round bid processing. For blocks that were not included in bidding in the extended round, the Commission proposes that bidder demands that were accepted by the auction system at the end of the last regular clock round of the previous stage will carry over to the beginning of the next stage.

194. Under the Commission's proposal, a bidder will begin the first round of a new stage with its eligibility reset to equal its bidding activity when the final round of the previous stage concluded. Because the re-optimization at the start of a new stage may ''re-shuffle'' the assignment of stations to the 600 MHz Band, the extent and location of impairments to the blocks available may change from stage to stage of the forward auction. The auction system will advise forward auction bidders of any such changes before bidding begins. Because the Commission recognizes that bidder demand for Category 2 blocks in a PEA may be reduced if the extent of impairments increase, the Commission proposes that the auction system will accept requests to reduce demand for Category 2 blocks in the first round of a new stage, even if the reduction will result in demand falling below supply for that category.

*D. Bidding Procedures in Assignment Phase*

195. In the *Incentive Auction R&O,* the Commission adopted a two-step forward auction procedure, with a separate assignment phase ''in which bidders will bid for priority in selecting bands or for a preferred frequency within a geographic area.'' Here the Commission proposes procedures to implement the assignment phase, which it also explains in detail in Appendix H of the *Auction 1000 Request for Comment.* Under the Commission's proposal, winning bidders from the clock phase that have a preference for specific frequencies will have an opportunity to submit sealed bids for particular frequency blocks in a separate single assignment round for each particular PEA or group of PEAs. The Commission proposes that this assignment phase be voluntary: Winning bidders in the clock phase of the forward auction need not participate in order to be assigned a number of licenses corresponding to the outcome of the clock phase. The Commission proposes to group bidding for multiple PEAs where possible, so as to reduce the number of separate assignment rounds

required, and to sequence the bidding for the various PEAs.

196. In determining specific frequency assignments during the assignment phase of the forward auction, the auction system will take into account bid amounts as well as other efficiency objectives, such as maximizing contiguity for winners of multiple blocks in an area. Under the Commission's proposed approach, these overall efficiency considerations will affect the way the auction system processes the bids to determine the optimal assignment of frequencies. The Commission seeks comment on these proposed objectives and their relative priority in determining the best way to structure bidding and bid processing in each assignment round.

i. Grouping of PEAs

197. The Commission proposes to conduct bidding for specific frequencies grouped by different geographic areas in each assignment round. This will reduce the complexity for the bidder and the auction system that would be inherent in considering simultaneously the preferences of multiple bidders for various configurations of Category 1 and Category 2 license blocks in hundreds of PEAs. However, to the extent that the set of clock-phase winning bidders and their winning bids for Category 1 and Category 2 blocks are consistent across a group of PEAs, the Commission proposes to conduct the single-round bidding jointly for multiple areas. Under such circumstances, joint bidding would not increase the complexity of the bidding or the winner determination process. Moreover, joint bidding can reduce the overall number of assignment rounds needed and facilitate assigning contiguous blocks to bidders that won multiple blocks in a group, potentially enhancing the efficiency of the assignment.

198. Specifically, the Commission proposes to group together: (1) ''high-demand'' PEAs with the same number of Category 1 and Category 2 blocks, where the same frequency blocks are in Category 2, and where the same bidders won the same quantities of Category 1 and Category 2 blocks; and (2) all PEAs other than the ''high-demand'' PEAs in a Regional Economic Area Grouping (''REAG'') with the same number of Category 1 and Category 2 blocks, where the same frequency blocks are in Category 2, and where the same bidders won the same quantities of Category 1 and Category 2 blocks. The Commission further proposes to group PEAs together when to do so will not create any conflicting interests among bidders. This could occur, for example, if the bidder mix of generic blocks differs only in that there is an unsold license in one PEA but not in another. Under the Commission's proposal, bidders would bid for their specific preferred frequencies across all the PEAs in a group, and the auction system will determine a frequency assignment that will apply to all the licenses in the group.

ii. Sequencing of PEAs

199. The Commission proposes to sequence assignment rounds so as to make it easier for bidders to incorporate frequency assignments from previously-assigned areas into their bid preferences for other areas, recognizing that bidders winning multiple blocks of licenses generally will prefer contiguous blocks across adjacent PEAs. To that end, the Commission proposes to conduct rounds for the largest groups of markets first to enable bidders to establish a ''footprint'' from which to work. Specifically, the Commission proposes to conduct assignment rounds sequentially, generally in order of ''weighted-pops.'' Under this proposal, the Commission will first conduct an assignment round for the largest PEA or PEA group, based on total weighted-pops, and continue in order of weighted-pops until specific frequencies have been assigned for all the ''high-demand'' PEAs (individually or in groups).

200. Once frequencies have been assigned for the ''high-demand'' PEAs, the Commission proposes to conduct for each REAG a series of assignment rounds for non-high-demand PEAs within that region, in descending order of weighted-pops for a PEA group or individual PEAs. The Commission further proposes, to the extent practical, to conduct the assignment rounds for the different REAGs in parallel, to reduce the total amount of time required.

iii. Acceptable Bids and Bid Processing

201. Under the Commission's proposal, described in more detail in Appendix H of the *Auction 1000 Request for Comment,* bidders will be asked to assign a price to their various frequency preferences, consistent with their winning bids for generic blocks in the clock phase. The Commission proposes not to differentiate in the assignment rounds between licenses that were reserved for certain eligible bidders pursuant to the *Mobile Spectrum Holdings R&O* and unreserved blocks. This proposed approach is consistent with the auction design the Commission adopted in the *Incentive Auction R&O:* Bidders in the clock phase will have competed for generic blocks, not specific licenses. The Commission also believes this approach is consistent with its competitive goals in the *Mobile Spectrum Holdings R&O,* as winning bidders will be assured of low-band spectrum based on the results of the clock phase. Winners of either reserved or unreserved Category 1 blocks will be able to bid for the available frequencies in Category 1, and the auction system will assign specific frequencies without regard to the reserve-eligible status of the bidder.

202. In each assignment round, a bidder will be asked to assign a price to one or more possible frequency assignments for which it wishes to express a preference. The price will represent a maximum payment that the bidder is willing to pay, in addition to the base price established in the clock phase for the generic blocks, for the frequency-specific license or licenses. At the end of the assignment phase, the clock price will be discounted to the extent the licenses included are subject to impairments. The Commission proposes to apply a discount on the clock prices of generic blocks to reflect the varying degrees of impairment to the blocks within a category. Specifically, for a given frequency-specific license, the Commission proposes to reduce the base price for the assignment round by one percent of the final clock price for each one percent of impairment to the license. Under this proposal and the Commission's proposed assignment phase procedures, if a bidder indicates it is willing to pay an additional amount in the assignment round for a specific block that is available in the category, and it wins that license, the additional payment will be applied to a base price that reflects a discount from the final clock price for the category.

203. It may not be possible to assign contiguous blocks to all bidders within a PEA. Contiguity cannot be guaranteed because of the possibility that some contiguous blocks are in different categories due to the amount of their impairment, and in the case of clearing targets over 84 megahertz, TV Channel 37 will separate some blocks. Given this, the Commission proposes to use an optimization approach to determine the winning frequency assignment for each assignment round. The Commission proposes that the auction system will consider a number of objectives aimed at assigning contiguous blocks fairly and to the extent possible. As set forth in Appendix H of the *Auction 1000 Request for Comment,* the Commission proposes a sequence of optimizations using the following objectives: (1) Maximizing the number of bidders that

won multiple blocks that are assigned at least two contiguous blocks; (2) minimizing for all bidders that won two or more blocks in the clock phase the number of blocks that are non-contiguous to any of the bidder's other blocks; and (3) maximizing the number of bidders that are assigned only contiguous blocks. Under the Commission's proposed procedures, the auction system will first solve or optimize for the first objective and use that outcome as a constraint in solving the second objective, which would then constrain solving the third objective. The winning bids in each assignment round will be bids for which the assignment satisfies these three constraints and for which the bidders in that round are willing to pay the most.

204. As described in Appendix H of the *Auction 1000 Request for Comment,* the Commission proposes that the additional price a bidder will pay for a specific frequency (above the discounted final clock price) will be calculated consistent with a generalized ''second price'' approach—that is, the winner will pay a price that would be just sufficient to result in the bidder receiving that same winning frequency assignment. This price will be less than or equal to the price the bidder indicated it was willing to pay for the assignment. The Commission proposes to determine prices in this way because it facilitates bidding strategy for the bidders, giving them an incentive to bid their full value for the assignment, knowing that if the assignment is selected, they will pay no more than would have been necessary to ensure that the assignment won.

*E. Additional Default Payment Percentage*

205. The Commission's competitive bidding rules provide that it shall establish the percentage of any defaulted bid that will be assessed as a payment owed by the defaulter in addition to the difference between with defaulted bid and a subsequent winning bid for the same license. In an auction without combinatorial bidding, such as the forward auction the Commission proposes here, the percentage shall be between three and 20 percent. The Commission proposes that the percentage shall be 20 percent in the forward auction. The Commission tentatively concludes that the maximum amount is in the public interest, given the importance of deterring defaults in order to minimize the possibility that the auction will not generate shortly after its conclusion the full amount of the proceeds indicated by winning bids.

**VI. Ex Parte**

206. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other provisions pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in 47 CFR 1.1206(b).

**VII. Regulatory Flexibility Act Analysis**

207. As required by the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 603, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in connection with the Notice of Proposed Rulemaking, ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction,'' 77 FR 69933, November 21, 2012 (*Incentive Auction NPRM*) and a Final Regulatory Flexibility Analysis (FRFA) in connection with the *Incentive Auction R&O.* While no commenter directly responded to the IRFA, the FRFA addressed concerns about the impact on small business of various auction design issues. The Commission seeks comment on how the proposals in the *Auction 1000 Request for Comment* could affect either the IRFA or the FRFA. Such comments must be filed in accordance with the same filing deadlines for responses to the *Auction 1000 Request for Comment* and have a separate and distinct heading designating them as responses to the IRFA and FRFA.

208. The IRFA and FRFA set forth the need for and objectives of the Commission's rules for the broadcast spectrum incentive auction; the legal basis for those rules, a description and estimate of the number of small entities to which the rules apply; a description of projected reporting, recordkeeping, and other compliance requirements for small entities; steps taken to minimize the significant economic impact on small entities and significant alternatives considered; and a statement that there are no federal rules that may duplicate, overlap, or conflict with the rules. The proposals in the *Auction 1000 Request for Comment* do not change any of those descriptions.

209. The *Auction 1000 Request for Comment* does, however, detail proposed procedures implementing those rules. The Commission seeks comment on how the proposals in the *Auction 1000 Request for Comment* could affect either the IRFA or the FRFA. These proposals include procedures for setting the initial broadcast spectrum clearing target, determining whether the final stage rule is satisfied and the steps triggered by that determination, determining how much market variation will be accommodated, and a process of moving from one stage of the auction to any subsequent stage(s), if necessary. The *Auction 1000 Comment PN* also addresses detailed proposals for setting opening prices, applying to participate in the reverse or forward auction, establishing bidding procedures for each auction, optimizing the final television assignment channel plan, providing information to forward auction bidders, grouping license blocks into categories for bidding, implementing the market-based spectrum reserve, repacking broadcasting stations in conjunction with the reverse auction, and assigning licenses with specific frequencies in the forward auction.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–01607 Filed 1–28–15; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 204 and 237

**RIN 0750–AI29**

### Defense Federal Acquisition Regulation Supplement: Electronic Copies of Contractual Documents (DFARS Case 2012–D056)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to state the policy that the Electronic Document Access (EDA) system is DoD's online repository and distribution tool for contract documents and contract data, require internal control procedures for contract document and data verification in EDA, and remove outmoded language that is not consistent with electronic document processes.

**DATES:** Comments on the proposed rule should be submitted in writing to the

address shown below on or before March 30, 2015 to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2012–D056, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2012–D056'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D056.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D056'' on your document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2012–D056 in the subject line of the message.

○ *Fax:* 571–372–6094

○ *Mail:* Defense Acquisition Regulations System, Attn: Jennifer Hawes, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hawes, telephone 571–372–6115.

**SUPPLEMENTARY INFORMATION:**

## I. Background

DoD utilizes the Electronic Document Access (EDA) system for the distribution and sharing of contracts and contract data. The Defense Electronic Business Program Office established business rules for the EDA system, which became effective November 5, 2001. In November 2009, DoD instructed its contracting officers to register in EDA, and use of EDA is now the standard business practice employed by DoD contracting offices. A review of DFARS coverage related to contract files and contract distribution resulted in recommendations to remove language that was structured to support processes for and distribution of paper files and paper copies. Similarly, DFARS language is required to reflect current electronic processes supported by EDA.

## II. Discussion and Analysis

This rule proposes to amend DFARS 204.270, Electronic Document Access, to effect the following clarifications and changes:

- State as policy that EDA, an online repository for contractual instruments and supporting documents, is DoD's primary tool for electronic distribution of contract documents and contract data.
- Provide that agencies have certain responsibilities when posting documents to EDA, to include internal control procedures that ensure electronic copies of contract documents and data in EDA are accurate representations of original documents.

The rule also proposes revisions to DFARS 204.802, Contract Files. The language in this section, which addresses contract file requirements for authenticating and conforming paper documents and copies, is being removed as it is outdated. A new paragraph is being added providing that electronic documents posted to the EDA system are a part of the contract file.

## III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule is only updating the regulation to reflect current electronic distribution practices in lieu of paper distribution. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD utilizes the Electronic Document Access (EDA) system for the distribution and sharing of contracts and contract data. The Defense Electronic Business Program Office established business rules for the EDA system, which became effective November 5, 2001. In November 2009, DoD instructed its contracting officers to register in EDA, and use of EDA is now a standard practice of DoD contracting offices. A review of the DFARS language related to contract files and contract distribution resulted in recommendations to remove coverage that was structured to support processes for and distribution of paper files and paper copies. Additionally, it was recognized that coverage was needed to reflect current electronic processes supported by EDA.

This rule proposes to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add language to DFARS 204.270, Electronic Document Access, to effect the following clarifications and changes:

- State as policy that EDA, an online repository for contractual instruments and supporting documents, is DoD's primary tool for electronic distribution of contract documents and contract data.
- Provide that agencies have certain responsibilities when posting documents to EDA, to include internal control procedures that ensure electronic copies of contract documents and data in EDA are accurate representations of original documents.
- The rule also proposes revisions to DFARS 204.802, Contract Files. The language in this section, which addresses contract file requirements for authenticating and conforming paper documents and copies, is being removed as it is outdated. A new paragraph is being added providing that electronic documents posted to the EDA system are a part of the contract file.

Use of EDA has been a standard business practice employed by DoD contracting offices to distribute electronic copies of contractual documents for several years. Therefore, this proposed rule is expected to have little, if any, impact on small entities. The rule proposes to update the DFARS to reflect policy regarding electronic posting and distribution of contractual instruments and to remove outdated coverage applicable to paper copies of contractual documents. As such, this rule primarily affects internal Government distribution procedures.

This rule does not require any reporting or recording keeping. The rule does not duplicate, overlap, or conflict with any other Federal rule. There are no practical alternatives that will accomplish the objectives of this proposed rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the

existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012–D056), in correspondence.

**V. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Parts 204 and 237**

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 204 and 237 are proposed to be amended as follows:

■ 1. The authority citation for parts 204 and 237 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 204—ADMINISTRATIVE MATTERS

■ 2. Add sections 204.270–1 and 204.270–2 to subpart 204.2 to read as follows:

**204.270–1 Policy.**

(a) The Electronic Document Access (EDA) system, an online repository for contractual instruments and supporting documents, is DoD's primary tool for electronic distribution of contract documents and contract data.

(b) Agencies are responsible for ensuring the following when posting documents, including contractual instruments, to EDA—

(1) The timely distribution of documents; and

(2) That internal controls are in place to ensure that—

(i) The electronic version of a contract document in EDA is an accurate representation of the original contract document; and

(ii) The contract data in EDA is an accurate representation of the underlying contract.

**204.270–2 Procedures.**

The procedures at PGI 204.270–2 provide details on how to record the results of data verification in EDA. When these procedures are followed, contract documents in EDA are an accurate representation of the original contract document and therefore may be used for audit purposes.

■ 3. Revise section 204.802 to read as follows:

**204.802 Contract files.**

(a) Any document posted to the Electronic Document Access (EDA) system is part of the contract file and is accessible by multiple parties, including the contractor. Inclusion of any document in EDA other than contracts, modifications, and orders is optional.

**204.805 [Amended]**

■ 4. Amend section 204.805 by removing ''official contract files'' and adding ''contract files'' in its place.

## PART 237—SERVICE CONTRACTING

■ 5. Revise section 237.172 to read as follows:

**237.172 Service contracts surveillance.**

Ensure that quality assurance surveillance plans are prepared in conjunction with the preparation of the statement of work or statement of objectives for solicitations and contracts for services. These plans should be tailored to address the performance risks inherent in the specific contract type and the work effort addressed by the contract. (See FAR subpart 46.4.) Retain quality assurance surveillance plans in the contract file. See *http://sam.dau.mil,* Step Four—Requirements Definition, for examples of quality assurance surveillance plans.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 212, 213, and 252

**RIN 0750–AI40**

### Defense Federal Acquisition Regulation Supplement: Past Performance Information Retrieval System—Statistical Reporting (PPIRS–SR) (DFARS Case 2014–D015)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to require contracting officers to consider information in the Statistical Reporting module of the Past Performance Information Retrieval System when evaluating past performance of offerors under competitive solicitations for supplies using simplified acquisition procedures.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 30, 2015, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2014–D015, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2014–D015'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2014–D015.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2014–D015'' on your attached document.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2014–D015 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Attn: Ms. Jennifer Hawes, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Hawes, telephone 571–372–6115.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

To fill the need for past performance data on lower dollar value contracts, DoD developed and deployed the Past Performance Information Retrieval System—Statistical Reporting (PPIRS–SR) module. This module of PPIRS collects quantifiable delivery and quality data from existing systems and uses that data to classify each supplier's performance by Federal supply class and product or service code. This objective data on past performance will assist contracting officers in making better-informed best value award decisions on small dollar value acquisitions for supplies, while also eliminating the burden of collecting subjective past performance information on contractors for smaller dollar value contracts.

## II. Discussion and Analysis

A new section DFARS 213.106–2 entitled ''Evaluation of quotations or offers'' is added as well as a new provision at DFARS 252.213–70XX, Notice to Prospective Suppliers on the Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations. The prescription to use the new provision in competitive solicitations for supplies using FAR part 13 simplified acquisition procedures, including acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5, is included at DFARS 213.106–2–70. The provision is also added to the list of provisions and clauses that are applicable to the acquisition of commercial items at DFARS 212.301.

Instructions on the use of PPIRS–SR, for both Government and industry users, are available in the PPIRS–SR User's Manual provided in the references section of *www.PPIRS.gov.* As such, a link to the User's Manual is provided at DFARS 213.106–2(b)(i)(A) and in the new provision at DFARS 252.213–70XX.

## III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## IV. Regulatory Flexibility Act

DoD expects this proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* Therefore, an initial regulatory flexibility analysis has been prepared and is summarized as follows:

This rule proposes to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to require contracting officers to consider information available in the Statistical Reporting module of the Past Performance Information Retrieval System when evaluating the past performance of offerors under competitive solicitations for supplies using FAR part 13 simplified acquisition procedures, including acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5.

The Past Performance Information Retrieval System—Statistical Reporting (PPIRS–SR) module collects quantifiable delivery and quality data from existing systems and uses that data to classify each supplier's performance by Federal supply class and product or service code. Contracting officers will use this objective data to make better-informed best value award decisions for supply contracts valued at less than or equal to $1 million.

This rule will apply to small entities submitting quotations or offers on competitive solicitations for supplies issued using FAR part 13 simplified acquisition procedures, including acquisitions valued at less than or equal to $1 million under the authority of FAR subpart 13.5. According to a report generated in the Federal Procurement Data System—Next Generation, in fiscal year 2013, DoD made 15,258 new competitive awards for commercial supplies valued at less than or equal to $1 million to 4,018 unique small businesses.

This rule creates no new reporting, recordkeeping, or other compliance requirements. PPIRS–SR generates past performance ratings based on objective delivery and quality data on current and recent contracts available from other systems.

The rule does not duplicate, overlap, or conflict with any other Federal rules and there are no known significant alternatives to the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2014–D015), in correspondence.

## V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

## List of Subjects in 48 CFR Part 212, 213, and 252

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 212, 213, and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 212, 213, and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. In section 212.301, redesignate paragraphs (f)(v) through (xvii) as paragraphs (f)(vi) through (xviii) and add a new paragraph (f)(v) to read as follows:

### 212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(v) *Part 213—Simplified Acquisition Procedures.* Use the provision at 252.213–70XX, Notice to Prospective Suppliers on Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations, in competitive solicitations for supplies when using FAR part 13 simplified acquisition procedures, including those valued at less than or equal to $1 million under the authority at FAR subpart 13.5, as prescribed in 213.106–2–70.

* * * * *

## PART 213—SIMPLIFED ACQUISITION PROCEDURES

■ 3. Add sections 213.106–2 and 213.106–2–70 to subpart 213.1 to read as follows:

### 213.106–2 Evaluation of quotations or offers.

(b)(i) For competitive solicitations for supplies using FAR part 13 simplified acquisition procedures, including acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5, the contracting officer shall—

(A) Consider data available in the statistical reporting module of the Past Performance Information Retrieval System (PPIRS–SR) regarding the supplier's past performance history for the Federal supply class (FSC) and product or service code (PSC) of the supplies being purchased. Procedures for the use of PPIRS–SR in the evaluation of quotations or offers are

provided in the PPIRS–SR User's Manual available under the references section of the PPIRS Web site at *www.ppirs.gov*;

(B) Ensure the basis for award includes an evaluation of each supplier's past performance history in PPIRS–SR for the FSC and PSC of the supplies being purchased; and

(C) In the case of a supplier without a record of relevant past performance history in PPIRS–SR for the FSC or PSC of the supplies being purchased, the supplier may not be evaluated favorably or unfavorably for its past performance history.

**213.106–2–70 Solicitation provision.**

Use the provision at 252.213–70XX, Notice to Prospective Suppliers on the Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations, in competitive solicitations for supplies when using FAR part 13 simplified acquisition procedures, including acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add new section 252.213–70XX to read as follows:

**252.213–70XX Notice to Prospective Suppliers on Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations.**

As prescribed in 213.106–2–70, use the following provision:

**Notice to Prospective Suppliers on use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations (Date)**

(a) The Past Performance Information Retrieval System—Statistical Reporting (PPIRS–SR) application (*http://www.ppirs.gov/*) will be used in the evaluation of suppliers' past performance in accordance with DFARS 213.106–2(b)(i).

(b) PPIRS–SR collects quality and delivery data on previously awarded contracts and orders from existing Department of Defense reporting systems to classify each supplier's performance history by Federal supply class (FSC) and product or service code (PSC). The PPIRS–SR application provides the contracting officer quantifiable past performance information regarding a supplier's quality and delivery performance for the FSC and PSC of the supplies being purchased.

(c) The quality and delivery classifications identified for a supplier in PPIRS–SR will be used by the contracting officer to evaluate a supplier's past performance in conjunction with the supplier's references (if requested) and other provisions of this solicitation under the past performance evaluation factor. The Government reserves the right to award to the supplier(s) whose quotations(s) or offer(s) represent(s) the best value to the Government.

(d) PPIRS–SR classifications are generated monthly for each contractor and can be reviewed by following the access instructions in the PPIRS–SR User's Manual found at *https://www.ppirs.gov/ppirsfiles/pdf/PPIRS-SR_UserMan.pdf.* Contractors are granted access to PPIRS–SR for their own classifications only. Suppliers are encouraged to review their own classifications, the PPIRS–SR reporting procedures and classification methodology detailed in the PPIRS–SR User's Manual, and PPIRS–SR Evaluation Criteria available from the references at *http://www.ppirs.gov/ppirsfiles/reference.htm.* The method to challenge a rating generated by PPIRS–SR is provided in the User's Manual.

(End of provision)

[FR Doc. 2015–01436 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–01–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 225 and 252

**RIN 0750–AI45**

## Defense Federal Acquisition Regulation Supplement: Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (DFARS Case 2014–D023)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update the clause entitled ''Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States.''

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 30, 2015, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2014–D023, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2014–D023'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2014–D023.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2014–D023'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2014–D023 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Hawes, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hawes, telephone 571–372–6115.

**SUPPLEMENTARY INFORMATION:**

### I. Background

DoD is proposing to amend the DFARS to make the following updates to the clause at 252.225–7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States, to—

- Remove ''humanitarian assistance operations'' at paragraphs (b)(1)(ii) and (q)(2), because humanitarian assistance operations are a subset of peace operations already referenced at (b)(1)(iii) and (q)(3);
- Clarify at paragraph (d)(3) that both contractors authorized to accompany the Force (CAAF) and non-CAAF personnel must be made aware of information related to sexual assault offenses by adding ''and non-CAAF'';
- Add subparagraph (d)(5)(iii) to clarify that the section on reporting alleged crimes does not create any rights or privileges that are not authorized by law or DoD policy;
- Change the form at subparagraph (e)(1)(ii)(C)(3) from the ''Public Health Service Form 791, International Certificate of Vaccination'' to the ''U.S. Centers for Disease Control and Prevention (CDC) Form 731, International Certificate of Vaccination or Prophylaxis as Approved by the World Health Organization'';
- Change the reference at paragraph (e)(1)(iv) from ''DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54–G, DoD Foreign Clearance Guide'' to ''DoD Directive 4500.54E, DoD Foreign Clearance Program'';
- Change the hyperlink for the Synchronized Predeployment and

Operational Tracker (SPOT) web-based system at subparagraph (g)(2) from ''*https://spot.altess.army.mil/privacy.aspx*'' to ''*https://spot.dmdc.mil/*'';

• Add the title of DoD Instruction 3020.41, Operational Contractor Support, at subparagraph (j)(1); and

• Make an editorial correction in paragraph (j)(2), by removing the hyphen in the phrase ''will notify''.

In addition, the rule removes ''humanitarian assistance operations'' from the clause prescription at 225.7402–5(a)(2), because it is a subset of peace operations already referenced at 225.7402–5(a)(3).

**II. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**III. Regulatory Flexibility Act**

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule merely provides updates to references and links currently included DFARS clause 252.225–7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The objective of this rule is to accomplish the following clarifications and updates to the clause at DFARS 252.225–7040—

• Remove ''humanitarian assistance operations'' at paragraphs (b)(1)(ii) and (q)(2), because humanitarian assistance operations are a subset of peace operations already referenced at (b)(1)(iii) and (q)(3);

• Clarify at paragraph (d)(3) that both contractors authorized to accompany the Force (CAAF) and non-CAAF personnel must be made aware of information related to sexual assault offenses by adding ''and non-CAAF'';

• Add subparagraph (d)(5)(iii) to clarify that the section on reporting alleged crimes does not create any rights or privileges that are not authorized by law or DoD policy;

• Change the form at subparagraph (e)(1)(ii)(C)(3) from the ''Public Health Service Form 791, International Certificate of Vaccination'' to the ''U.S. Centers for Disease Control and Prevention (CDC) Form 731, International Certificate of Vaccination or Prophylaxis as Approved by the World Health Organization'';

• Change the reference at paragraph (e)(1)(iv) from ''DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54–G, DoD Foreign Clearance Guide'' to ''DoD Directive 4500.54E, DoD Foreign Clearance Program'';

• Change the hyperlink for the Synchronized Predeployment and Operational Tracker (SPOT) web-based system at subparagraph (g)(2) from ''*https://spot.altess.army.mil/privacy.aspx*'' to ''*https://spot.dmdc.mil/*'';

• Add the title of DoD Instruction 3020.41, Operational Contractor Support, at subparagraph (j)(1); and

• Make an editorial correction in paragraph (j)(2), by removing the hyphen in the phrase ''will notify''.

In addition, the rule removes ''humanitarian assistance operations'' from the clause prescription at 225.7402–5(a)(2), because it is a subset of peace operations already referenced at 225.7402–5(a)(3).

According to the Federal Procurement Data System, DoD awarded 506 contracts in Fiscal Year 2013 requiring performance overseas in support of contingency, humanitarian or peace operations. Of the 506 contracts, only 76 contracts (15%) were awarded to small businesses. At this time, there is no way of estimating how many contracts may be awarded requiring performance outside the United States in support of other military operations or exercises, when designated by the Combatant Commander; however, the number of small businesses awarded such contracts is expected to be minimal.

The rule does not impose any additional reporting, recordkeeping, and other compliance requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternatives to the rule. The impact of this rule on small business is not expected to be significant.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2014–D023), in correspondence.

**IV. Paperwork Reduction Act**

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35); however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0460, entitled Synchronized Predeployment and Operational Tracker (SPOT) System.

**List of Subjects in 48 CFR Parts 225 and 252**

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 225 and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 225 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 225—FOREIGN ACQUISITION

**225.7402–5 [Amended]**

■ 2. Amend section 225.7402–5, by removing paragraph (a)(2) and redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3), respectively.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.225–7040 by—

■ a. Removing the clause date ''(MAY 2014)'' and adding ''(DATE)'' in its place;

■ b. Removing paragraph (b)(1)(ii) and redesignating paragraphs (b)(1)(iii) and (iv) as paragraphs (b)(1)(ii) and (iii), respectively;

■ c. In paragraph (d)(3) introductory text, removing ''CAAF are aware'' and adding ''CAAF and non-CAAF are aware'' in its place;

■ d. In paragraph (d)(3)(i), removing ''DoDD 6495.01'' and adding ''DoD Directive 6495.01'' in its place;

■ e. Adding paragraph (d)(5)(iii);

■ f. Revising paragraph (e)(1)(ii)(C)(*3*);

■ g. In paragraph (e)(1)(iv), removing ''DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54–G, DoD foreign Clearance Guide'' and adding ''DoD Directive 4500.54E, DoD Foreign Clearance Program'' in its place;
■ h. In paragraph (g)(2), removing ''*https://spot.altess.army.mil/privacy.aspx*'' *and adding* ''*https://spot.dmdc.mil*'' in its place;
■ i. In paragraph (j)(1) by removing ''DoD Instruction 3020.41'' and adding ''DoD Instruction 3020.41, Operational Contractor Support'' in its place;
■ j. In paragraph (j)(2), removing ''will-notify'' and adding ''will notify'' in its place; and
■ k. Removing paragraph (q)(2) and redesignating paragraphs (q)(3) and (4) as paragraphs (q)(2) and (3), respectively. The addition and revision read as follows:

**252.225–7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States.**

* * * * *

(d) * * *

(5) * * *

(iii) That this section does not create any rights or privileges that are not authorized by law or DoD policy.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(C) * * *

(*3*) All CAAF and selected non-CAAF, as specified in the statement of work, shall bring to the designated operational area a copy of the U.S. Centers for Disease Control and Prevention (CDC) Form 731, International Certificate of Vaccination or Prophylaxis as Approved by the World Health Organization, (also known as ''shot record'' or ''Yellow Card'') that shows vaccinations are current.

* * * * *

[FR Doc. 2015–01437 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

# Notices

Federal Register
Vol. 80, No. 19
Thursday, January 29, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Document Number: AMS–FV–14–0040; FV–15–326]**

### United States Standards for Grades of Maple Sirup (Syrup)

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final notice.

**SUMMARY:** This notice revises the United States Standards for Grades of Maple Sirup (Syrup). The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS) is revising the standards to replace the current grade classification requirements with new color and flavor descriptors, and revise Grade A requirements to be free from damage. The USDA Color Standards for Maple Sirup will become obsolete, and color will be determined using a spectrophotometer, or any method that provides equivalent results. AMS has also changed the spelling from ''sirup'' to ''syrup.'' These revisions will improve the marketing of maple syrup in the United States and internationally.

**DATES:** Effective Date: March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Contact Richard E. Peterson, Agricultural Marketing Specialist, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 1536, South Building; STOP 0240, Washington, DC 20250; telephone (202) 720–5021; fax (202) 690–1527; or, email *richard.peterson@ams.usda.gov*. Copies of the revised U.S. Standards for Grades of Maple Syrup are available on the Internet at *http://www.regulations.gov* or *http://www.ams.usda.gov/scihome*.

**SUPPLEMENTARY INFORMATION:** Section 203(c) of the Agricultural Marketing Act of 1946 (Act) (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.''

AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The U.S. Standards for Grades of Fruits and Vegetables not connected with Federal Marketing Orders or U.S. Import Requirements no longer appear in the Code of Federal Regulations, but are maintained by the USDA, AMS, Fruit and Vegetable Program, and are available on the Internet at *http://www.ams.usda.gov/scihome.*

AMS has revised the voluntary U.S. Standards for Grades of Maple Sirup (Syrup) using the procedures that appear in part 36 of Title 7 of the Code of Federal Regulations (7 CFR part 36).

**Background**

In September 2011, AMS received a petition from the International Maple Syrup Institute (IMSI) seeking to revise the U.S. Standards for Grades of Maple Sirup (Syrup). IMSI represents maple producers, state governments and associations, vendors, maple equipment manufacturers, organizations, and others in Canada and the United States. The petitioner stated that the patchwork of grading systems in the United States is confusing to consumers and fails to define the grades of maple syrup in meaningful terms. The petitioner's overall goal was to foster development of harmonized grade standards for maple syrup in the United States and Canada. AMS proposed revisions to the U.S. Standards for Grades of Maple Sirup (Syrup) based on the IMSI petition. Specifically, AMS proposed replacing the current grade classification requirements with new color and flavor descriptors, and revising Grade A requirements to be free from damage. The USDA Color Standards for Maple Sirup will become obsolete, and the color classes will be determined using a spectrophotometer, or by any method that provides equivalent results. AMS also proposed changing the spelling from ''sirup'' to the more commonly used term ''syrup.''

The U.S. Standards for Grades of Maple Sirup (Syrup) are voluntary standards issued under the authority of the Act, which provides for the development of official U.S. grades to designate different levels of quality. These grade standards are available for use by producers, suppliers, buyers, and consumers; and, serve as the basis for the Federal inspection and grading of commodities as provided under the Act. Like all standards for fresh and processed fruits, vegetables, and specialty crops, these standards are designed to facilitate marketing by providing a convenient basis for buying and selling maple syrup, and for identifying product value.

This notice announces the revision to the second issuance of the U.S. Standards for Grades of Maple Sirup (Syrup), which became effective on January 14, 1980. The changes to the grade standards are as follows:

*Title.* Change the spelling of ''sirup'' to the more common spelling ''syrup.''

*Color.* Under current U.S. standards, producers include a grade statement and color descriptor on maple syrup labels. Darker syrups with rich bold flavor are currently labeled as Grade B for Reprocessing and are not intended for retail sale. However, consumers are increasingly seeking the darkest color class of maple syrup for cooking and table use. The revision of the U.S. standards will categorize Grade B syrup that contains no damage or off flavors/odors as Grade A to allow the darker syrup to be packaged in retail size containers (less than 5 gallons). Specifically, the Grade A classification is revised to include four new color and flavor classes of maple syrup:

- U.S. Grade A Golden (delicate taste, ≥75.0 percent light transmittance (%Tc))
- U.S. Grade A Amber (rich taste, 50.0–74.9%Tc)
- U.S. Grade A Dark (robust taste, 25.0–49.9%Tc)
- U.S. Grade A Very Dark (strong taste, <25.0%Tc)

The four color and flavor classes of maple syrup will be determined by using a spectrophotometer that provides a measure of percent of light transmission using matched square optical cells with a 10 millimeter (mm) light path at a wavelength of 560 nanometers (nm), with the color values expressed in percent of light transmission as compared to analytical

reagent glycerol fixed at one hundred percent transmission, and symbolized by %Tc values; or by any method that provides equivalent results.

Further, the revisions remove references to the USDA permanent glass color standards for maple sirup, which will no longer be applicable.

*Composition.* Grade A syrup is the quality of maple syrup that:

- Is not more than 68.9 percent solids content by weight (Brix);
- Has good uniform color;
- Has good flavor and odor, and intensity of flavor (maple taste) normally associated with the color class;
- Is free from off flavors and odors considered as damage;
- Is free from cloudiness, turbidity, sediment, and is clean, and
- Contains no deviants.

Off flavors/odors are defined as any specific and identifiable or unidentifiable flavor or smell defect not normally found in good quality maple syrup. Off flavors may be related to natural factors such as woody, buddy, or fermented flavors or due to production, handling, or storage, *e.g.,* burnt, chemical, or fermentation.

*Processing Grade.* The standards are being revised to remove ''U.S. Grade B for Reprocessing'' classification and includes a new ''Processing Grade.'' This new grade of syrup:

- Is intended for use at commercial markets;
- Is not intended to be sold at retail markets;
- Does not meet the ''U.S. Grade A'' quality requirements;
- May be used in the manufacturing of other products;
- Must be packed in containers of 5-gallons or 20-liters or larger;
- May not be packaged in consumer-size containers for retail sales;
- May be any color class and any light transmittance;
- Must not be more than 68.9 percent solids content by weight (Brix);
- May have a very strong taste; and
- May contain off flavors and odors.

The ''Processing Grade'' syrup also must be:

- Fairly free of damage, turbidity, or cloudiness, and
- Fairly clean.

USDA grades for maple syrup are not mandatory, but producers, processors, and handlers/packers that label maple syrup as a particular U.S. grade are responsible for ensuring the accuracy of the grade statement indicated, and that the maple syrup meets the current Federal standards for that grade. The existing regulations governing the inspection and grading of processed fruits, vegetables, and miscellaneous products (7 CFR 52.53) provide for the appropriate use of approved identification marks. While most products must be officially inspected prior to use of an official USDA grade mark, maple syrup and honey may bear official USDA grade marks without official inspection (see 7 CFR 52.53(h)).

AMS published a proposed notice in the **Federal Register** on May 7, 2014 (79 FR 26200) with a 60-day public comment period.

**Comments**

AMS received comments on the proposed changes to the maple syrup standards from 10 respondents. Seven favored the revision as proposed. One respondent, a maple producer and packer, favored the revision, with the exception of the product labeling. Two commenters opposed the revision. After the comment period ended, AMS contacted the petitioner, IMSI, for technical assistance. Comments and responses are as follows:

*Comment:* The petitioner, IMSI, noted that they were very satisfied with the content of the proposed revision, and that the changes would harmonize United States and Canadian markets to the benefit of consumers and stakeholders. They also stated that their intent was to encourage maple syrup producers and packers to include all label provisions specified in the IMSI proposal, including the product color and taste descriptors. However, they also recognized the voluntary nature of USDA regulations.

*Comment:* A national trade association, the North American Maple Syrup Council, several state associations, and stakeholders supported revising the classification of the current Grade B for Reprocessing (very dark and strongly flavored) syrup to Grade A (if free from damage and off-flavors/odors) to help meet the growing demand for this product. Commenters also noted that reclassifying the darkest color syrup to be sold at the retail level will also help small farming operations maintain profitability, while introducing new consumers to this product.

*Comment:* Several trade associations and stakeholders urged the USDA to quickly enact the revisions to the standards.

*Comment:* One stakeholder, a maple producer and packer, supported the change overall, but was concerned about the complexity and length of each grade name, and the limited space on each container's label.

*Response:* AMS is not adding labeling requirements for these voluntary U.S. grade standards. Product labeling falls under the regulations of the Food and Drug Administration (FDA) (21 CFR part 101), or state maple syrup regulations and requirements.

*Comment:* One stakeholder noted that the current standard is adequate, and that AMS resources should be spent on actual food safety issues.

*Response:* The issue of food safety is outside the scope of this revision to the U.S. grade standards. AMS is revising the standards based on a petition from IMSI. AMS reviewed the request and found that it had merit. AMS believes that the revision should improve the marketing of maple syrup in the United States and internationally.

*Comment:* One commenter, a stakeholder from Maine asked several questions. AMS' responses are listed below:

*Question 1:* Where are Maine and the other states in the amendment process?

*Response:* You may contact the individual state departments of agriculture for the status of any amendments to state maple syrup grade regulations.

*Question 2:* Will AMS amend commercial grade syrup from the current five-gallon container to one gallon to allow small producers to sell commercial grade syrup to small bakeries, restaurants, or other companies in the food industry?

*Response:* There is no U.S. commercial grade for maple syrup. The revisions to the U.S. standards would categorize the former Grade B syrup (containing no damage or off flavors/odors) as Grade A to allow the darker syrup to be packaged in retail size containers (less than 5 gallons). The revisions also include a new ''Processing Grade,'' a grade that does not meet the quality requirements for ''U.S. Grade A,'' and may contain off flavors. Processing grade maple syrup may be used in the manufacturing of other products, and must be packed in containers of 5 gallons or 20 liters or larger.

*Question 3:* Will AMS include a variance to the color grade for when bottled syrup may darken over time so the vendor will not have to remove it from sale?

*Response:* USDA grades for maple syrup are not mandatory, but producers, processors, and handlers/packers that label maple syrup as a particular U.S. grade are responsible for ensuring the accuracy of the grade statement indicated, and that the maple syrup meets the current Federal standards for that grade, which includes the correct color classification. Individual states also may impose this requirement. Contact your state representative for

more information on the implementation of state labeling regulations for maple syrup.

*Question 4:* How will inspectors be trained and equipment calibrated, and what type of lighting will be used to grade the colors proposed in the revised standard?

*Response:* AMS will train staff to grade the product under the revised grade standards. AMS values and relies on trained, educated employees to accomplish its mission. Quality training and development programs are designed to provide the most effective training possible. AMS training may be provided through classroom training, computer/web based training, distance learning, on-the job training, or combination of methods. With regard to calibration of equipment, the equipment will be calibrated and cross checked as appropriate, with detailed instructions from manufacturers taken into account. Approved lighting sources are used to make critical color evaluations and comparisons. USDA lighting sources are designed to provide uniform color and spectral quality.

*Question 5:* Will this change result in more Canadian products on shelves and add financial benefits to the United States, or will it hurt jobs and sales?

*Response:* This revision is intended to improve marketing of maple syrup in the United States and internationally. According to the petitioner, each maple-producing state intends to revise its standards to reflect Federal grade standards. Overall, the revised grade standards should have a positive effect on the maple syrup industry.

*Question 6:* Will this change increase the amount of interstate maple syrup sales, and allow marketing of product from one region as if it were from another region?

*Response:* As stated previously, these revisions will improve the marketing of maple syrup in the United States and internationally, (see question 5). However, these standards do not excuse failure to comply with provisions of applicable Federal or state laws including provisions to prevent misbranding.

*Question 7:* Was there an economic study conducted that proves these changes are productive to U.S. consumers and producers?

*Response:* The revised grade standards are based on a petition from IMSI. IMSI represents maple industry stakeholders including maple producers, state governments and associations, vendors, maple equipment manufacturers, organizations, and others in Canada and the United States. The purpose of the standards is to foster and assist in the development of new or expanded markets, and improve the marketing of maple syrup in the United States and internationally. As such, the revised grade standards should have a positive effect on the maple syrup industry.

*Question 8:* Will this revision hurt or help existing branding such as Vermont Fancy, and can Maine producers use their own branding?

*Response:* The U.S. Standards for Grades of Maple Sirup (Syrup) are voluntary grade standards. States do have the option to allow branding if they wish. The 2014 Vermont Maple Product Regulations allow for using current grade terminology such as ''Vermont Fancy'' until January 1, 2017. Refer to the ''Maine Maple Regulations'' for that state's maple branding requirements.

*Question 9:* U.S. maple production is too small to come up on the USDA radar.

*Response:* We disagree. An example of this is reflected in the 2013 National Agricultural Statistics Service (NASS) report. The report states: Nationally, maple syrup production in 2013 totaled 3.25 million gallons, up 70 percent from 2012. In 2012, prevailing high temperatures limited sap flow. The number of taps is estimated at 10.6 million, 8 percent above the 2012 total of 9.77 million. Yield per tap is estimated to be 0.308 gallons, up 58 percent from the previous season's revised yield. All states showed an increase in production from the previous year.

*Question 10:* Will revised USDA color standards (maple sirup color grading kits) be available?

*Response:* The revised standards specify that ''color may be determined by spectrophotometer, or any method that provides equivalent results.'' The current USDA Color Standards for Maple Sirup permanent kit will no longer meet the revised requirements for color. There are no plans to revise the USDA maple sirup grading kit. Other entities are free to develop grading kits in the marketplace.

*Question 11:* The upper brix limit for Grade A, now set at 68.9 percent, should be set at 70 percent brix because small producers do not have the precision equipment to grade to 68.9 percent brix.

*Response:* The upper limit in Grade A for brix of not more than 68.9 percent can be determined using the same instrumentation that is currently being used to verify the minimum brix requirement of 66.0 percent. In response to AMS' inquiry on how IMSI arrived at 68.9 percent brix as the upper limit for Grade A, the petitioner responded that it was a consensus decision among maple syrup producers and packer stakeholders to require an upper limit, and that 68.9 percent brix is currently the upper limit for ''Brix Maple Regulations in Vermont and New Hampshire.'' IMSI added that there is no advantage to going to a higher limit and noted that going higher would result in a product that is uncharacteristically thick, and would significantly increase production costs.

The official grade of a lot of maple syrup covered by these standards will be determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Products, Thereof, and Certain Other Processed Food Products (7 CFR 52.1 to 52.83).

Accordingly, no changes to the standards were made as a result of comments received. However, AMS has made changes to the description of the processing grade for clarity.

The revisions to this maple syrup grade standard in this notice provide a common language for trade and better reflect the current marketing of maple syrup. The changes are effective 30 days after the date of publication in the **Federal Register**.

**Authority:** 7 U.S.C. 1621–1627.

Dated: January 23, 2015.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2015–01618 Filed 1–28–15; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Information Collection; Data on Nonresident Applicants

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice; request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a new information collection that will be used to determine the applicant's citizenship.

**DATES:** We will consider comments that we receive by March 30, 2015.

**ADDRESSES:** We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Follow the online instructions for submitting comments.

• *Mail:* Jackie Pickens, USDA/FSA/FMD, STOP 0581, Patriot Plaza III, 355 E. Street SW., Washington, DC 20024.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Jackie Pickens at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jackie Pickens; (615) 277–2613.

**SUPPLEMENTARY INFORMATION:**

*Title:* Data on Nonresident.

*OMB Number:* 0560–NEW.

*Type of Request:* New.

*Abstract:* FSA is using the FSA–500 Data on Nonresident Applicants, to verify each applicant's citizenship, if applications for payments are filed by or for applicants who reside outside the United States, its territories or possessions, even if the application is filed by an agent of the applicant whose address is in the United States. County office employees provide the FSA–500 to the nonresident applicants or agents to complete the form. The FSA–500 request the applicant's name, address, United States citizenship and signature of applicant or authorized agent. The completed returned form will be filed at the County office. The data collected on the FSA–500 will assist with ensuring foreign taxes are collected and reported to the IRS.

The formula used to calculate the total burden hour is estimated average time per responses hours times total annual responses.

*Estimate of Respondent Burden:* Public reporting burden for this information collection is estimated to average 0.0833 hours per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

*Respondents:* Individuals or households, businesses or other for profit farms.

*Estimated Annual Number of Respondents:* 55.

*Estimated Number of Reponses per Respondent:* 1.

*Estimated Total Annual Responses:* 55.

*Estimated Average Time per Response:* 1.0833.

*Estimated Total Annual Burden on Respondents:* 60.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(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.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed on January 23, 2015.

**Val Dolcini,**

*Administrator, Farm Service Agency.*

[FR Doc. 2015–01651 Filed 1–28–15; 8:45 am]

**BILLING CODE 3410–05–P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Announcement of Federal Interagency Competition, Fiscal Year 2015 Investing in Manufacturing Communities Partnership

**AGENCY:** Economic Development Administration, U.S. Department of Commerce.

**ACTION:** Notice.

**Authority:** The Public Works and Economic Development Act of 1965, as amended (PWEDA) (42 U.S.C. 3121 *et seq.*).

**SUMMARY:** This notice outlines a competition to designate up to 12 communities as manufacturing communities (Manufacturing Communities) through the Investing in Manufacturing Communities Partnership (IMCP), including proposal submission requirements and instructions, and eligibility and selection criteria that will be used to evaluate proposals. Manufacturing Communities will receive preference for a range of future Federal economic development funding and technical assistance offered by IMCP participating agencies. Some Manufacturing Communities, as discussed in the Supplementary Information section of this notice and subject to the availability of funds, may receive financial assistance awards from IMCP participating agencies to assist in cultivating an environment for businesses to create well-paying manufacturing jobs in regions across the country.

**DATES:** The deadline for receipt of applications is April 1, 2015 at 11:59 p.m. Eastern Time. Applications received after this deadline will not be reviewed or considered. Applicants are advised to carefully read the application and submission information provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

**ADDRESSES:** Applications will be accepted in electronic form only. To begin the application process, applicants should use the following link: *http://www.eda.gov/challenges/imcp/applications/.*

**FOR FURTHER INFORMATION CONTACT:** Ryan Hedgepeth and/or Julie Wenah, U.S. Department of Commerce, Economic Development Administration, 1401 Constitution Avenue NW., Suite 78006, Washington, DC 20230 or via email at *IMCP@eda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Overview

The Investing in Manufacturing Communities Partnership (IMCP) is a government-wide initiative to help communities cultivate an environment for businesses to create well-paying manufacturing jobs in regions across the country and thereby accelerate the resurgence of manufacturing. The IMCP is designed to reward communities that demonstrate best practices in attracting and expanding manufacturing by bringing together key local stakeholders and using long-term planning that integrates targeted public and private investments across a community's industrial ecosystem to create broad-based prosperity. Research has shown that vibrant ecosystems may create a virtuous cycle of development for a key technology or supply chain through integrated investments and linkages among the following elements:

- Workforce and training;
- Supplier network;
- Research and innovation;
- Infrastructure/site development or redevelopment;
- Trade and international investment; and
- Operational improvement and capital access.

Interactions within and between these elements create ''public goods,'' or assets upon which many firms can draw and that are fundamental in promoting an industry's development but are not adequately provided by the private sector. Thus, well-designed public investment is a key part of developing a self-sustaining ecosystem that attracts

private investment from new and existing manufacturers and leads to broad-based prosperity.

Designation as an IMCP manufacturing community (each a Manufacturing Community, and collectively the Manufacturing Communities) will be given to communities with the best strategies for designing and making such investments in public goods. The Federal agencies participating in the IMCP are the: Department of Commerce, Economic Development Administration; Department of Commerce, National Institute of Standards and Technology; Department of Defense; Department of Education; Appalachian Regional Commission; Delta Regional Authority; Department of Energy; Department of Housing and Urban Development; Department of Labor; Department of Transportation; Environmental Protection Agency; National Science Foundation; Small Business Administration; and the Department of Agriculture (each an IMCP Participating Agency, and collectively the IMCP Participating Agencies). IMCP Participating Agencies will coordinate with each other to leverage complementary activities (including from non-federal sources such as philanthropies) while also preventing duplication of efforts. Manufacturing Communities will receive preferential consideration for other Federal programs identified by IMCP Participating Agencies, the exact nature of which is dependent upon, *inter alia,* the existing legal authorities of the Participating Agencies as well as each program's eligibility requirements and evaluation criteria (*see* Section II of this notice). Additionally, a Federal point of contact (POC) will be made available to help the winning Manufacturing Communities access Federal funds and resources. Manufacturing Communities will also have access to generally available technical assistance resources developed through IMCP, namely: (1) An online data portal centralizing data available across agencies to enable communities to evaluate their strengths and weaknesses; and (2) a ''playbook'' that identifies existing Federal planning grant and technical assistance resources, and catalogues economic development best practices.

Manufacturing Communities, subject to the availability of funds and fund allocation requirements, may receive preference in award competitions from IMCP Participating Agencies (*see* Section II of this notice). However, applicants need to compete for funding from participating agencies. Designation as a manufacturing community does not guarantee federal funding.

## II. Benefits of IMCP Manufacturing Communities Designation

Up to 12 communities will be designated as Manufacturing Communities for a period of two years. After two years, communities will be invited to apply to renew their designation as Manufacturing Communities; they will be evaluated based on: (a) Performance against the terms of the designation and post-designation awards received (if any); and (b) progress against project-specific metrics as proposed by communities in their applications, designed to also help communities track their own progress. *See* Section V.A.2. of this notice for more information on self-defined metrics. Renewal will not be a competitive process; each Manufacturing Community will be evaluated on its own merits. It is possible that all of the Manufacturing Communities will have their designations renewed, but also possible that some will not.

Co-applicants and identified, committed core partners in Manufacturing Communities' original IMCP proposals will be eligible for the following benefits:

1. Preferential consideration (or supplemental awards for existing grantees) for funding streams identified by the IMCP Participating Agencies as furthering IMCP goals and thereby assisting Manufacturing Communities in bolstering their IMCP strategy. Manufacturing Communities will only receive a preference when applying for grants and projects consistent with the community's economic development strategy. (**Note:** In the event that co-applicants and/or core partners submit multiple applications to a given funding stream, the federal agency reserves the right to determine how a preference will be applied, which may include asking the Manufacturing Community to identify which applicant should be given the preference). In instances where two or more partners are deemed eligible to receive the preference for a given funding stream, they will be asked to demonstrate coordination in developing their applications.

2. A federal point of contact (POC) to help the Manufacturing Community identify and access Federal economic development funding streams and to meet requirements of individual agencies, and identify and access funding related to specialized services provided by the IMCP Participating Agencies. These specialized services include capacity-building assistance and technical assistance.

3. Branding and promotion under the Manufacturing Community designation that may be helpful in attracting partners and investors behind the community's development strategy.

4. In addition, subject to the availability of funds, some Manufacturing Communities may be invited to submit additional documentation (*e.g.,* budget information) for consideration for Federal financial assistance through Challenge Grant Awards, with the possibility of additional funding from other Federal programs. Challenge Grant Awards are intended to support investments in ecosystems such as transit or digital infrastructure, workforce training, and business incubators.

Publication of this announcement does not obligate the IMCP Participating Agencies to award Manufacturing Communities any specific grant or cooperative agreement, and the IMCP Participating Agencies reserve the right to fund, in whole or in part, any, all, or none of the applications submitted in response to future solicitations.

The following 10 IMCP Participating Agencies have agreed to provide preferential consideration, and/or consideration in the determination of application merit, and/or grant supplemental awards (totaling approximately $1.3 billion) for Manufacturing Communities for the following 18 economic development programs:

### *1. Appalachian Regional Commission (ARC)*

a. Local Access Road Program: This ARC program aims to better link the Region's businesses, communities, and residents to the Appalachian Development Highway System and to other key parts of the Region's transportation network. The program offers a flexible approach designed to meet local needs and provide a financing mechanism to support a variety of economic development opportunities throughout the Region. Funding is available to provide access to industrial sites, business parks, and commercial areas where significant employment opportunities are present. Other eligible sites include timberlands with significant commercial value and areas where educational services are provided. Proposals for the use of this program should be developed in coordination with the State ARC Program Office and State Department of Transportation as required lead times

can span multiple fiscal years and/or project cycles.

b. Area Development Program: This ARC program addresses three of the four goals identified in the Commission's strategic plan: (1) Increase job opportunities and per capita income in Appalachia to reach parity with the nation; (2) Strengthen the capacity of the people of Appalachia to compete in the global economy; and (3) Develop and improve Appalachia's infrastructure to make the Region economically competitive. Projects funded in these program areas create thousands of new jobs; improve local water and sewer systems; increase school readiness; expand access to health care; assist local communities with strategic planning; and provide technical and managerial assistance to emerging businesses. Proposals for the use of this program should be developed in coordination with the State ARC Program Office.

*2. Delta Regional Authority (DRA)*

a. States' Economic Development Assistance Program (SEDAP): DRA's primary investment, SEDAP, provides for investments in Basic Public Infrastructure, Transportation Infrastructure, Workforce Development, and Business Development with an emphasis in entrepreneurship. SEDAP funds are allocated to Lower Mississippi Delta designated counties in eight states (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee).

*3. Department of Housing and Urban Development (HUD)*

a. Office of Economic Resilience Integrated Planning & Investment Grants (program funding pending) will offer $75 million in Integrated Planning and Investment Grants that will seed locally-created, comprehensive blueprints that strategically direct investments in development and infrastructure to projects that result in: Attracting jobs and building diverse and resilient economies, significant municipal cost savings, and stronger, more unified local leadership. Integrated Planning and Investment Grants will incorporate some of the same features of the previously-funded Regional Plans for Sustainable Communities and the Community Challenge Grants offered by the Office of Sustainable Housing and Communities, but, using lessons learned from that program and feedback from local leaders, will place a greater emphasis on supporting actionable economic development strategies, reducing redundancy in Federally-funded planning activities, setting and monitoring performance, and identifying how Federal formula funds can be used smartly and efficiently in support of economic resilience. As with the previous efforts, priority will be placed on directing grants to rural areas, cities, counties, metropolitan areas and states that demonstrate economic need and are committed to building the cross-sector, cross-disciplinary partnerships necessary to tackle the tough decisions that help make places economically competitive. A portion of grant funds will be reserved for small and rural communities and regions.

*4. Department of Labor (DOL)*

a. DOL will align funds as appropriate throughout 2015 and ensure all designees are aware of opportunities as they become available. Generally, competitions for funding that may be aligned require strong public private partnerships that include entities involved in administering the workforce investment system established under Title I of the Workforce Investment Act, such as a state or local Workforce Investment Board or an American Job Center (formerly One-Stop Career Center); education and training providers that are institutions of higher education as defined in Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), which include public or other nonprofit educational institutions; community-based organizations that provide training and other workforce development services are also considered to be education and training providers; employers; and business-related nonprofit organizations including trade or industry associations, such as local Chambers of Commerce and small business federations, and labor organizations.

*5. Department of Transportation (DOT)*

a. DOT will align resources as appropriate throughout 2015 and ensure all designees are aware of opportunities as they become available, including assistance to better understand future solicitations related to the Transportation Investment Generating Economic Recovery (TIGER), or TIGER Discretionary Grant program. This program provides a unique opportunity for DOT to engage directly with states, cities, regional planning organizations, and rural communities through a competitive process that invests in road, rail, transit and port projects that promise to achieve critical national objectives. Each project is multi-modal, multi-jurisdictional or otherwise challenging to fund through existing programs. The TIGER program showcases DOT's use of a rigorous cost-benefit analysis throughout the process to select projects with exceptional benefits, explore ways to deliver projects faster and save on construction costs, and make investments in our Nation's infrastructure that make communities more livable and sustainable. For more information about the TIGER program, please visit *http://www.dot.gov/tiger*.

*6. Environmental Protection Agency (EPA)*

a. Targeted Brownfield Assessments (TBA) program is designed to help states, tribes, and municipalities, as well as land clearance authorities, regional redevelopment agencies, and other eligible entities–especially those without other EPA brownfield site assessment resources—minimize the uncertainties of contamination often associated with brownfields, and set the stage for new investment. The TBA program is not a grant program, but a service provided by EPA via a contractor, who conducts environmental assessment activities to address the requestor's needs.

b. Brownfield Site Assessment/cleanup/Revolving Loan Fund (RLF) (includes assessment, RLF, and cleanup grants) can support a range of activities needed to re-deploy properties, including for manufacturing and related uses. Assessment grants provide funding for communities, regional development authorities, and other eligible recipients to inventory, characterize, assess, and conduct planning and community involvement related to brownfield sites. RLF grants provide funding for states, communities, and other eligible recipients to capitalize a locally administered RLF to carry out cleanup activities at brownfield sites; alternatively, recipients may use up to 40% of their capitalization grants to provide subgrants for cleanup purposes. Cleanup grants provide funding to carry out remedial activities at brownfield sites. Cleanup grants require a 20 percent cost share (cash or eligible in-kind), which may be waived based on hardship. An applicant must own the site for which it is requesting funding at time of application. For additional information on brownfield grants, including examples of their use to advance manufacturing activities, please visit *www.epa.gov/brownfields*.

*7. National Science Foundation (NSF)*

a. Advanced Technology Education (ATE) (supplemental awards will be awarded only to existing ATE grantees also designated as Manufacturing Communities entitled to Challenge Grants): With an emphasis on two-year

colleges, the ATE program focuses on the education of technicians for the high-technology fields that drive our nation's economy. The program involves partnerships between academic institutions and employers to promote improvement in the education of science and engineering technicians at the undergraduate and secondary school levels. The ATE program supports curriculum development; professional development of college faculty and secondary school teachers; career pathways to two-year colleges from secondary schools and from two-year colleges to four-year institutions; and other activities. Another goal is articulation between two-year and four-year programs for K–12 prospective teachers that focus on technological education. The program also invites proposals focusing on research to advance the knowledge base related to technician education.

b. I/UCRC (supplemental awards will be awarded only to existing ATE grantees also designated as Manufacturing Communities entitled to Challenge Grants): The Industry/University Cooperative Research Centers (I/UCRC) program develops long-term partnerships among industry, academe, and government. The centers are catalyzed by a seed investment from the NSF and are primarily supported by industry center members, with NSF taking a supporting role in their development and evolution. Each center is established to conduct research that is of interest to both the industry and the center. An I/UCRC not only contributes to the Nation's research infrastructure base and enhances the intellectual capacity of the engineering and science workforce through the integration of research and education, but also encourages and fosters international cooperation and collaborative projects.

*8. Small Business Administration (SBA)*

a. Accelerator Program (pending funding and authority for the program): The Accelerator Program, within SBA's Office of Investment and Innovation, is a prize competition for entrepreneurial ecosystem models that support startups. These models provide support in the form of mentorship, networking opportunities, introductions to investors and sometimes an infusion of seed capital from the accelerator itself. Most of these also have a 3–6 month graduation period after which startups exit the accelerators to operate independently. SBA is encouraging and will give special attention to applicants to the program which are run by or support women, minorities or veterans and/or which are focused on manufacturing.

b. Regional Innovation Clusters Program (pending funding and authority for the program): The Regional Innovation Clusters Program, within SBA's Office of Entrepreneurial Development, funds and monitors organizations to connect and enhance regional innovation hubs so that small businesses can effectively leverage them to commercialize new technologies and expand into new markets, thereby positioning themselves and their regional economies for growth.

*9. U.S. Department of Agriculture*

a. Rural Economic Development Loan and Grant Program (REDLG): REDLG provides loans and grants to local public and nonprofit utilities which use the funds to make zero interest loans to businesses and economic development projects in rural areas that create and retain employment. Examples of eligible projects include: Purchase or improvement of real estate, buildings, and equipment; working capital and start-up costs; health care facilities and equipment; business incubators; telecommunications/computer networks; educational and job training facilities and services; community facilities and other community development projects. In REDLG a rural area is any area other than an urban area of 50,000 or more in population and its adjacent urbanized areas, as determined by the latest federal decennial census.

b. Rural Business Enterprise Grant Program (RBEG): RBEG grants may be made to public bodies and private nonprofit corporations who use the grant funds to assist small and emerging businesses in rural areas. Public bodies include States, counties, cities, townships, and incorporated town and villages, boroughs, authorities, districts, and Indian tribes. Small and emerging private businesses are those that will employ 50 or fewer new employees and have less than $1 million in projected gross revenues. Examples of eligible fund use include: Capitalization of revolving loan funds to finance small and emerging rural businesses; training and technical assistance; job training; community facilities and infrastructure; rural transportation improvement; and project planning and feasibility. In RBEG a rural area is any area other than an urban area of 50,000 or more in population and its adjacent urbanized areas, as determined by the latest federal decennial census.

c. Intermediary Relending Program (IRP): IRP loans are provided to intermediaries to establish revolving loan funds, which finance business and economic development activity in rural communities. Private non-profit corporations, public agencies, Indian groups, and cooperatives with at least 51 percent rural membership may apply for intermediary lender status. IRP funding may be used for a variety of business and community development projects located in a rural area. Under the IRP, a rural area is any area other than an urban area with a population of 25,000 or more according to the latest decennial census. Some examples of eligible projects related to businesses in the manufacturing sector are: Acquisition of a business; purchase or development of land, buildings, facilities; leases; purchase equipment; leasehold improvements; machinery; supplies; startup costs and working capital. IRP may also finance community and economic development projects.

d. Business & Industry Guaranteed Loan Program (B&I): The B&I Guaranteed Loan Program bolsters existing private credit structure by guaranteeing quality loans aimed at improving the economic and environmental climate in rural communities. A borrower may be a cooperative organization, corporation, partnership, or other legal entity organized and operated on a profit or nonprofit basis; an Indian tribe on a Federal or State reservation or other Federally recognized tribal group; a public body; or an individual. Borrowers must be engaged in a business that will: Provide employment; improve the economic or environmental climate; promote the conservation, development, and use of water for aquaculture; or reduce reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems and other renewable energy systems.

*10. U.S. Department of Commerce (DOC), National Institute for Standards and Technology (NIST)*

a. *Award Competitions for Hollings Manufacturing Extension Partnership Centers.* These awards are made to U.S.-based nonprofit institutions or organizations such as a 501(c)(3) entities, non-profit and State Universities, non-profit and community or technical colleges, and State, local or Tribal Governments. Awards are in the form of a Cooperative Agreement to provide manufacturing extension services to small and medium-sized manufacturers within the State designated in the applications. The Manufacturing Extension Partnership (MEP) network of centers helps manufacturers create and retain jobs,

increase profits and save time and money. They provide technical assistance with innovation strategies, process improvements, green manufacturing, workforce development, supply chain optimization, and offer other products and services customized to address the needs of their regional manufacturers.

b. *NIST Advanced Manufacturing Technology (AMTech) Consortia.* These planning grants support new or existing industry-driven consortia to develop research plans that address high-priority challenges impeding the growth of advanced manufacturing in the United States. Nonprofit U.S. organizations as well as accredited institutions of higher education and state, local and Tribal Governments are eligible to apply for the program. Teaming and partnerships that include broad participation by companies of all sizes, universities and government agencies, driven by industry, are encouraged. The AMTech awards are intended to bridge the gap between R&D activities and the deployment of technological innovations. The grants encourage the formation and strengthening of industry-driven technology consortia in areas of national importance in advanced manufacturing. Activities supported by these planning awards include detailed technology roadmaps of critical advanced manufacturing technologies and associated long-term industrial research challenges.

c. *Manufacturing Extension Partnership Network Special Competitions.* NIST's MEP works with small and mid-sized U.S. manufacturers to help them create and retain jobs, increase profits, and save time and money. The nationwide network provides a variety of services, from innovation strategies to process improvements to green manufacturing. MEP also works with partners at the state and federal levels on programs that put manufacturers in position to develop new customers, expand into new markets and create new products. NIST's MEP Federal Funding Opportunities (FFOs) are awarded to existing MEP Centers for projects designed to enhance the productivity, technical performance and global competitiveness of U.S. manufacturers. These opportunities help encourage the creation and adaption of improved technologies and provide resources to develop new products that respond to the ever changing needs of manufacturers.

In addition, applicant communities are reminded about the availability of local and state Community Development Block Grant (CDBG) funds and opportunities to use HUD's Section 108 Loan Guarantee program in achieving their economic development goals. HUD's Section 108 Loan Guarantee program enables states and local governments to borrow money from private investors at reduced interest rates to promote economic development, stimulate job growth, and carry out public infrastructure improvements, including development of public facilities. The state and local governments can borrow up to five times their annual CDBG allocation, which allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects that can renew entire communities.

The loan guarantees approved by HUD for states and local governments are not competitive awards. States and local governments, however, must submit an application to allow HUD to confirm the proposed uses of the guaranteed financing will meet CDBG program requirements and that projects are financially feasible.

Several financing features of the Section 108 Loan Guarantee Program that promote economic development and job growth are: Loan terms up to 20 years; reduced interests costs; and flexible repayment of loan principal. Eligible activities under the program in recent years include site assembly, predevelopment costs, infrastructure and undergrounding of utilities for large scale commercial developments in underserved areas; and acquisition, rehabilitation, or construction of commercial or industrial buildings, and structures. For more information about the program's eligible activities and uses of Section108 guaranteed loan funding, follow the link below: *https://www.hudexchange.info/section-108/section-108-program-eligibility-requirements*.

For more Section 108 Loan Guarantee Program information, you may contact Hugh Allen at HUD (202–402–4654); *hugh.allen@hud.gov*.

For more information on using CDBG for economic development, please see the program link below: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment.*

In addition, each of the 14 IMCP Participating Agencies—the above ten plus the EDA, Defense, Education, and Energy—will offer staff time in order that each Manufacturing Community will have access to a POC (assigned from an IMCP Participating Agency) to facilitate access to technical assistance and economic development funds. POCs will help with identifying appropriate funding streams and assisting Manufacturing Communities with understanding the application requirements of individual agencies.

## III. Eligibility Information

### *A. Eligible Organizations*

Proposals for designation as a Manufacturing Community must be submitted on behalf of the region by a consortium that includes one or more of the eligible organizations discussed in this section. The consortium must designate, for administrative purposes, an eligible organization as its lead applicant with one member of that organization designated as the primary point of contact for the consortium. The lead applicants should serve as the spokespersons presenting the consensus opinion of their respective consortium (*see also* Section II regarding eligibility of co-applicants and co-partners of a consortium for preferential consideration and other substantive benefits). All members of the consortium must submit letters of commitment or sign a Memorandum of Understanding documenting their contributions to the partnership. Consortiums are strongly encouraged to include key stakeholders, including but not limited to private sector partners, higher education institutions, government entities, economic development and other community and labor groups, financial institutions and utilities. At a minimum, a consortium should include a higher education institution, a private sector partner, and a government entity; however, if one or more of these organizations is not part of the consortium, a letter of support from each type of organization not included in the consortium must be submitted. Consortiums should demonstrate a significant level of regional cooperation in their proposal.

Eligible lead applicants include a(n):

1. District Organization;

2. Indian Tribe or a consortium of Indian Tribes;

3. State, county, city, or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions;

4. Institution of higher education or a consortium of higher education institutions; or

5. Public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State.[1]

[1] *See* section 3(4) of PWEDA (42 U.S.C. 3122(4)) and 13 CFR 300.3.

*B. Geographic Scope*

Applicants may define the regional boundaries of their consortium, though all such regions should have a strong existing manufacturing base. In general, an applicant's region should be large enough to contain critical elements of the key technologies or supply chains (KTS) prioritized by the applicant, but small enough to enable close collaboration (*e.g.,* generally, larger than a city but smaller than a state). The proposed manufacturing community should provide evidence that their community ranks in the top third in the nation for their key manufacturing technology or supply chain by: Location quotient for either employment or firms in the KTS, or in terms of employment or firm numbers. If a community is using location quotient exclusively, this quotient must be in the top third in the nation and be greater than one. Other metrics can be used to determine a top third national ranking in the applicants KTS region, but data sources and methods used to calculate the top third ranking must be well-documented in the application. Tools for helping communities determine their KTS location quotients can be found at: *http://www.eda.gov/challenges/imcp/*.

A key element in evaluating proposals will be the rate of improvement on (rather than absolute value of) key performance metrics and goals, as defined in communities' strategies, that applicants can credibly generate. For example, communities are encouraged to demonstrate how their proposals will lead to an improvement in key performance metrics including, increases in private investment in the sector, creation of middle-to-high wage well-paying jobs, increased median income, increased exports and improved environmental quality. Thus, both distressed (as defined in PWEDA) and non-distressed manufacturing regions are encouraged to apply.

## IV. Application and Submission Information

*A. How To Submit an Application*

Applications will be accepted in electronic form only. The application is subject to the Paperwork Reduction Act, and has OMB Control Number 0610–0107. Application submission will involve a two-step process, described briefly below. To begin the application process, applicants should use this link: *http://www.eda.gov/challenges/imcp/applications/*.

Step 1: Eligibility Screen for Lead Applicants To Establish a Username

Only eligible lead applicants will be able to upload and submit an application. Guided questions will screen who is eligible to serve as lead applicant for a consortium. Interested applicants must establish access to the system by completing the eligibility screen by March 12, 2015. If a lead applicant has not established access to the system by March 12, 2015, applicants may not be able to complete the application by the deadline. No additional registrations (*e.g.,* SAM, grants.gov) will be required.

Step 2: Application Submission

Only lead applicants may submit materials via the electronic system on behalf of a consortium. Fields will guide applicants in the submission of the required information. For more details about the information requirements for an application, see Section IV B. Please note that any optional letters of support must also be uploaded electronically by the lead applicant.

Establish Access Early and Submit Early

In order to submit an application through the electronic system, an applicant must establish access to this system. Note that this process can take several weeks, especially if all steps are not completed correctly. To avoid delays, EDA strongly recommends that applicants start early and not wait until close to the application deadline date before logging in, establishing access, reviewing the application instructions, and applying.

**FOR FURTHER INFORMATION CONTACT:** Ryan Hedgepeth and/or Julie Wenah, U.S. Department of Commerce, Economic Development Administration, 1401 Constitution Avenue NW., Suite 78006, Washington, DC 20230 or via email at *IMCP@eda.gov*.

In preparing their applications, communities are urged to consult online resources developed through IMCP, namely (1) a data portal centralizing data available across agencies to enable communities to evaluate their strengths and weaknesses; (2) a ''playbook'' that identifies existing Federal planning grant and technical assistance resources and catalogues best practices in economic development, and (3) common questions and answers, the applications of successful designees, and online data tools for calculating a community's KTS performance. These resources are available at *www.eda.gov/challenges/imcp/*.

*B. Content and Form of Application Submission*

In order to be considered for designation, applicants must submit a proposal that includes all required elements outlined below. The proposal will be used to determine which communities will receive a Manufacturing Community designation. A proposal that does not contain all of the required elements is incomplete and will not be considered for a designation. Reviewers will focus on the quality of the analysis described below. Each proposal must include the following information:

(a) *Point of Contact:* Name, phone number, email address, and organization address of the primary point of contact for the lead applicant, including specific staff member to be the point of contact;

(b) *Assessment of Local Industrial Ecosystem:* An integrated assessment of the local industrial ecosystem (*i.e.,* the whole range of workforce and training, supplier network, research and innovation, infrastructure/site development, trade and international investment, operational improvements and capital access components needed for manufacturing activities) as it exists today in the region defined by the applicant and what is missing; and an evidence-based path for developing chosen components of this ecosystem (infrastructure, transit, workforce, etc.) by making specific investments to address gaps and make a region uniquely competitive (*see also* Section V.A.1.);

(c) *Implementation Strategy Description:* A description of the proposed investments and implementation strategy that will be used to address gaps in the ecosystem (*see also* Sections V.A.1, V.A.2);

(d) *Implementation Strategy Parties:* A description of the local organizations/jurisdictions that comprise the consortium and that will carry out the proposed strategy, including letters of commitment or signed a Memorandum of Understanding documenting their contributions to the partnership, as well as a description of their specific roles and responsibilities (*see also* Sections V.A.2, V.A.3);

(e) *Performance Measurement and Impact Evaluation:* A description of outcome-based metrics, benchmarks and milestones to be tracked and evaluation methods to be used (experimental or high quality quasi-experimental designs using control groups, etc.) over the course of the implementation to gauge performance of the strategy; for example, communities are encouraged

to demonstrate how their proposals will lead to an improvement in key performance metrics including increases in private investment in the sector, creation of middle-to-high wage well-paying jobs, increased median income, increased exports and improved environmental quality. In addition, communities are also expected to identify metrics more specifically tied to the implementation of their plan (*see also* Section V.A.2).

(f) *Federal Financial Assistance Experience:* Evidence of the intended recipient's ability and authority to manage a Federal financial assistance award;

(g) *Geographic Scope:* Description of the regional boundaries of their consortium and the basis for determining that their manufacturing concentration ranks in the top third in the nation for their key manufacturing technology or supply chain by either: location quotient for employment or firms in the KTS, or in terms of employment or firm numbers. Other metrics can be used to determine a top third national ranking in the applicants the KTS region, but data sources and methods used to calculate the top third ranking must be well-documented in the application.

(h) *Submitting Official:* Documentation that the Submitting Official (the lead applicant) is authorized by its organization to submit a proposal and subsequently apply for assistance.

*C. Deadlines for Submission*

The deadline for receipt of applications is April 1, 2015 at 11:59 p.m. Eastern Time. Proposals received after the closing date and time will not be considered.

**V. Application Review and Evaluation Process**

Throughout the review and selection process, the IMCP Participating Agencies reserve the right to seek clarification in writing from applicants whose proposals are being reviewed and considered. IMCP Participating Agencies may ask applicants to clarify proposal materials, objectives, and work plans, or other specifics necessary to comply with Federal requirements. To the extent practicable, the IMCP Participating Agencies encourage applicants to provide data and evidence of the merits of the project in a publicly available and verifiable form. Applicants are reminded that confidential information must be identified appropriately and is subject to EDA's obligations under the Freedom of Information Act (*see* Section VI.A.).

*A. Proposal Narrative Requirements and Selection Criteria*

IMCP Participating Agencies will consider each of the following factors as a basis to confer the Manufacturing Community designation. Applicants have the opportunity to single out one of the following factors as a priority area or special focus of their proposal for additional weighting in the evaluation of their proposal. (*See* Section V.B. of this notice for weighting).

1. Quality of Assessment/ Implementation Strategy

At the outset, applicants should identify a KTS or a small integrated set of KTS on which their development plan will focus, and explain how the KTS builds on existing regional assets and capabilities. In selecting a KTS and in defining the geographic boundaries of the community, applicants should choose areas that are sufficiently focused to ensure a well-integrated development plan, but sufficiently broad that resulting development of related capabilities have a substantial impact on a community's prosperity overall and achieve broad distribution of benefits. Finally, the applicant should discuss why this community has a comparative advantage in building their KTS (*e.g.,* comparative data such as location quotients, levels of sales, wages, employment, and patents) and how their strategy integrates the ecosystem categories, noted below, into a coherent whole, leading to a vibrant manufacturing ecosystem based on the KTS.

Applicants should provide a detailed data-driven assessment of the local industrial ecosystem as it exists today, what is missing, and an evidence-based path to development that could make a region uniquely competitive. For example, a data-driven assessment could include metrics such as the number of firms, the regional market share or value added, and the share of the workforce dedicated to the local industrial ecosystem. This description should also explain public good investments needed to realize these plans. The proposed development should involve strong coordination across the subcategories below—for instance, detailing how plans in workforce, infrastructure, capital access, and international trade combine to support the growth or development of a particular KTS or sector. Applicants must conduct a cost-benefit analysis of their proposed public good investments and demonstrate that expected project benefits exceed project costs.

We expect that winning applications will include a detailed, integrated, and data-driven assessment of the local industrial ecosystem as it currently exists for their KTS, what is missing, and a path to development that could make a region uniquely competitive. However, we do not expect that applicants will provide detailed budgets and analysis for plans to remedy every gap they identify. Instead, applicants should submit estimated budgets for such projects that they can show would be catalytic.

The following text provides guidance on how we will analyze the composition of a community's industrial ecosystem. Applicants are asked to discuss their strategies for each of the following six elements. However, while the six elements are fixed, the guidance under each element is not meant to be proscriptive.

For *workforce and training,* the applicant should consider:

i. Current capability: What are the requisite skills and average compensation for employees in fields relevant to the KTS? How many people with these or similar skills currently reside in the region? How many employees could be added to the workforce with minimal additional training?

ii. Current institutions for improving capability: What local community colleges, certified apprenticeships, and other training programs exist that either specialize in the KTS or could develop specialties helpful for the KTS? Do these programs result in recognized credentials and pathways for continuous learning that are valued by employers and lead to improved outcomes for employees? To what extent do these institutions currently integrate research and development (R&D) activities and education to best prepare the current and future workforce? To what extent do postsecondary partners engage with feeder programs, such as those in secondary schools? What is the nature of engagement of Workforce Investment Boards, employers, community, and labor organizations?

iii. Gaps: What short- and long-term human resources challenges exist for the local economy along the region's proposed development path? If available, what is the local unemployment rate for key occupations in the KTS? Are any local efforts underway to re-incorporate the long-term unemployed into the workforce that could be integrated into the KTS?

iv. Plans: Communities that intend to focus on workforce issues as a priority area in seeking future grants or technical

assistance should explain how they intend to build on local assets to improve KTS in areas such as:

a. Linkage (including training, financial and in-kind partnerships) with employers (or prospective employers) in the KTS and labor/community groups to ensure skills are useful, portable, and lead to a career path;

b. Plans to ensure broad distribution of benefits, *e.g.,* through programs to upgrade jobs and wages or support disadvantaged populations;

c. Extent of plan to integrate R&D activities and education to best prepare the current and future workforce as appropriate to the KTS focus specified.

For *supplier networks,* the applicant should consider:

i. Current Capability: What are key firms in the KTS? What parts of the KTS are located inside and outside the region defined by the applicant? How are firms connected to each other? What are the key trade and other associations and what roles do they play? How might customers or suppliers (even outside the region) support suppliers in the region? What examples are of projects/shared assets across these firms? What new KTS products have been launched recently?

ii. Current Institutions for Improving Capability: What processes or institutions (foundations, medical or educational institutions, trade associations, etc.) exist to promote innovation or upgrade supplier capability? Please provide performance measures and/or case studies as evidence of these capabilities.

iii. Gaps: What short- and long-term supply chain challenges exist for the local economy along the region's proposed development path? Are there institutions that convene suppliers and customers to discuss improved ways of working together, roadmap complementary investments, etc.?

iv. Plans: Communities that intend to focus on improving supplier networks as a priority area in seeking future grants or technical assistance should explain how they intend to build on local assets to improve the KTS in areas such as:

a. Establishing an industrial park conducive to supply chain integration, including support for convening and upgrading supplier firms of all sizes;

b. Remedying gaps and/or undertaking more intensive supply chain mapping;

c. Measuring and improving supplier capabilities in innovation, problem-solving ability, and systematic operation (*e.g.* lean, International Organization for Standardization (ISO) certification);

d. Leveraging organizations that work with suppliers, such as the MEP, U.S. Export Assistance Centers (USEACs), Small Business Development Centers (SBDCs), SCORE chapters and Women Business Centers (WBCs); and

e. Measuring and improving trade association activity, interconnectedness, and support from key customers or suppliers (even if outside the region).

For *research and innovation,* the applicant should consider:

i. Current Capabilities: What are the community's university/research assets in the KTS? To what extent do training institutions currently integrate R&D activities and education to best prepare the current and future workforce? Does the community have shared facilities such as incubator space or research centers? What is the community's record for helping the ecosystem develop small businesses and start-ups?

ii. Current Institutions for Improving Capability: How relevant are local institutions' program of research and commercialization for the proposed development path? How robust is the revenue model? What local entities work with new and existing firms to help promote innovation? How integrated are industry and academia (including Federal Laboratories)?

iii. Gaps: What short- and long-term research challenges exist for the local economy along the region's proposed development path?

iv. Plans: Communities that intend to focus on improving local research institutions as a priority area in seeking future grants or technical assistance should explain how they intend to build on local assets to improve the KTS in areas such as:

a. Establishing shared space and procuring capital equipment for incubation and research;

b. Developing strategies for negotiating intellectual property rights in ways that balance the goals of rewarding inventors and sharing knowledge;

c. Plans for promoting university research relevant to new industry needs, and arrangements to facilitate adoption of such applied research by industry;

d. Leveraging other Federal innovation initiatives such as the interagency National Network for Manufacturing Innovation and MEP's Manufacturing Technology Accelerator Centers; and

e. Plans to ensure broad distribution of the benefits of public investment, including benefits to disadvantaged populations.

For *infrastructure/site development,* the applicant should consider:

i. Current capability: Describe the quality of existing physical or information infrastructure and logistical services that support manufacturing and provide analysis of availability of sites prepared to receive new manufacturing investment (including discussion of specific limitations of these cites, *i.e.,* environmental concerns or limited transportation access). Provide detailed analysis on how transportation infrastructure serves KTS in moving people and goods. Do KTS firms contribute significantly to air or water pollution, or sprawl?

ii. Current institutions for improving capability: Is there capability for on-going analysis to identify appropriate sites for new manufacturing activity, and efforts necessary to make them ''implementation ready?'' Do the applicants control these sites? Are they well-located, requiring readily achievable remedial or infrastructural support to become implementation-ready? Are they easily accessible by potential workers via short commutes or multiple modes of transportation? Are they located in areas where planned uses will not disproportionately impact the health or environment of vulnerable populations? Are they suitable for manufacturing investment in accordance with Brownfield Area-Wide plans, Comprehensive Economic Development Strategies (CEDS), or other plans that focus on economic development outcomes in an area such as those associated with metropolitan planning organizations or regional councils of government? Are there opportunities to improve the environmental sustainability of the KTS?

iii. Gaps: Provide analysis of gaps in existing infrastructure relevant for the proposed path to ecosystem development, including barriers and challenges to attracting manufacturing-related investment such as lack of appropriate land or transportation use planning, and explains how plans will address them. To what extent have firms indicated interest in investing in the region if infrastructure gaps are addressed?

iv. Plans: Communities that intend to focus on infrastructure development as a priority area in seeking future grants or technical assistance should explain how they intend to build on local assets to improve KTS in areas such as:

a. Transportation, energy or information infrastructure projects that contribute to economic competitiveness of the region and United States as a whole by (i) improving efficiency, reliability, sustainability and/or cost-competitiveness in the movement of

workers, goods or information in the KTS, and (ii) creating jobs in the KTS;

b. Site development for manufacturing to take advantage of existing transportation and other infrastructure and facilitate worker access to new manufacturing jobs;

c. Infrastructure and site reuse that will generate cost savings over the long term and efficiency in use of public resources; and

d. Improvement of production methods and locations so as to reduce environmental pollution, greenhouse gas emissions, resource use and sprawl.

For *trade and international investment,* the applicant should consider:

i. Current capability: What is the current level and rate of change of the community's exports of products or services in the KTS? Identify existing number of international KTS firms, inward investment flow, outward investment flow, export and import figures, KTS trends in the region and internationally.

ii. Current institutions for improving export capability and support: What local public sector, public-private partnership, or nonprofit programs have been developed to promote exports of products or services from the KTS?

iii. Gaps: What are the barriers to increasing KTS exports? Identify strategic needs or gaps to fully implement a program to attract foreign investment (*e.g.,* outreach missions, marketing materials, infrastructure, data or research, missing capabilities).

iv. Plans: Communities that intend to focus on exports or foreign direct investment as a priority area in seeking future grants or technical assistance should explain how they intend to build on local assets to improve KTS in areas such as:

a. Developing global business-to-business matching services; regional advisory services for engaging international markets and international trade officials, or planning and implementing trade missions.

b. Location (investment) promotion in target markets and within target sectors to build the KTS; Investment Missions; business accelerators or soft landing sites to support new investors; marketing materials; or organizational capacity to support investment strategy implementation.

For *operational improvement and capital access,* the applicant should consider:

i. Current capability: For the KTS, what data is available about business operational costs and local capital access? The applicant can provide general description of what is available, and more detailed description of key areas of comparative advantage or of concern. How does industry partner with utility companies to achieve efficient energy distribution and delivery and/or more energy efficient manufacturing operations? What (if any) local institutions exist to help companies reduce business operational costs while maintaining or increasing performance? What (if any) sources of capital and infrastructure are available (public and private) to businesses to expand or locate in a community? What evidence exists regarding their performance?

ii. Gaps: What improvements or new institutions (including financial institutions and foundations) are key for promoting continuous improvement in KTS business operational capability?

iii. Plans: Communities that intend to focus on operational improvements and/or capital access as a priority area in seeking future grants or technical assistance should explain how they intend to build on local assets to improve KTS in areas such as:

a. Reducing manufacturers' production costs by reducing waste management costs, enhancing efficiency, and promoting resilience establishing mechanisms to help firms measure and minimize life-cycle costs (*e.g.,* improving firms' access to innovative financing mechanisms for energy efficiency projects, such as a revolving energy efficiency loan fund or state green bank);

b. Building concerted local efforts and capital projects that facilitate industrial energy efficiency, combined heat and power, and commercial energy retrofits (applicants should detail strategies for capturing these opportunities in support of local manufacturing/business competitiveness); and

c. Developing public-private partnerships that provide capital to commercialize new technology, and develop/equip production facilities in the KTS.

2. Capacity To Carry Out Implementation Strategy

Applications will be judged on the quality of the evidence they provide, including the following information:

i. Overall leadership capacity—lead organization's capacity to carry out planned investments in public goods, *e.g.,* prior leadership of similar efforts, prior success attracting outside investment, prior success identifying and managing local and regional partners, and ability to manage, share, and use data for evaluation and continuous improvement.

ii. Sound partnership structure, *e.g.,* clear identification of project lead, clarity of consortium partner responsibilities for executing plan, and appropriateness of partners designated for executing each component; clarity of consortium partnership governance structure; and strength of accountability mechanisms, including contractual measures and remedies for non-performance, as reflected in letters of commitment or Memorandum of Understanding among consortium members. As discussed in Section III.A. of this notice, the partnership (a) must include an EDA-eligible lead applicant (District Organization; Indian tribe; state, city, or other political subdivision of a state, institution of higher education, or nonprofit organization or association acting in cooperation with a political subdivision of a state); and (b) should include other key stakeholders, including but not limited to private sector partners, higher education institutions, government entities, economic development and other community and labor groups, financial institutions and utilities. Also, at a minimum, the applicant must have letters of support from a higher education institution, a private sector partner, and a government entity if these are not already part of the consortium. It is important to note that securing letters of commitment will help strengthen the application. Commitment means that the entity is making a tangible financial or other commitment to the strategy regardless of whether the applicant is designated as a Manufacturing Community.

In outlining their partnership structure, applicants must list the names of the organizations that will be part of the consortium for designation purposes, the DUNS numbers and/or EIN numbers as applicable for each organization, and the name and contact information of a point of contact for each partner/consortium member organization. Consortium member organizations must also submit letters of commitment or a signed MOU with the IMCP proposal to be counted as a full member of the consortium for designation purposes. In their partnership structure, they should list the counties represented.

iii. Partner capacity to carry out planned investments in public goods and attract companies, as measured by prior stewardship of Federal, state, and/or private dollars received and prior success at achieving intended outcomes.

iv. State of ecosystem's institutions (associated with the six subcategories under Section I. of this notice) and readiness of industry, nonprofit, and

public sector facilities to improve the way they facilitate innovation, development, production, and sale of products, as well as train/educate a corresponding workforce.

v. Depth and breadth of communities' short, medium and long term development and employment goals, plans to utilize high-quality data and rigorous methods to evaluate progress towards goals, and demonstration that the probability of achieving these goals is realistic.

Competitive applications will have clearly defined goals and impacts that are aligned with IMCP objectives. Over the long term (5–10 years), plans should lead to significant improvements in the community's economic activity, environmental sustainability, and quality of life. Thus, every applicant should provide credible evidence that their KTS development plan will lead over the next 5–10 years to significant but reasonably attainable increases in private investment in the sector, creation of middle to high-wage well-paying jobs, increased median income, increased exports and improved environmental quality. We expect that every applicant will track progress toward these long-term outcomes, for their region, as it relates to their KTS.

In addition, applications will be evaluated on the extent to which applicants present practical and clear metrics for nearer-term performance assessments. For the short and medium term (next 2–3 years), applicants should develop milestones (targets they expect to achieve in this time frame) and metrics (measurements toward the selected milestones and long-term goals) that measure the extent to which the chosen catalytic projects are successfully addressing the ecosystem gaps identified in their assessment and contributing to improving the long-term metrics above. Some of the types of metrics that applicants may consider for these purposes (*i.e.,* are merely recommendations and are not all-encompassing) are set forth in the table below:

**Metrics to Consider**

*Workforce & Training:*
- Number of jobs created/retained.
- Percentage increase in STEM degrees conferred.
- Percentage increase in number of women engaged in STEM roles.
- Number of apprenticeships created.
- Number of long-term unemployed persons served.
- Average wage.
- Median wage.
- Annual average unemployment rate.

*Research & Innovation:*
- Number of SBIR/STTR awards.
- Number of new start-ups stemming from University R&D.
- Number of new technologies commercialized.

*Trade & International Investment:*
- Number of regional firms participating in international trade.
- Value of goods exported.

*Infrastructure & Development:*
- Number and acreage of industrially zoned vacant parcels.
- Number and acreage of sites remediated/prepared for development.
- Number and acreage of brownfields remediated.
- Number of new broadband deployments.

*Operational Improvement/Capital Access:*
- Capital dollars invested.

*Supply Chain:*
- New sales.
- Number of new firms by NAICS code.
- Customers have collaborative relationships with suppliers.
- Percent of suppliers with quality certification.

*Other Metrics:*
- Kaufmann Index of Entrepreneurial Activity.
- Water intensity per unit of production.
- Energy intensity per unit of production.

These intermediate metrics will vary according to the plan; for example, a community that has identified a weakness in supplier quality may track improvements in supplier quality systems, while a community that has identified a desire to increase university-industry collaboration might track invention disclosures filed by faculty and business. To the extent feasible, communities should also plan to statistically evaluate the individual programs/assistance as well as the effects of the bundle of programs/assistance taken together. For example, communities might choose randomly from among qualified applicants if job training programs are oversubscribed, and track job creation outcomes for both treatment and control groups. Please note the IMCP participating agencies may choose to conduct an evaluation using metrics similar to the ones noted above.

Key elements in evaluating proposals will be the ability of applicants to identify the outcomes they seek to achieve; the connection between those outcomes and existing conditions, supported by data (where available); the clarity with which they articulate the elements of their plan that will help achieve those outcomes; and the specificity of the benchmarks that they establish to measure progress toward the outcomes. Another key element is the rate of improvement in key indicators that the plan can credibly generate. For example, communities are required to demonstrate how their proposals will lead to an improvement in key performance metrics including increases in private investment in the sector, creation of middle to high-wage well-paying jobs, increased median income, increased exports and improved environmental quality, in addition to metrics more specifically tied to the implementation of a community's plan. Thus, both distressed and non-distressed manufacturing regions are encouraged to apply.

Resources to assist applicants with developing outcome-based performance metrics and evaluation strategies are included in the IMCP Playbook ''Resources'' section located at *http://manufacturing.gov/imcp/index.html.* All lead organizations of designated Manufacturing Communities and implementation partner organizations in the Manufacturing Community strategies will be required to participate in evaluations of the Investing in Manufacturing Communities Partnership initiative and related federal grant activities must be conducted. Lead organizations and implementation partners must agree to work with evaluators designated by participating agencies, as specified in their respective grant agreements, regulations and other requirements. This may include providing access to program personnel and all relevant programmatic and administrative data, as specified by the evaluator(s) under the direction of a federal agency, during the term of the Manufacturing Community designation and/or grant agreement.

3. Verifiable Commitment From Existing and Prospective Stakeholders—Both Private and Public—To Executing a Plan and Investing in a Community [2]

i. *Cohesion of partnership.* This may be shown in part by evidence of prior collaboration between the IMCP lead applicant, applicant consortium members, and other key community stakeholders (local government, anchor institutions, community, business and labor leaders and local firms, etc.) that includes specific examples of past projects/activities.

ii. *Strength/extent of partnership commitment* (not contingent upon receipt or specific funding stream) to coordinate work and investment to execute plan and strategically invest in identified public goods. Financial commitment for current project and evidence of past investments can help serve to demonstrate this commitment.

iii. *Breadth of commitment to the plan from diverse institutions,* including local anchor institutions (*e.g.,* hospitals, colleges/universities/postsecondary institutions, labor and community organizations, major employers, small business owners and other business leaders, national and community foundations, and local, state and regional government officials.

iv. *Investment commitments.* Extent to which applicants can demonstrate commitments from public and private sectors to invest in public goods identified by the plan, or investments that directly lead to high-wage jobs in manufacturing or related sectors. Letters of intent from prospective investors to support projects, with detailed descriptions of the extent of their financial and time commitment, can serve to demonstrate this commitment. These commitments should be classified into two groups: Those that are not contingent on receipt of a specific Federal economic development funding stream, and those that are contingent on the availability of such a Federal economic development funding stream. In the latter case, applicants should aim to show a sustainable commitment over the next 5–10 years, which may be private or public (non-Federal).

*B. Review Process*

All proposals submitted for the Manufacturing Communities designation will be reviewed on their individual merits by an interagency panel consisting of at least three federal employees. The interagency panel will judge applications against the evaluation criteria enumerated in Section V.A. of this notice, and score applications on a scale of 100 points. Prior to reviewing the applications, the interagency panel will determine a competitive range. Projects must achieve at least the competitive range to be awarded a designation. The maximum number of points that may be awarded to each criterion is as follows:

1. Quality of Implementation Strategy: 50 Points

i. Quality of analysis of workforce, supplier network, innovation, infrastructure, trade, and costs (6 points per element)—36 points
ii. Bonus weight (applicant must select one of the elements in section V.B.1.i. as a priority area or particular focus of their proposal for extra weighting in the evaluation)—6 points
iii. Quality of integration of the six elements—8 points;

2. Capacity: 25 Points

i. Leadership capacity, partnership structure, partner capacity, readiness of institutions (4 points per element)—16 points
ii. Quality of goal-setting and evaluation plan—9 points; and

3. Commitment: 25 Points

i. Cohesion, strength, and breadth of partnership—14 points
ii. Credibility and size of investments not tied to future Federal economic development funding—7 points
iii. Credibility and size of match tied to future Federal economic development funding—4 points.

In accordance with the criteria stated in Section V—Application Review and Evaluation Process, the panel will score applications. The interagency panel will then rank the applications within the competitive range according to their respective scores and present the ranking to the Assistant Secretary for Economic Development (who will serve as the selecting official for the Manufacturing Community designations made by EDA pursuant to this notice). In determining the issuance of Manufacturing Community designations, the Assistant Secretary for Economic Development may make a selection that differs from the rankings based on any of the following Selection Factors or use any of these Selection Factors to break a tie for applications that are otherwise equal in merit:

(1) Geographic Balance;

(2) Diversity of project types and organizational type to include smaller and rural organizations; or

(3) The applicant's ability to successfully carry out the public policy and program priorities outlined in this notice.

The decision of the Assistant Secretary for Economic Development is final; however, if the Assistant Secretary for Economic Development decides to make a Manufacturing Communities designation that differs from the recommendation of the interagency review panel, the Assistant Secretary for Economic Development will document the rationale for such a determination.

*C. Transparency*

The agencies and bureaus involved in this initiative are committed to conducting a transparent competition and publicizing information about investment decisions. Applicants are advised that their respective applications and information related to their review, evaluation, and project progress may be shared publicly, including for those applicants who are designated a Manufacturing Community, having their application posted publicly as an example for other communities. For further information on how proprietary, confidential commercial/business, and personally identifiable information will be protected see Section VI.A. of this notice.

**VI. Other Information**

*A. Freedom of Information Act Disclosure*

The Freedom of Information Act (5 U.S.C. 552) (FOIA) and DOC's implementing regulations at 15 CFR part 4 set forth the rules and procedures to make requested material, information, and records publicly available. Unless prohibited by law and to the extent permitted under FOIA, contents of applications submitted by applicants may be released in response to FOIA requests. In the event that an application contains information or data that the applicant deems to be confidential commercial information, that information should be identified, bracketed, and marked as ''Privileged, Confidential, Commercial or Financial Information.'' Based on these markings,

[2] Such commitments may range in intensity and duration. Lead applicants are responsible for overall coordination, reporting, and delivery of results. Consortium members have ongoing roles that should be specified in the proposal. Other partners may take on less intensive commitments such as in-kind donations of the use of meeting space, equipment, telecommunications services, or staffing for particular functions; letters or other expressions of support for IMCP activities and applications for resources; participation in steering committees or other advisory bodies; permanent donations of funding, land, equipment, facilities or other resources; or the provision of other types of support without taking on a formal role in the day-to-day operations and advancement of the overall strategy; stronger applications will also specify these commitments.

the confidentiality of the contents of those pages will be protected to the extent permitted by law.

*B. Intergovernmental Review*

Applications submitted under this announcement are subject to the requirements of Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' if a State has adopted a process under E.O. 12372 to review and coordinate proposed Federal financial assistance and direct Federal development (commonly referred to as the ''single point of contact review process''). All applicants must give State and local governments a reasonable opportunity to review and comment on the proposed Project, including review and comment from area-wide planning organizations in metropolitan areas.[3] To find out more about a State's process under E.O. 12372, applicants may contact their State's Single Point of Contact (SPOC). Names and addresses of some States' SPOCs are listed on the Office of Management and Budget's home page at *www.whitehouse.gov/omb/grants_spoc.* Section A.11. of Form ED–900 provides more information and allows applicants to demonstrate compliance with E.O. 12372.

*C. Paperwork Reduction Act*

The IMCP application on OMB MAX involves a collection of information subject to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, *et seq.* The application has been approved by OMB for a six-month emergency period under OMB Control Number 0610–0107. The application is described above, and will require applicants to provide information about, *inter alia:* The Point of Contact/Lead Applicant; the Submitting Official; Geographic Scope and how they satisfy the top third KTS requirement; Members of the consortium and evidence of ability to manage a Federal Financial Assistance award; the local industrial ecosystem and implementation strategy; and the evaluation plan, including the milestones, benchmarks and outcome-based metrics to be tracked and evaluation methods to be used.

EDA expects to receive approximately 80 applications. EDA estimates cost to a respondent to prepare the electronic application is a one-time cost of $420, based on an average labor cost of $42/hour times 10 hours, which equals $420. There are no non-labor costs to a respondent (which includes equipment, printing, postage and overhead) associated with the collection. The total cost estimated is therefore:

80 responses × 10 hours/response = 800 burden hours.

800 hours × $42/hour = $33,600 per year labor.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the IMCP, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. Comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, should be sent to OMB Desk Officer, New Executive Office Building, Washington, DC 20503, Attention: Nicholas Fraser, or by email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to (202) 395–7285, and to EDA as set forth under **ADDRESSES**, above. Notwithstanding any other provision of law, no person is required to comply with, and neither shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

## VII. Contact Information

For questions concerning this solicitation, or for more information about the IMCP Participating Agencies programs, you may contact the appropriate IMCP Participating Agency's representative listed below.

*1. Appalachian Regional Commission*

a. Local Access Road Program: Jason Wang, (202) 884–7725, *jwang@arc.gov*

b. Area Development Program: David Hughes, (202) 884–7740, *dhughes@arc.gov*

*2. Delta Regional Authority*

a. States' Economic Development Assistance Program (SEDAP): Kemp Morgan, (662) 483–8210, *kmorgan@dra.gov*

*3. Department of Housing and Urban Development*

a. Office of Sustainable Housing and Communities (OSHC) grant: Salin Geevarghese, (202) 402–6412, *salin.g.geeverarghese@hud.gov*

*4. Department of Labor, Employment and Training Administration*

a. Department of Labor Programs: Melissa Smith, (202) 693–3949, *smith.melissa@dol.gov*

*5. Department of Transportation*

a. Transportation Investment Generating Economic Recovery (TIGER): Matt Fall, (202) 366–8152, *matt.fall@dot.gov*

*6. Environmental Protection Agency*

a. Targeted Brownfield Assessments (TBA): Debra Morey, (202) 566–2735, *morey.debi@epa.gov*

b. Brownfield Grants: Debra Morey, (202) 566–2735, *morey.debi@epa.gov*

*7. National Science Foundation*

a. Advanced Technology Education: Susan Singer, (703) 292–5111, *srsinger@nsf.gov*

b. I/UCRC: Grace Wang, (703) 292–5111, *jiwang@nsf.gov*

*8. Small Business Administration*

a. Accelerator Program: Pravina Ragavan, (202) 205–6988, *pravina.raghavan@sba.gov,* Javier Saade, (202) 205–6513, *javier.saade@sba.gov*

b. Regional Innovation Clusters Program: John Spears, (202) 205–7279, *john.spears@sba.gov,* Matthew Stevens, (202) 205–7699, *matthew.stevens@sba.gov*

*9. U.S. Department of Agriculture*

a. Rural Economic Development Loan and Grant Program (REDLG): Kristi Kubista-Hovis, (202) 815–1589, *kristi.kubista-hovis@wdc.usda.gov*

b. Rural Business Enterprise Grant Program (RBEG): Kristi Kubista-Hovis, (202) 815–1589, *Kristi.kubista-hovis@wdc.usda.gov*

c. Intermediary Relending Program (IRP): Kristi Kubista-Hovis, (202) 815–1589, *Kristi.kubista-hovis@wdc.usda.gov*

d. Business & Industry Guaranteed Loan Program (B&I): John Broussard, (202) 720–1418, *john.broussard@wdc.usda.gov*

*10. U.S. Department of Commerce*

a. Award Competitions for Hollings Manufacturing Extension Partnership: Heidi Sheppard, (301) 975–6975, *heidi.sheppard@nist.gov*

b. NIST Advanced Manufacturing Technology Consortia: Heidi Sheppard, (301) 975–6975, *heidi.sheppard@nist.gov*

c. Manufacturing Extension Partnership Network Special Competitions: Heidi Sheppard, (301) 975–6975, *heidi.sheppard@nist.gov*

[3] As provided for in 15 CFR part 13.

Dated: January 26, 2015.

**Roy K.J. Williams,**

*Assistant Secretary for Economic Development.*

[FR Doc. 2015–01763 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–03–2015]**

### Foreign-Trade Zone (FTZ) 84—Houston, Texas, Notification of Proposed Production Activity, MHI Compressor International Corporation, (Gas Compressors, Compressor Sets, Electrical Generators and Generating Sets), Pearland, Texas

MHI Compressor International Corporation (MHI) submitted a notification of proposed production activity to the FTZ Board for its facility in Pearland, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on January 12, 2015.

A separate application for subzone designation at the MHI facility is planned and will be processed under Section 400.38 of the FTZ Board's regulations. The facility is currently under construction and will be used for the production of heavy industrial gas compressors, compressor sets, electrical generators and generating sets. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MHI from customs duty payments on the foreign status components used in export production. On its domestic sales, MHI would be able to choose the duty rates during customs entry procedures that apply to gas compressors, compressor sets, electrical generators and generating sets (duty rates: Free and 2.8%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Steel split taper pins; carbon steel seal rings; babbit metal seal rings; felt rings; teflon back-up rings; plastic o-rings; polymer seals; teflon back-up rings; rubber o-rings; non-asbestos packing materials; non-asbestos with rubber binder packing materials; stainless steel air hose couplings; alloy steel tubing; stainless steel bite type nuts; carbon steel sleeves; stainless steel adapters; stainless steel bolts; alloy steel stud bolts; steel set screws; steel nuts; steel cap nuts; steel lock washers; carbon steel plain washers; steel rings; steel pins; cast iron valve boxes; carbon steel motor support parts; stainless steel guide bars; copper seal rings; copper packings; pliers; steel cutters; copper bar for nuts; metal plugs; steam turbines with an output exceeding 40 megawatts; steam turbines with an output not to exceed 40 megawatts; steam turbine blades; steam turbine parts (spindles, nozzles, baffle plates, casings, casing assemblies, bushes, bushings, governing devices, levers, oil cylinders, oil cylinder covers, hand pump and hose assemblies, pistons, and rings); hydraulic cylinder tie-rods; oil cylinder covers; hand pump assemblies; macerator pumps; hydraulic pumps; jet pumps; centrifugal pumps; compressors; heat preventative plates; oil separation units; catalytic converters; parts for couplings (inner metal for coupling, outer metal for coupling); adjusting tools for puller assemblies; USB memory sticks; control valves; throttle valves; check valves; relief valves; pilot valves; valve seats; single angular ball bearings; thrust bearings; thrust bearing shoes; bushings; bevel gears; turning gears; pinion gears; shaft seals; oil seals; electric motors, generators, and generating sets (with output up to 375 kilowatts, 750 kilovolts); brush holders; caulking compounds; junction boxes; carbon brushes; temperature transmitters; and, pointers (duty rates range from free to 9.9%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is March 10, 2015.

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

**FOR FURTHER INFORMATION CONTACT:** Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: January 22, 2015.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015–01700 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–69–2014]**

### Foreign-Trade Zone 155—Calhoun/Victoria Counties, Texas, Authorization of Production Activity, Tenaris Bay City, Inc., (Seamless Steel Tubes and Pipes), Bay City, Texas

On September 25, 2014, the Calhoun-Victoria Foreign-Trade Zone, Inc., grantee of FTZ 155, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Tenaris Bay City, Inc., within Subzone 155D, in Bay City, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 59473–59474, 10–2–2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015–01722 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–967]**

### Aluminum Extrusions From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

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

**DATES:** *Effective Date:* January 29, 2015.

**SUMMARY:** On June 27, 2014, the Department of Commerce (the Department) published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty (AD) order on aluminum extrusions from the People's Republic of China (PRC), based on multiple timely requests for an administrative review.[1] The review covers 155 companies. Based on the timely withdrawal of the requests for review of certain companies, we are

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 36462 (June 27, 2014) (*Initiation Notice*).

now rescinding this administrative review with respect to the 116 companies identified in the Appendix to this notice.[2]

**FOR FURTHER INFORMATION CONTACT:** Deborah Scott or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–2657 or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On May 26, 2011, the Department published in the **Federal Register** the AD order on aluminum extrusions from the PRC.[3] The Department received timely requests for an administrative review of the *Order* and on June 27, 2014, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of the initiation of an administrative review of the *Order*.[4] The administrative review was initiated with respect to 155 companies or groups of companies, and covers the period from May 1, 2013 through April 30, 2014 (POR). On September 25, 2014, the Aluminum Extrusions Fair Trade Committee (Petitioner) timely withdrew its request for administrative review with respect to 114 companies.[5] Three other interested parties also timely withdrew their requests for administrative review with respect to four companies.[6] While there are a number of companies which remain under review, the requesting parties timely withdrew all review requests for certain companies, as discussed below.

## Rescission of Review, in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioner withdrew its request for an administrative review of 112 companies listed in the Appendix.[7] Petitioner was the only party to request a review of these companies. Further, three other interested parties withdrew their requests for an administrative review of four companies listed in the Appendix. These three parties were the only parties to request a review of these four companies. Accordingly, the Department is rescinding this review, in part, with respect to these 116 entities, in accordance with 19 CFR 351.213(d)(1).[8]

## Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

## Notification to Importers

This notice serves as the only reminder to importers for whom this review is being rescinded, as of the publication date of this notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

## Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

## Notification to Interested Parties

This notice is issued and published in accordance with sections 751 and 777(i)(l) of the Act and 19 CFR 351.213(d)(4).

Dated: January 13, 2015.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix

Companies for which we are rescinding this administrative review:

**Withdrawn by Petitioner**

(1) Acro Import and Export Co.
(2) Activa International Inc.
(3) Alnan Aluminium Co., Ltd.
(4) Changshu Changshen Aluminium Products Co., Ltd.
(5) Changzhou Tenglong Auto Parts Co., Ltd.
(6) Chiping One Stop Industrial & Trade Co., Ltd.
(7) Clear Sky Inc.
(8) Cosco (J.M.) Aluminium Co., Ltd.
(9) Dragonluxe Limited
(10) Dynabright lnternational Group (HK) Limited
(11) Dynamic Technologies China Ltd.
(12) First Union Property Limited
(13) Foreign Trade Co. of Suzhou New & Hi-Tech Industrial Development Zone
(14) Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.

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[2] The Department no longer considers the NME entity as an exporter conditionally subject to administrative review. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[3] *See Aluminum Extrusions From the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) (*Order*).

[4] *See Initiation Notice.*

[5] *See* Letter from Petitioner to the Department, ''Aluminum Extrusions From the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated September 25, 2014. In prior segments of this proceeding, the Department found that two of the 114 companies, Karlton Aluminum Company Ltd. (Karlton) and Xinya Aluminum & Stainless Steel Product Co., Ltd. (Xinya), were part of the single entity comprised of Guang Ya Aluminium Industries Co., Ltd., Foshan Guangcheng Aluminium Co., Ltd., Kong Ah International Company Limited, and Guang Ya Aluminium Industries (Hong Kong) Ltd. (collectively, Guang Ya Group); Guangdong Zhongya Aluminum Company Limited, Zhongya Shaped Aluminium (HK) Holding Limited, and Karlton (collectively, Zhongya); and Xinya (collectively, Guang Ya Group/Zhongya/Xinya). Because the other companies comprising the Guang Ya Group/Zhongya/Xinya collapsed entity remain under review, the Department cannot rescind the review with respect to Karlton and Xinya.

[6] *See* Letter from Delphi Automotive Systems, LLC to the Department, ''Aluminum Extrusions From the People's Republic of China; Third Antidumping Duty Administrative Review (POR: 5/1/13–4/30/14); Withdrawal of Review Request,'' dated September 19, 2014; Letter from RMD Kwikform North America Inc. to the Department, ''RMD Kwikform North America Inc.'s Withdrawal of Request for Administrative Review; Case No. A–570–967 Antidumping Order on Aluminum Extrusions From the People's Republic of China,'' dated September 22, 2014; and Letter from Homax Group, Inc. to the Department, ''Aluminum Extrusions From the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated September 24, 2014.

[7] As noted in the ''Background'' section of this notice, Petitioner timely withdrew its request for administrative review with respect to 114 companies. However, the Department cannot rescind the review with respect to two of these companies, Karlton and Xinya, because they are part of the Guang Ya Group/Zhongya/Xinya collapsed entity, and the other companies comprising that entity remain under review.

[8] *See* Appendix.

(15) Foshan Jinlan Aluminum Co., Ltd.
(16) Foshan JMA Aluminum Company Limited
(17) Foshan Sanshui Fenglu Aluminium Co., Ltd.
(18) Foshan Shunde Aoneng Electrical Appliances Co., Ltd.
(19) Foshan Yong Li Jian Alu. Ltd.
(20) Fujian Sanchuan Aluminum Co., Ltd.
(21) Global PMX Dongguan Co., Ltd.
(22) Global Point Technology (Far East) Limited
(23) Gran Cabrio Capital Pte. Ltd.
(24) Gree Electric Appliances
(25) GT88 Capital Pte. Ltd.
(26) Guangdong Hao Mei Aluminium Co., Ltd.
(27) Guangdong Jianmei Aluminum Profile Company Limited
(28) Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.
(29) Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.
(30) Guangdong Weiye Aluminum Factory Co., Ltd.
(31) Guangdong Whirlpool Electrical Appliances Co., Ltd.
(32) Guangdong Xingfa Aluminium Co., Ltd.
(33) Guangdong Xin Wei Aluminum Products Co., Ltd.
(34) Guangdong Yonglijian Aluminum Co., Ltd.
(35) Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.
(36) Hangzhou Xingyi Metal Products Co., Ltd.
(37) Hanwood Enterprises Limited
(38) Hanyung Alcobis Co., Ltd.
(39) Hao Mei Aluminum Co., Ltd.
(40) Hao Mei Aluminum International Co., Ltd.
(41) Henan New Kelong Electrical Appliances Co., Ltd.
(42) Hong Kong Gree Electric Appliances Sales Limited
(43) Honsense Development Company
(44) Hui Mei Gao Aluminum Foshan Co., Ltd.
(45) Idex Dinglee Technology (Tianjin Co., Ltd.)
(46) Idex Health
(47) Innovative Aluminium (Hong Kong) Limited
(48) iSource Asia
(49) Jiangmen Qunxing Hardware Diecasting Co., Ltd.
(50) Jiangsu Changfa Refrigeration Co., Ltd.
(51) Jiangyin Trust International Inc.
(52) Jiangyin Xinhong Doors and Windows Co., Ltd.
(53) Jiaxing Jackson Travel Products Co., Ltd.
(54) Jiaxing Taixin Metal Products Co., Ltd.
(55) Jiuyuan Co., Ltd.
(56) JMA (HK) Company Limited
(57) Kanal Precision Aluminum Product Co., Ltd.
(58) Kunshan Giant Light Metal Technology Co., Ltd.
(59) Liaoning Zhongwang Group Co., Ltd.
(60) Liaoyang Zhongwang Aluminum Profiles Co. Ltd.
(61) Longkou Donghai Trade Co., Ltd.
(62) Midea Air Conditioning Equipment Co., Ltd.
(63) Midea International Trading Co., Ltd.
(64) Miland Luck Limited
(65) Nanhai Textiles Import & Export Co., Ltd.
(66) New Asia Aluminum & Stainless Steel Product Co., Ltd.
(67) Nidec Sankyo (Zhejiang) Corporation
(68) Ningbo Coaster International Co., Ltd.
(69) Ningbo Hi Tech Reliable Manufacturing Company
(70) Ningbo Yili Import and Export Co., Ltd.
(71) North China Aluminum Co., Ltd.
(72) Northern States Metals
(73) PanAsia Aluminium (China) Limited
(74) Pengcheng Aluminum Enterprise Inc.
(75) Pingguo Aluminum Company Limited
(76) Pingguo Asia Aluminum Co., Ltd.
(77) Popular Plastics Co., Ltd.
(78) Samuel, Son & Co., Ltd.
(79) Sanchuan Aluminum Co., Ltd.
(80) Shangdong Huasheng Pesticide Machinery Co.
(81) Shangdong Nanshan Aluminum Co. Ltd.
(82) Shanghai Canghai Aluminum Tube Packaging Co., Ltd.
(83) Shanghai Dongsheng Metal
(84) Shanghai Shen Hang Imp. & Exp. Co., Ltd.
(85) Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.
(86) Shenzhen Hudson Technology Development Co., Ltd.
(87) Shenzhen Jiuyuan Co., Ltd.
(88) Sihui Shi Guo Yao Aluminum Co., Ltd.
(89) Sincere Profit Limited
(90) Skyline Exhibit Systems (Shanghai) Co., Ltd.
(91) Suzhou JRP Import & Export Co., Ltd.
(92) Suzhou New Hongji Precision Part Co.
(93) Tai-Ao Aluminium (Taishan) Co., Ltd.
(94) Taizhou Lifeng Manufacturing Corporation
(95) Taogoasei America Inc./Toagoasei America Inc.
(96) Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.
(97) Tianjin Ruixin Electric Heat Transmission Technology, Ltd.
(98) Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.
(99) Tiazhou Lifeng Manufacturing Corporation/Taizhou Lifeng Manufacturing Corporation, Ltd.
(100) Top-Wok Metal Co., Ltd.
(101) Traffic Brick Network, LLC
(102) USA Worldwide Door Components (Pinghu) Co., Ltd.
(103) Wenzhou Shengbo Decoration & Hardware
(104) Whirlpool (Guangdong)
(105) Zhaoqing Asia Aluminum Factory Company Ltd.
(106) Zhaoqing China Square Industrial Ltd.
(107) Zhejiang Anji Xinxiang Aluminum Co., Ltd.
(108) Zhejiang Yongkang Listar Aluminium Industry Co., Ltd.
(109) Zhejiang Zhengte Group Co., Ltd.
(110) Zhenjiang Xinlong Group Co., Ltd.
(111) Zhongshan Gold Mountain Aluminium Factory Ltd.
(112) Zhuhai Runxingtai Electrical Equipment Co., Ltd.

**Withdrawn by Interested Parties Other Than Petitioner**

(113) Jiangsu Susun Group (HK) Co., Ltd.
(114) Ningbo Lakeside Machinery Factory
(115) Ningbo Minmetals & Machinery Imp. & Exp. Corp.
(116) Shanghai Automobile Air Conditioner Accessories Ltd.

[FR Doc. 2015–01727 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–890]**

### Wooden Bedroom Furniture From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

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

**SUMMARY:** On January 14, 2015, the United States Court of International Trade (''CIT'') issued its final judgment in *Dongguan Sunrise Furniture Co. Ltd., et al.* v. *United States* Consol. Court No. 10–00254 [1] and sustained the Department of Commerce's (''the Department'') final results of redetermination pursuant to the fourth remand of the 2008 administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China.[2] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*''), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *Final Results* [3] and is amending its *Final Results* with regard to the calculation of the weighted average margin applied to the mandatory respondent, Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang Fairmont Designs Furniture Co., Ltd., and Meizhou Sunrise Furniture Co., Ltd. (collectively ''Fairmont'') and two separate rate respondents: Langfang Tiancheng Furniture Co., Ltd. and Longrange Furniture Co., Ltd.

**DATES:** *Effective Date:* January 24, 2015.

[1] See *Dongguan Sunrise Furniture Co.* v. *United States,* Consol. Court No. 10–00254, Slip Op. 15–03 (January 14, 2015) (''*Dongguan Sunrise V*'').

[2] *See* Final Results of Fourth Redetermination Pursuant to Court Order, Court No. 10–00254, dated October 8, 2014 (''Remand Results IV'').

[3] *See Wooden Bedroom Furniture From the People's Republic of China: Final Results and Final Rescission in Part,* 75 FR 50992 (August 18, 2010) (''*Final Results*'').

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance—International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2769.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 8, 2014, the Department filed its Remand Results IV, in which the Department assigned partial adverse facts available rates to sales of four product types of wooden bedroom furniture that Fairmont failed to report to the Department, revised the weighted-average dumping margin calculated for Fairmont, and assigned this rate as a separate rate to Langfang Tiancheng Furniture Co., Ltd. and Longrange Furniture Co., Ltd. On January 14, 2015, the Court sustained the Department's Remand Results IV.[4]

**Timken Notice**

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's January 14, 2015 judgment sustaining the rates that the Department applied as partial facts available constitutes a final decision of that court that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

**Amended Final Results**

Because there is now a final court decision with respect to this case, the Department is amending its *Final Results* with respect to Fairmont's weighted-average dumping margin for the period January 1, 2008 through December 31, 2008. In addition, the Department is amending its *Final Results* with respect to Langfang Tiancheng Furniture Co., Ltd. and Longrange Furniture Co., Ltd., the separate rate respondents included in this final court decision. The remaining weighted-average dumping margins from the *Final Results* remain unchanged.

| Manufacturer/ exporter | Weighted-average dumping margin (percent) |
|---|---|
| Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang Fairmont Designs Furniture Co., Ltd., and Meizhou Sunrise Furniture Co., Ltd. | 41.30 |
| Langfang Tiancheng Furniture Co., Ltd. | 41.30 |
| Longrange Furniture Co., Ltd. | 41.30 |

In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct CBP to assess antidumping duties on entries during the POR of subject merchandise from the manufacturers/exporters identified above based on the revised assessment rates calculated by the Department.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: January 22, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–01728 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–DS–P**

[4] *See Dongguan Sunrise V.*

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Education Mission to Central America; March 16–19, 2015

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Amendment.

**SUMMARY:** The United States Department of Commerce, International Trade Administration is amending the Notice published at 79 FR 34287, June 16, 2014, for the education mission to El Salvador and Honduras, with an optional stop in Nicaragua, from March 16–19, 2015, to revise the number of participants from 15 to 20.

**SUPPLEMENTARY INFORMATION:** Amendment to Revise the Number of Participants.

**Background**

This is the International Trade Administration Education Team's first trade mission to Central America, and the response has been robust. With this high level of interest, it has been determined that five (5) additional participants can be accommodated in the destination countries, raising the maximum number to 20.

**Amendments**

For the reasons stated above, the Participation Requirements section, third sentence, is amended to state ''The mission will open on a rolling basis to a minimum of 12 and a maximum of 20 appropriately accredited U.S. educational institutions.''

**FOR FURTHER INFORMATION CONTACT:**

U.S. Export Assistance Center Silicon Valley, Gabriela Zelaya, International Trade Specialist, Tel: 408–535–2757, ext. 107, Email: *gabriela.zelaya@trade.gov.*

Laura Gimenez, Commercial Officer, El Salvador, Tel: (011–503) 2501–3221, Email: *laura.gimenez@trade.gov.*

Aileen Nandi, Commercial Officer, El Salvador, Tel: (408) 535–2757, ext. 102, Email: *aileen.nandi@trade.gov.*

U.S. Export Assistance Center Lexington, Sara Moreno, International Trade Specialist, Tel: 859–225–7001, Email: *sara.moreno@trade.gov.*

**Frank Spector,**

*International Trade Specialist.*

[FR Doc. 2015–01631 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–FP–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### U.S.-Japan Renewable Energy and Energy Efficiency Policy Business Roundtable Tokyo, Japan, February 23, 2015

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**Event Description**

The U.S. Department of Commerce's (DOC) International Trade Administration (ITA) is seeking representatives from up to 25 qualified U.S. companies to join Japanese industry counterparts for a U.S.-Japan Renewable Energy Policy Business Roundtable (Business Roundtable) on Monday, February 23 in Tokyo, Japan. Senior level officials from DOC, the U.S. Department of Energy (DOE), and Japanese Ministry of Economy, Trade and Industry (METI) will attend the Roundtable to provide policy updates, as well as to ensure that the exchange of views among the companies will be taken into consideration in the U.S-Japan Clean Energy Policy Dialogue

(CEPD) that will be held during the same week and in other bilateral meetings throughout the year. U.S. firms will also be given an opportunity to network with Japanese firms and identify potential business partners. ITA hopes that this cooperation between the U.S. and Japanese private sectors in this dynamic sector will lead to innovations that will provide solutions to energy needs and enhance bilateral economic development. The U.S. Department of Commerce's Global Markets and U.S. & Foreign Commercial Service (CS) will also be available in Tokyo to provide its export counseling services to participating companies.

This event is conveniently scheduled concurrent with World Smart Energy Week (WSEW) in Tokyo (February 25–27), a DOC-certified trade show, providing firms attending the Business Roundtable an opportunity to also participate in the year's largest smart energy-related Trade Show in Japan.

The third meeting of the Business Roundtable supports ITA's commitments contained in the Renewable Energy and Energy Efficiency (RE&EE) Export Initiative, which aims to significantly increase U.S. RE&EE exports under the National Export Initiative. It also aims to continue the process of enhancing the policy work being done at the CEPD by the DOE and METI, by ensuring the private sector remains engaged in policy developments in both countries.

**Commercial Setting**

The March 11, 2011 great east Japan earthquake and Fukushima Daiichi nuclear disaster exposed major weaknesses in Japan's national energy strategy and prompted calls for electricity system reform. The decision to take Japan's nuclear reactors offline pending demonstrated compliance with strict new safety standards after 3.11 led to a renewed focus on looking to renewables for Japan's energy needs and prompted calls for a new electricity system reform plan. In 2012, Japan implemented a Feed-in-Tariff program to promote the renewable sector. The Japanese renewable energy market is both large and widespread, encompassing multiple renewable energy subsectors. The sheer size of Japan's renewable energy expansion, and the investment opportunity it has created, should provide opportunities for U.S. exporters capable of providing cutting-edge technologies and services to the market. In addition, Japan's plan to deregulate its energy generation, distribution, and retail markets will lead to additional opportunities in the energy generation and storage sectors. The U.S.-Japan Renewable Energy Policy Business Roundtable is an opportunity to meet with senior level Japanese officials and representatives of Japanese companies to learn about and exchange views on these market developments.

**Event Goals**

The Business Roundtable is an event to bring U.S. and Japanese private sector firms in the renewable energy and energy efficiency sectors together to discuss policy developments in both countries, to develop partnerships, and to provide input to policymakers in both countries. The Business Roundtable is intended to be:

- A venue for U.S. firms to meet important Japanese policy-makers in the renewable energy and energy efficiency sectors.
- A venue where U.S. and Japanese firms can share experiences, expertise, and lessons learned in areas related to smart energy, including energy deregulation, energy management, energy storage, and renewable energy.
- A venue where U.S. and Japanese firms can discuss key technical challenges related to the above sectors.
- A venue to foster collaboration between the U.S. and Japanese private sector to solve other challenges related to renewable energy.
- An opportunity for companies from both the United States and Japan to network, build relationships, and identify partners for current projects and potential joint future work.

**Event Scenario**

In December 2012, agencies of the Governments of the United States and Japan—DOE, DOC, and METI—convened the first bilateral Renewable Energy Policy Business Roundtable in Tokyo. Held in conjunction with the CEPD, the Roundtable allowed the private sector to explore areas of mutual concern and share with government officials their experiences with the policy landscape of renewable energy and energy efficiency. The second Roundtable was held in December 2013 in Livermore, California, once again bringing U.S. and Japanese firms to discuss developments in the renewable energy and energy efficiency sectors.

Participating firms will:

- Gain a deeper understanding of the changing Japanese policy and regulatory landscape with respect to RE&EE;
- Interact with Japanese policymakers and private sector representatives active in the RE&EE sector;
- Provide perspectives on how to increase U.S.-Japan business partnerships in the RE&EE sector;
- Enhance the bilateral dialogue by identifying key policy issues and sharing best practices;
- Participate in a plenary session getting a briefing on the status of renewable energy policy in Japan;
- Participate in panel or breakout discussions focusing on Energy Storage and Renewable Integration or Energy Management and Energy Efficiency. Firms with appropriate experience or technologies will be asked to present during these discussions;
- Exchange views on topics related to Renewable Energy and Energy Efficiency;
- Attend a networking reception with leaders from Japan's Government and industry; and,
- Take advantage of the Commercial Service in Tokyo's business advisory services, if desired by the U.S. participant firms, should CS Japan resources be able to accommodate such interest.
- REED, the organizer of WSEW, will provide Roundtable participants above the division manager level with WSEW VIP passes and will arrange for these Roundtable participants to attend the Keynote/Special Sessions at WSEW 2015.

*Proposed Schedule*

February 23

Participate in a plenary session on the status of renewable energy market in Japan.

Participate in breakout sessions with Japanese firms.

Participate in networking opportunities with Japanese firms.

Receive a briefing on World Smart Energy Week, taking place February 25–27 in Tokyo.

Attend a networking reception with leaders from Japan's Government and industry.

Information can be found at: *http://export.gov/reee/japan* or *http://export.gov/trademissions/index.asp.*

**Participation Requirements**

All parties interested in participating in the Business Roundtable must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated based on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A maximum of 25 companies will be selected to participate in the Business Roundtable from the applicant pool. U.S. companies already doing business in Japan as well as U.S. companies seeking to enter to the Japanese market for the first time

may apply. Applications will be reviewed on a rolling basis in the order that they are received.

*Fees and Expenses*

Companies selected to participate in the Roundtable will be required to pay a fee for participation. The participation fee is $700 for large firms. The participation fee is $500 for small or medium-sized firms.[1] The fee for each additional representative of the selected company is $500. Up to four additional representatives can be accommodated per company. The Roundtable and related events may be cancelled at any time by the Department of Commerce and all contributions refunded. If, for any reason, a company withdraws from participation prior to the Roundtable, the Department of Commerce, at its sole discretion, and upon its determination that it would be consistent with its authorities, may allow a partial refund of the contributed fee.

**Exclusions**

The conference fee does not include any personal travel expenses such as airfare, lodging, most meals, incidentals, and local ground transportation and personal interpreters. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the Business Roundtable costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

**Conditions for Participation**

Applicants must submit a completed mission application signed by a company official, together with supplemental application materials, including adequate information on the company's products and/or services, interest in doing business in Japan, and goals for participation by February 6, 2015. If the U.S. Department of Commerce receives an incomplete application, the U.S. Department of Commerce may reject the application, request additional information, or take the lack of information into account in its evaluation.

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/size*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008. For additional information, see *http://www.export.gov/newsletter/march2008/initiatives.html.*

Each applicant must also certify that the products and services it seeks to export through its participation in the Business Roundtable are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

Applications can be found at *http://export.gov/trademissions/index.asp* or can be obtained by contacting *Danius.Barzdukas@trade.gov*.

In addition, the applicant must address how he/she satisfies the four selection criteria listed below in an email to *Danius.Barzdukas@trade.gov*:

(1) Whether the applicant represents a U.S. company that fits one of the following profiles:

- Companies that manufacture technology or provide services in the renewable energy sector;
- Developers of renewable energy projects with global experience;
- Local utilities who are willing to share their experience with domestic policies; and
- Companies active in the smart grid and energy efficiency industries.

(2) The applicant's interest in the Japanese RE&EE sector;

(3) The applicant's ability to identify and discuss policy issues relevant to U.S. competitiveness in the renewable energy or smart grid sectors;

(4) Consistency of the applicant's experiences and background with the stated scope of the event.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

**Timeframe for Recruitment and Participation**

Recruitment for the Business Roundtable will be conducted in an open and public manner, including publication in the **Federal Register**, posting on CS Japan's Web site, notices by industry trade associations and other multiplier groups, and publicity through the Commercial Service network. Recruitment will begin immediately and conclude no later than February 6, 2015. The U.S. Department of Commerce will review applications and make selection decisions beginning on or about January 20, 2014. Applications received after February 6, 2015 will be considered only if space and scheduling constraints permit.

**DATES:** The Business Roundtable will take place February 23, 2015. Applications are due no later than February 6, 2015.

**Contacts**

Danius Barzdukas, Office of East Asia and APEC, International Trade Administration, Department of Commerce, 202–482–1147, *Danius.Barzdukas@trade.gov*.

Andrew S. Bennett, Office of Energy and Environmental Industries, International Trade Administration, U.S. Department of Commerce, 202.482.5235, *Andrew.Bennett@trade.gov*.

Gregory Taevs, U.S. Commercial Service Tokyo, International Trade Administration, Department of Commerce, +81–3–3224–5070, *Gregory.Taevs@trade.gov*.

**Frank Spector,**

*International Trade Specialist.*

[FR Doc. 2015–01635 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Mining Equipment and Mining Services Business Development Trade Mission to Zacatecas, Mexico, June 1–2, 2015

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**Mission Description**

The International Trade Administration is coordinating with the State of Zacatecas to organize a trade mission to Zacatecas, Mexico from June 1–2, 2015. This business development mission will promote U.S. exports to Mexico by helping export-ready U.S. companies launch or increase their business in the Mining Equipment and Mining Services sector.

Participating firms will gain market information, make business and government contacts, solidify business strategies, and/or advance specific projects. In each of these targeted sectors, participating U.S. companies will meet with prescreened local partners, agents, distributors, representatives, and licensees. The agenda will also include meetings with high-level local government officials, networking opportunities, country briefings, and seminars.

The delegation will be composed of representatives of 10–15 U.S. firms in the mission's target sector.

**Commercial Setting**

*Overview*

Mexico is the United States' second-largest export market (after Canada) and

third-largest trading partner (after Canada and China). In fact, the United States exports more to Mexico than to Brazil, Russia, India and China (BRIC) combined. With a World Bank Ease of Doing Business rank more favorable than that of any of the BRIC countries, this fast growing market, right on our doorstep, offers a wealth of opportunities for U.S. companies. Twenty-two U.S. states depend on Mexico as their first or second destination for exports and more than $1.25 billion in goods and services are traded between the United States and Mexico every day, supporting millions of jobs in both countries. Mexico and the United States together with Canada comprise one of the most competitive and successful regional economic platforms in the world.

Mexico is the most populous Spanish-speaking country in the world with a population of 115 million, over half of whom are members of the upper and middle class. With a shared Western and Hispanic culture, U.S. producers find it easier to market and sell their services and products in Mexico. This may account for the fact that more than 18,000 U.S. companies have operations in Mexico, investing $150 billion in Mexico since 2000 and more than 54,000 U.S. companies currently export goods to Mexico. The mission supports the federal government's Look South initiative, which encourages U.S. companies to explore opportunities in the United States' 11 free trade agreement partner (FTA) countries in Latin America. These markets share with Mexico high economic growth rates and market-liberalizing reforms, making Mexico a potential stepping stone to wider regional demand for mining equipment in countries like Chile, Colombia, and Peru.

**Industry Sector**

*Mining and Mining Equipment*

In the last five years, mining has been one of the five most promising sectors in Mexico's economy. In fact, the mining sector accounts for 4.9% of Mexico's GDP [1] and employs nearly 337,598 people. According to a report from INEGI (Mexico's Geography and Statistics Agency) for 2012, Mexico's total production of mining materials reached USD$23 billion, 14% higher than 2011. Mexico's mining sector invested USD$8.43 billion, which is 30% more than 2011. Mexico's mining sector produces 23 different commodities, the major ones being gold, silver and copper.

In 2011, Mexico was the world's largest producer of silver and second largest producer of the mineral fluorite. There is a lot of interest from foreign firms to invest in Mexico based primarily on the vast mining resources scattered around the country's territory. Experts say that only 34% of the country has been exploited and a few foreign companies are taking part in the benefits of this low rate of competition. In 2012, Mexico's overall FDI was USD$12 billion and USD$627.7 million was invested in the mining sector,[2] representing 4.96%.[3] For 2013, combined FDI from 2007 is expected to reach USD$25.2 billion.

**Zacatecas**

The state economy, thus far in 2014, is maintaining a GDP growth rate of 4.5% compared to 2.2% for Mexico. Agriculture and mining remain the state's largest industry sectors, but in recent years, the state has successfully attracted investments in the aerospace and automotive industries.

In 2013, in terms of production, mining output from Zacatecas ranks second among Mexican states. Currently, Zacatecas is Mexico's largest producer of silver, lead and zinc, the second largest producer of copper and the third largest producer of gold. Canadians are the largest group of foreign investors followed by the U.S.

**Best Prospect Products and Services**

- Antioxidants;
- Conveyors;
- Crushers, Feeders, Sizers;
- Cutting Equipment;
- Dewatering Systems and parts;
- Drilling Systems;
- Dust Control Equipment;
- Flotation Machines;
- Hydraulic Excavators and Cutters;
- Loaders Back Hole;
- Lubricants (High Performance);
- Portable roadways;
- Power Generators;
- Pumps;
- Safety Devices;
- Shovels and Loaders;
- Temporary Flooring;
- Tire Service;
- Tires and tire pressure monitors;
- Ventilation Equipment;
- Waste Water Treatment Plants;
- Water Filtration;
- Wear Prevention.

**Mission Goals**

This mission will demonstrate the United States' commitment to a sustained economic partnership with Mexico. The mission's purpose is to support the business development goals of U.S. firms as they construct a firm foundation for future business in Mexico and specifically aims to:

- Assist in identifying potential partners and strategies for U.S. companies to gain access to the Mexican market for the Mining Equipment and Mining Services sector.
- Confirm U.S. government support for the promotion of U.S. exports to Mexico, a region full of potential opportunity but not yet served by a trade mission.
- Organize focused events with local government, business and association leaders capable of becoming partners and clients for U.S. firms as they develop their business in Mexico.

**Mission Scenario**

The mission will stop in Zacatecas, Mexico. In Zacatecas, participants will meet with pre-screened potential agents, distributors, and representatives, as well as other business partners and government officials. They will also attend market briefings by United States Embassy officials, as well as networking events offering further opportunities to speak with local business and industry decision-makers.

PROPOSED TIME TABLE

| | | |
|---|---|---|
| May 31 | Zacatecas | • Arrival.<br>• Overnight in Zacatecas, Mexico. |
| June 1 | Zacatecas | • Orientation provided by U.S. Commercial Service.<br>• Industry & Commercial Briefings by U.S. Commercial Service and Under Secretary of Economic Development, State of Zacatecas.<br>• Mine site tours—underground and open pit.<br>• Networking Reception hosted by the Governor of Zacatecas.<br>• Overnight in Zacatecas. |

[1] Reforma daily, Business supplement Oct 2012.

[2] CANIMEX 2012 Report, Mexico's Mining Situation.

[3] CEEFP, House of Representatives. Mexico.

PROPOSED TIME TABLE—Continued

| | | |
|---|---|---|
| June 2 | Zacatecas | • Individual One-on-One Company Appointments. |
| June 3 | Zacatecas | • Departure. |

**Participation Requirements**

All parties interested in participating in the Trade Mission to Zacatecas, Mexico must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Approximately 10–15 companies will be selected to participate in the mission from the applicant pool. U.S. companies doing business in Mexico, as well as U.S. companies seeking to enter the Mexican market for the first time, may apply.

**Fees and Expenses**

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The fee schedule for the mission is below:

- $2,000 for large firms
- $1,500 for a small or medium-sized enterprises (SMEs) [4]
- $700 each additional firm representative

Expenses for air travel, lodging, some meals, local transportation, and incidentals will be the responsibility of each mission participant.

*Conditions of Participation*

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications. Each applicant must also certify that:

- The goods and/or services it seeks to export through the mission are either produced in the United States, or, if not, contain at least 51% U.S. content;
- The export of its goods, software, technology, and services would be in compliance with U.S. export control laws and regulations, including those administered by the Department of Commerce's Bureau of Industry and Security;
- It has identified any matter pending before any bureau or office of the Department of Commerce;
- It has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce;
- It and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with its involvement in this Mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials; and
- It meets the minimum requirements as stated in this announcement.

*Selection Criteria for Participation:* Selection will be based on the following criteria, listed in decreasing order of importance:

- Suitability of a company's products or services to the Mexican market and the likelihood of a participating company's increased exports to or business interests in the target markets as a result of this mission;
- Demonstrated export-readiness; and
- Consistency of company's products or services with the scope and desired outcome of the mission's goals. Additional factors, such as balance of company size, type, location, and demographics, may also be considered during the review process.

**Timeframe for Recruitment and Applications**

Recruitment will begin immediately and conclude no later than Friday, April 10, 2015. The Department of Commerce will evaluate applications and inform applicants of selection decisions on a rolling basis. Applications received after the deadline will be considered only if space and scheduling constraints permit.

**Contacts**

*CS Pittsburgh*

Ryan Russell, Senior International Trade Specialist, U.S. Commercial Service Pittsburgh, (412) 644–2817, *ryan.russell@trade.gov*.

*CS Monterrey*

John Howell, Principal Commercial Officer, U.S. Commercial Service Monterrey, +52 81 8047 3223, *john.howell@trade.gov*.

Mario Vidaña, Senior Commercial Specialist, U.S. Commercial Service Monterrey, +52 81 8047 3118, *mario.vidana@trade.gov*.

**Frank Spector,**

*International Trade Specialist.*

[FR Doc. 2015–01636 Filed 1–28–15; 8:45 am]

BILLING CODE 3510–DR–P

[4] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

**[Docket Number: 150123071–5071–01]**

### Announcement of Requirements and Registration for Head Health Advanced Materials Prize Competition—Head Health Challenge III

**AGENCY:** National Institute of Standards and Technology (NIST), Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Institute of Standards and Technology (NIST), a non-regulatory agency of the United States Department of Commerce, in a cooperative partnership with the National Football League (NFL), the General Electric Company (GE) and Under Armour, Inc. (UA), is conducting a prize competition funding initiative to support the discovery, design and deployment of materials that improve the protection of athletes, members of the military, and society overall.

The Head Health Advanced Materials Prize Competition (Head Health Challenge III, Challenge III, or Competition) is being conducted to broadly advance the science of materials for impact protection, as well as measurements and standards for assessing the performance of such materials. These advances are essential for the health of athletes of every age, and they will have a broad positive impact on the range of activities and occupations in our society that require protective gear. It is hoped that Head Health Challenge III will stimulate engagement with diverse science and technology communities across industry, academia and government (*e.g.* automotive, aerospace, light-weighting,

and physical security) that can realize innovative approaches to this problem.

Efforts to speed diagnosis and improve prevention, protection and treatment for mild traumatic brain injury hold promise for improved safety of athletes, members of the military and the American public. The NFL, GE and UA share a commitment to the importance of research and technology development to better understand, diagnose, prevent and protect against brain injury, as reflected in collaborations, including the Head Health Initiative. In this context, the development of energy-absorbing materials is highly aligned with the broader efforts of NIST under the President's Materials Genome Initiative, aimed at accelerating innovation in advanced materials to address critical national needs, and in keeping with NIST's mission.

Previous Head Health Challenge collaborations by the NFL, GE and UA have addressed the detection and management of mild traumatic brain injuries, focused on discovering imaging and algorithms to better detect and analyze subtle changes in the brain (Head Health Challenge I: Methods for Diagnosis and Prognosis of Mild Traumatic Brain Injuries), and on novel technologies, system designs, or materials that can quantify head impact in real time, detect, track or monitor biologic or physiological indicators of traumatic brain injury, protect the brain from traumatic injury, mitigate or prevent short or long-term consequences of brain trauma, and assist in training to prevent traumatic brain injury (Head Health Challenge II: Innovative Approaches For Preventing And Identifying Brain Injuries). Information on Head Health Challenges I and II may be found at *www.HeadHealth Challenge.com.*

The National Football League, Under Armour, GE and the National Institute of Standards and Technology have established a joint effort to advance the state-of-the-art in advanced materials for impact mitigation. The objective of Challenge III is to stimulate the development of a range of materials that provide excellent energy absorbing and energy dissipating properties. The NFL, Under Armour, GE and NIST look forward to receiving submissions consistent with the listed specifications that will aid in advancing safety and protection for athletes, the warfighter, and civilians.

**DATES:**

*Abstract Submission Period:* February 2, 2015–March 13, 2015.

*Invitations to Submit Full Proposals and Materials for First Round Competition:* April 15, 2015

*Announcement of First Round Award Winners:* September, 2015

*Announcement of Grand Prize Award Winner:* September, 2016

The Abstract Submission Period begins February 2, 2015, at 9:00 a.m. EST and ends March 13, 2015, at 5:00 p.m. EST. Competition dates are subject to change at the discretion of the Competition Sponsors. Entries submitted before or after the Abstract Submission Period will not be reviewed or considered for award.

**FOR FURTHER INFORMATION CONTACT:** Changes or updates to the Competition rules will be posted and can be viewed at the Head Health Challenge III Competition Web site at *www.HeadHealthChallenge.com.*

Questions about the Competition can be directed to the Competition Sponsors at *www.HeadHealthChallenge.com,* or by email to Michael Fasolka of NIST at *HHCIII@nist.gov,* phone 301–975–8301.

Results of the Competition will be announced on the competition Web site at *www.HeadHealthChallenge.com.*

**SUPPLEMENTARY INFORMATION:**

## Competition Sponsors

The National Institute of Standards and Technology (NIST; *www.nist.gov*) is a non-regulatory Federal agency within the United States Department of Commerce. Founded in 1901, NIST's mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life. NIST carries out its mission through its programs, which include: The NIST Laboratories, conducting world-class research, often in close collaboration with industry, that advances the Nation's technology infrastructure and helps U.S. companies continually improve products and services; the Hollings Manufacturing Extension Partnership (MEP), a nation-wide network of local centers offering technical and business assistance to smaller manufacturers to help them create and retain jobs, increase profits, and save time and money; and the Baldrige Performance Excellence Program, which promotes performance excellence among U.S. manufacturers, service companies, educational institutions, health care providers, and nonprofit organizations; conducts outreach programs; and manages the annual Malcolm Baldrige National Quality Award, which recognizes performance excellence and quality achievement. The agency operates in two locations: Gaithersburg, Maryland (headquarters—234-hectare/578-acre campus) and Boulder, Colorado (84-hectare/208-acre campus). NIST employs about 3,000 scientists, engineers, technicians, and support and administrative personnel. NIST also hosts about 2,700 associates from academia, industry, and other government agencies, who collaborate with NIST staff and access user facilities. In addition, NIST partners with more than 1,300 manufacturing specialists and staff at more than 400 MEP service locations around the country.

The NIST Material Measurement Laboratory (MML) is one of two metrology laboratories within NIST, and supports the NIST mission by serving as the national reference laboratory for measurements in the chemical, biological and material sciences. MML activities range from fundamental and applied research on the composition, structure and properties of industrial, biological and environmental materials and processes, to the development and dissemination of tools including reference measurement procedures, certified reference materials, critically evaluated data, and best practice guides that help assure measurement quality. MML research and measurement services support areas of national importance that include advanced materials, bioscience and healthcare, electronics, energy, environment and climate, food safety and nutrition, physical infrastructure, and forensics.

The National Football League: Throughout its history, the NFL has made the health and safety of its players a priority. This commitment extends to football played at all ages and also benefits other sports. At the youth level, the NFL's partnership with the Centers for Disease Control and Prevention and the NFL's support for USA Football, including their Heads Up Football initiative, helps parents, coaches, clinicians and athletes understand the signs and symptoms of possible head injuries. The League has successfully advocated for the passage of youth concussion laws in nearly all 50 states. Through funding for medical studies, including a $30 million grant to the Foundation for the National Institutes of Health for medical research; collaboration with the military on research and recognizing and reporting potential head injuries; and the work of the NFL's medical committees, the NFL is committed to supporting and advancing science that will have an impact far beyond football. With a continued emphasis on improved

equipment, rule changes, and in-game policies, the NFL fosters a culture that promotes health and safety at every level of the game.

The General Electric Company: At GE we have a relentless drive to build things that matter. As a leader in the development of brain diagnostic tools, we are at work to improve the speed and accuracy of concussion evaluation. We invite innovators around the world to join us. There is real power in partnership. True breakthroughs and innovation happen faster when we come together. The power of collaboration between diverse networks cannot be overstated. Our experience has shown us that at GE we don't have all of the solutions, but rather the unique opportunity to seek out great ideas and accelerate their growth. We can leverage our scale and expertise to nurture innovation wherever its seeds grow. We've seen this in our partnership to accelerate early detection and personalized treatment of breast cancer and we know we will see it again in cooperating with the NFL on the Head Health Initiative.

Under Armour, Inc.: As a global leader in sports performance and innovation, Under Armour is proud to outfit athletes around the world with transformative designs and technologies. Every fabric, every stitch of every Under Armour product, on every field of play exists for one singular purpose—to make all athletes better. To continue fulfilling this long-standing brand mission, our responsibility doesn't end there. We believe in advancing innovation, awareness, and education to create safer playing fields and competition environments for all. With this in mind, we have collaborated with the NFL and GE to increase our access to some of the best minds in the world and empower others to join the Head Health Challenge movement.

Collectively, NIST, the NFL, GE and UA are the ''Head Health Challenge III Sponsors,'' or the ''Competition Sponsors.'' The Competition Sponsors will make all decisions related to the development, management, and implementation of the Head Health Advanced Materials Prize Competition.

**Eligibility Rules for Participating in the Competition**

The Head Health Advanced Materials Prize Competition is open to all individuals over the age of 18 that are residents of the 50 United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa, and to for-profit or non-profit corporations, institutions, or other validly formed legal entities organized or incorporated in, *and* which maintain a primary place of business in, any of the preceding jurisdictions. An individual, whether participating singly or with a group, must be a citizen or permanent resident of the United States, and must not have been convicted of a felony or a crime of moral turpitude. A legal entity must not be owned or managed by any individual who has been convicted of a felony or a crime of moral turpitude.

To be eligible to win a Competition prize, a participant (whether an individual or legal entity) must have registered to participate, must have complied with all the requirements under section 3719 of title 15, United States Code (''Prize competitions''), must not be in active bankruptcy, must not be subject to a filed Notice of Federal Tax Claim, and must not be suspended, debarred, or otherwise excluded from doing business with the U.S. Federal Government.

A participant shall not be deemed ineligible because the participant used Federal facilities or consulted with Federal employees in preparing its submission to the Competition if the facilities and employees are made available to all participants on an equitable basis.

Multiple entries are permitted. Each entry will be reviewed independently. Multiple individuals and/or legal entities may collaborate as a group to submit a single entry, in which case all members of the group must satisfy the eligibility requirements, and a single individual from the group must be designated as an official representative for each entry. That designated individual will be responsible for meeting all entry and evaluation requirements. Participation is subject to all U.S. federal, state and local laws and regulations. Void where prohibited or restricted by law. Participants are responsible for checking applicable laws and regulations in their jurisdiction(s) before participating in this Competition, to ensure that their participation is legal. Individuals entering on behalf of or representing a company, institution or other legal entity are responsible for confirming that their entry does not violate any policies of that company, institution or legal entity.

Employees and contractors of the Competition Sponsors and/or any of their respective affiliates or subsidiaries, and any other individuals or legal entities involved with the design, production, execution, distribution or evaluation of the Competition, are not eligible to enter. NIST employees and NIST Guest Researchers, as well as direct recipients of NIST funding awards through any Center of Excellence established by NIST, are not eligible to enter. Federal entities and non-NIST Federal employees acting in their official capacities are not eligible to enter. Non-NIST Federal employees acting in their personal capacities should consult with their respective agency ethics officials to determine whether their participation in this Competition is permissible.

**Entry Process for Participants**

To enter, visit HeadHealthChallenge.com (the ''Event Web site''), and submit a completed abstract (''Abstract'' or ''Entry'') following the instructions provided on the Event Web site. Participants may begin submitting Competition Entries at 9:00 a.m. EST on February 2, 2015, to the Event Web site. Competition Entries must be submitted no later than 5:00 p.m. EST on March 13, 2015, to the Event Web site.

Entries submitted before the start date and time, or after the end date and time, will not be evaluated or considered for award. Entries sent to the Competition Sponsors in any manner other than through the Event Web site will not be evaluated or considered for award. Entries that do not comply with the formatting requirements set forth in this Notice and the Event Web site will not be evaluated or considered for award.

Entries must be complete, non-confidential and in English.

In general, each Entry:

(a) Must affirmatively represent that the participant (and each participant if more than one) has read and consents to be governed by the Competition rules and meets the eligibility requirements;

(b) Describes in reasonable detail an advanced material that, in the participant's good faith opinion, is innovative and original in the context of Head Health Challenge III. If the participant has already filed a patent application or been issued a patent for any aspect of the participant's material, or if the participant has licensed or believe that it will need to license any third-party intellectual property in order to make, use, sell, offer for sale, or import into the United States the participant's material, that fact must be included;

(c) Describes the value proposition of the material discussed in the Entry;

(d) Provides information (including but not limited to expertise and capabilities) about the individual innovators, business team, company or institution, as applicable, that created or developed the material discussed in the Entry;

(e) Describes a material that the participant is able to produce for testing within 12 weeks of the Entry submission deadline; and

(f) Confirms that the material has the potential to meet the following minimum performance levels:

(1) Withstand a force range of 3–12kN;

(2) Have the potential for withstanding 1200 impacts above 20 KE (J);

(3) Perform in the impact velocity range of 3.4 m/s to 11.2 m/s; and

(4) Maintain performance under the following environmental conditions:

i. Temperature range of 0 °C to 40 °C; and

ii. Relative humidity range of 40% to 100%.

**Competition Award(s)**

The Prize Purse is a combined pool from the Competition Sponsors of $2 million. The Prize Purse may increase, but will not decrease. Any increases in the Prize Purse will be posted on the Event Web site and published in the **Federal Register**. The Prize Purse will be used to fund one or more awards.

The Competition Sponsors will announce via the Event Web site any Entry(ies) as to which the Judges have made an award (each, an ''Award''). The anticipated number and amount of the cash awards that will be awarded for Head Health Challenge III will be set forth as part of the announcement of Head Health Challenge III at the Event Web site; however, the Judges reserve the right to award fewer than the anticipated number of cash awards in the event an insufficient number of eligible Entries meet the Judging Criteria for Challenge III, in the Judges' sole discretion. Awards will be made based on the Judges' analysis of an Entry's compliance with the Judging Criteria for Challenge III. All potential winners will be notified by the email address provided in the submission document and may be required to complete further documentation confirming their eligibility. Return of any notification as ''undeliverable'' will result in disqualification. After verification of eligibility, awards will be distributed in the form of a check addressed to the official representative specified in the winning entry. That official representative will have sole responsibility for further distribution of any cash Award among participants in a group Entry or within a company or institution that has submitted an Entry through that representative. Each list of Entries receiving cash Awards for Challenge III will be made public according to the timeline outlined on the Event Web site [*www.headhealthchallenge.com*].

The initial round of cash Awards (First Round Awards) will be offered by the First Round Competition Sponsors (the NFL, GE and UA) to Entries selected by the Judges (the First Round Winners) and will be disbursed in two equal installments. The first installment of a First Round Award will be awarded after each First Round Winner meets with the First Round Competition Sponsors to agree upon a progress plan. The progress plan will include a progress report due six months from the first installment award date (or such other time as may be set by the First Round Competition Sponsors), and the second installment of the First Round Award will be awarded following approval by the First Round Competition Sponsors of the First Round Winner's progress report. A final progress report, summarizing the results and comparing the outcomes to the progress plan, will be required at the end of the First Round Award Period in order for a First Round Winner to be eligible for the single Grand Prize Award, which will be awarded to a First Round Winner selected by the Judges at the conclusion of the second round of judging. Use of NIST facilities, and consultation with NIST employees, may be made available by NIST on an equitable basis to all First Round Winners during the First Round Award Period. The Grand Prize Award winner's cash Award will be awarded by NIST to the Grand Prize Winner.

All cash Awards are a one-time offer and there is no offer of licensure, royalty, or other financial compensation implied beyond the initial round of cash Awards. Winners are responsible for all taxes and reporting related to any Award received as part of Challenge III.

All costs incurred in the preparation of Competition Entries are to be borne by participants.

**Evaluation, Judging, and Selection of Winner(s)**

*Submission Evaluation Criteria*

This section discusses how participant submissions will be evaluated.

*Abstract Submission and Review*

The first step in this Competition is submission, via the Event Web site, of an Abstract, which describes the proposed work and material that a participant intends to submit. Initial Evaluations of Abstracts will be conducted by Subject Matter Experts, described below. Subject Matter Experts will use the following criteria to determine whether a participant will be invited to submit a full proposal and material samples into the next round of the Competition:

(1) Abstract completeness and participant eligibility: Participant Abstracts that are incomplete—that do not provide all information required by this Notice and the Abstract submission template (available at the Event Web site)—will not be evaluated and will not move forward in the Competition. In addition, Entries from a participant(s) who does not meet the eligibility criteria as described elsewhere in this document will not be evaluated or move forward in the Competition. For complete Abstracts from eligible participants, the Subject Matter Experts will conduct a double blind evaluation using the following criteria (Items 2–4), and the weighting percentage for each criterion is given in parentheses:

(2) Evidence that the material will meet minimum performance levels (25%): The Subject Matter Experts will evaluate preliminary data and narrative evidence provided by the participant to determine whether the proposed material can:

- Withstand a force range of 3 kN to 12 kN;
- Have the potential for withstanding 1200 impacts above 20 KE (J);
- Perform in the impact velocity range of 3.4 m/s to 11.2 m/s; and
- Maintain performance under the following environmental conditions:
  - Temperature range of 0 °C to 40 °C;
  - Relative humidity range of 40% to 100%.

(3) Innovation of the Material for Impact Protection (50%): Subject Matter Experts will evaluate narrative evidence and data provided by the participant that demonstrates that the material is an advancement over existing materials used in impact mitigation.

(4) Quality and Capabilities of the Participant (25%): Subject Matter Experts will evaluate narrative evidence and data provided that demonstrates that the participant (or, if more than one, the participant's team) is technically capable of excelling in further stages of the Challenge.

*First Round: Full Proposal and Material Submission*

Based upon Abstract evaluations by the Subject Matter Experts, participants ranked highly according to the criteria described will be invited to submit more detailed proposals and material samples to the First Round of the Competition. The proposal format, proposal and material submission deadlines, submission instructions and other necessary information will be detailed

in the invitations to submit full proposals.

If invited to propose, a participant's proposal submission must include a sample of the participant's material for testing, in accordance with the submission instructions. Proposal submissions that fail to include a material sample for testing in accordance with the submission instructions (including but not limited to any submission deadlines), will not be evaluated and will not move forward in the Competition.

Proposals in the First Round will be evaluated by Subject Matter Experts, described below, and representatives of the First Round Competition Sponsors. The Subject Matter Experts and representatives of the First Round Competition Sponsors will conduct a double blind evaluation of proposals using the following criteria (the weighting percentage for each criterion is given in parentheses):

(1) Significance (30%): The proposed material addresses the problem of impact protection, and extends the current state of the art in materials in this field.

(2) Participant Capabilities (10%): The participant (or, if more than one, the participant team) has, as appropriate, the technical capabilities, scientific expertise, resources, management structure, business awareness, and collaborations necessary to execute its proposal, and a demonstrated track record of success in scientific, engineering and business enterprises as appropriate.

(3) Innovation (40%): The proposed material employs or embodies novel materials science concepts or novel repurposing of a material, and/or the participant/participant team is employing new approaches and methodologies to materials engineering in order to create exceptional impact protection.

(4) Approach (10%): The overall strategy, and methodologies employed by the participant/participant team are scientifically sound and technically feasible.

(5) Material Readiness (10%): It is technically feasible that production of the proposed material can be scaled to commercial volumes.

Based upon proposal evaluations by the Subject Matter Experts and representatives of the First Round Competition Sponsors, highly ranked participants will be selected for Materials Testing. These materials will be tested by NIST for energy absorption/dissipation performance. Up to six of the participants will be selected by a panel of Judges for First Round Awards (described above) based upon materials testing results and the Judges' reviews of full proposal submissions.

Materials Testing will be conducted at NIST facilities, or at other facilities arranged for by NIST, using methods determined by NIST in consultation with experts from industry, academia and other government agencies. Materials testing will assess the ability of materials to absorb impact energy and dissipate the transfer of momentum under impact. The key measure to be assessed will be energy absorption or dissipation per unit mass or volume of material under the impact velocity ranges and environmental conditions described above.

*Final Round and Grand Prize Awards:* First Round Award Winners will enter into the Final Round and will have the opportunity to improve their materials for a period of approximately one year with guidance from the First Round Competition Sponsors. A final progress report, due at the end of the one-year period, will be evaluated by the Judges. The evaluation criteria for the final progress report will be the same as those used to evaluate full proposals. In addition, NIST will conduct a final round of materials testing.

One Grand Prize Winner will be selected from among the Final Round competitors by the Judges, based on the Judges' professional assessment of the total potential of submitted materials to improve impact protection, with proposal and report evaluations and material testing data being the assessment criteria.

*Subject Matter Experts and Judges*

Subject Matter Experts, to be selected by the First Round Competition Sponsors, as well as any representatives of the First Round Competition Sponsors involved in evaluating full proposals, will, as a body, represent a high degree of expertise in materials science and impact protection technology, scientific stature commensurate with this part of the Challenge, and a balance of perspectives from technology sectors relevant to the Competition. Subject Matter Experts will provide assessments of Abstracts and full proposals using the criteria described herein. Neither Subject Matter Experts nor representatives of the First Round Competition Sponsors will select winners of any cash prizes.

A panel of highly qualified Judges appointed by the NIST Director will select winners of cash prizes to be awarded to First Round Award Winners and to the Grand Prize Winner using the criteria described herein. The Judges, acknowledged experts in materials science and impact protection technology, may not have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in this Competition, and may not have a familial or financial relationship with an individual who is a registered participant. In the event of such a conflict, a Judge must recuse himself or herself. A participant(s) should review the list of the Judges available at the Event Web site, and must identify, as part of their Entry submission, any Judge who has personal or financial interests in, or is an employee, officer, director, or agent of any entity that is a participant in this Competition, or who has a familial or financial relationship with an individual who is a participant. Thereafter, a participant(s) must immediately inform the Competition Sponsors through the Event Web site of a change in status resulting in a conflict for any Judge as described above. Failure to do so may disqualify a participant(s) from receiving a cash award.

*Intellectual property rights:* Other than as set forth herein, none of the Competition Sponsors makes any claim to ownership of your Entry or any of your intellectual property or third party intellectual property that it may contain therein. By participating in Challenge III, you are not granting any rights in any patents or pending patent applications related to the technology described in your Entry; provided that by submitting an Entry, you are granting the Competition Sponsors certain limited rights as set forth herein.

By submitting an Entry, you grant to the Competition Sponsors the right to review your Entry, to describe your Entry in connection with any materials created in connection with Challenge III and to have the Subject Matter Experts, representatives of the First Round Competition Sponsors, and Judges, and the designees of any of them, review your Entry.

By submitting an Entry, you grant a non-exclusive right and license to the Competition Sponsors and their respective affiliates, subsidiaries, parents, and licensees, to use your name, likeness, biographical information, image, any other personal data submitted with your Entry and the contents in your Entry (including any created works, such as YouTube® videos, but not including any material(s) submitted with or as part of your Entry), in connection with (i) Challenge III, and (ii) the Competition Sponsors' initiatives to develop new materials in any media or format now known or

hereafter invented, in any and all locations worldwide, without any payment to or further approval from you. You also agree that this license is perpetual and irrevocable. For uses beyond the license that you grant above, you agree that any use of your personal data by the Competition Sponsors will be governed by the Privacy Policy posted on the Event Web site.

You agree that nothing in this Notice grants you a right or license to use any names, trademarks or service marks of the Competition Sponsors, or any other intellectual property or proprietary rights of the Competition Sponsors. You grant to the Competition Sponsors the right to include your company or institution name and logo (if your Entry is from a company or institution) as an entrant on the Event Web site and in materials from the Competition Sponsors announcing winners or prospective winners of Challenge III. Other than these uses or as otherwise set forth herein, you are not granting the Competition Sponsors any rights to your trademarks.

Entries containing any matter which, in the sole discretion of the Competition Sponsors, is indecent, defamatory, in obvious bad taste, which demonstrates a lack of respect for public morals or conduct, which promotes discrimination in any form, which shows unlawful acts being performed, which is slanderous or libelous, or which adversely affects the reputations of the Competition Sponsors, will not be accepted. If the Competition Sponsors, in their sole discretion, finds any Entry to be unacceptable, then such Entry shall be deemed disqualified and will not be evaluated or considered for award. The Competition Sponsors shall have the right to remove any content from the Event Web site in their sole discretion at any time and for any reason, including, but not limited to, any online comment or posting related to Challenge III.

Nothing in this Competition requires you to negotiate or do business with the Competition Sponsors. You are free to discuss your Entry and the ideas or technologies contained therein with other parties and you are free to contract with any third parties; provided that you do not sign any agreement, grant any license or undertake any obligations that conflicts with any agreement that you have entered into, agreed to enter into or do enter into with the Competition Sponsors regarding your Entry (including as set forth herein). For the purpose of clarity, you acknowledge that the intent of Challenge III is to encourage people to suggest their ideas and innovations, but your participation in Challenge III does not create an obligation on either your part, or the Competition Sponsors' part, to enter into any further business relationship with you or to sign any commercial agreement with you.

*Confidential information:*

By making a submission to Challenge III, you agree that no part of your submission includes any confidential or proprietary information, ideas or products. Since none of the Competition Sponsors wishes to receive or hold any submitted materials ''in confidence,'' it is agreed that, with respect to your Entry, no confidential or fiduciary relationship or obligation of secrecy is established between the Competition Sponsors and you, your Entry team, the company or institution you represent when submitting an Entry, or any other person or entity associated with any part of your Entry.

*Warranties:*

By submitting an Entry, you represent and warrant that all information you submit is true and complete to the best of your knowledge, that you have the right and authority to submit the Entry on your own behalf or on behalf of the persons and entities that you specify within the Entry, and that your Entry (both the information and materials submitted in the Entry and the underlying technology/method/idea/treatment protocol/solution described in the Entry):

(a) Is your own original work, or is submitted by permission with full and proper credit given within your Entry;

(b) does not contain confidential information or trade secrets (yours or anyone else's);

(c) does not knowingly, after due inquiry (including, by way of example only and without limitation, reviewing the records of the United States Patent and Trademark Office and inquiring of any employees and other professionals retained with respect to such matters), violate or infringe upon the patent rights, industrial design rights, copyrights, trademarks, rights of privacy, publicity or other intellectual property or other rights of any person or entity;

(d) does not contain malicious code, such as viruses, malware, timebombs, cancelbots, worms, Trojan horses or other potentially harmful programs or other material or information;

(e) does not and will not violate any applicable law, statute, ordinance, rule or regulation, including, without limitation, United States export laws and regulations, including, but not limited to, the International Traffic in Arms Regulations and the Department of Commerce Export Regulations; and

(f) does not trigger any reporting or royalty or other obligation to any third party.

*Limitation of liability:*

By participating in Challenge III, you agree to assume any and all risks and to release, indemnify and hold harmless the Competition Sponsors each of the Judges and Subject Matter Experts, and their respective affiliates, subsidiaries, advertising and promotions agencies, as applicable, and each of their respective agents, representatives, officers, directors, shareholders, and employees (collectively, ''Competition Sponsor Entities'') from and against any injuries, losses, damages, claims, actions and any liability of any kind (including attorneys' fees) resulting from or arising out of your participation in, association with or submission to Challenge III (including any claims alleging that your Entry infringes, misappropriates or violates any third party's intellectual property rights). In addition, you agree to waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from your participation in this Competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

The Competition Sponsor Entities are not responsible for any miscommunications such as technical failures related to computer, telephone, cable, and unavailable network or server connections, related technical failures, or other failures related to hardware, software or virus, or incomplete, late, damaged or misdirected Entries or material samples. Any compromise to the fair and proper conduct of Challenge III may result in the disqualification of an Entry or participant, termination of Challenge III, or other remedial action, at the sole discretion of the Competition Sponsors. The Competition Sponsors reserve the right in their sole discretion to extend or modify the dates of Challenge III, and to change the terms set forth herein governing any phases taking place after the effective date of any such change. By entering, you agree to the terms set forth herein and to all decisions of the Competition Sponsors, the Judges, the Subject Matter Experts, and/or all of their respective agents, which are final and binding in all respects.

The Competition Sponsor Entities are not responsible for: (1) Any incorrect or inaccurate information, whether caused by a participant, printing errors, or by any of the equipment or programming associated with or used in the

Competition; (2) unauthorized human intervention in any part of the Entry process for the Competition; (3) technical or human error that may occur in the administration of the Competition or the processing of Entries; or (4) any injury or damage to persons or property that may be caused, directly or indirectly, in whole or in part, from a participant's participation in the Competition or receipt or use or misuse of a cash award. If for any reason an Entry is confirmed to have been deleted erroneously, lost, or otherwise destroyed or corrupted, the participant's sole remedy is to submit another Entry in the Competition.

*No obligation:*

You acknowledge that multiple participants may submit Entries that contain concepts or technologies similar to your Entry and that the Competition Sponsors or their subsidiaries and business partners may already be investigating or developing technical solutions or business activities that are related or similar to those that you disclose in your Entry. You acknowledge and agree that any actions or omissions of the Competition Sponsors with respect to another Entry or one of its own solutions or business activities, even if similar to your Entry, shall not create in the Competition Sponsors, as applicable, any liability to you or others. Further, none of the Competition Sponsors is or shall be restricted in any way from pursuing, developing, or commercializing, in any way that such Competition Sponsor sees fit, independent of you and at the Competition Sponsor's sole discretion, any technology that is created independent of your Entry. You acknowledge that none of the Competition Sponsors is obligated to take any action whatsoever with regard to your Entry. You agree that these terms and the relationship between you and the Competition Sponsors shall be governed by the laws of the United States.

*Termination and Disqualification:*

The Competition Sponsors reserve the authority to cancel, suspend, and/or modify the Competition, or any part of it, if any fraud, technical failures, or any other factor beyond the Competition Sponsors' reasonable control impairs the integrity or proper functioning of the Competition, as determined by Competition Sponsors in their sole discretion.

The Competition Sponsors reserve the right to disqualify any participant or participant team it believes to be tampering with the Entry process or the operation of the Competition or to be acting in violation of any applicable rule or condition.

Any attempt by any person to undermine the legitimate operation of the Competition may be a violation of criminal and civil law, and, should such an attempt be made, the Competition Sponsors reserve the authority to seek damages from any such person to the fullest extent permitted by law.

*Verification of Potential Winner(s):*

All potential winners of a First Round Award or Grand Prize Award are subject to verification by the Competition Sponsors, whose decisions are final and binding in all matters related to the Competition.

Potential winner(s) must continue to comply with all terms and conditions of the Competition rules, and winning is contingent upon fulfilling all requirements. In the event that a potential winner, or an announced winner, is found to be ineligible or is disqualified for any reason, the Competition Sponsors may make award, instead, to another participant, as may be determined by the Judges.

Prior to awarding the Grand Prize Award, NIST will verify that the potential winner is not suspended, debarred, or otherwise excluded from doing business with the U.S. Federal Government. Suspended, debarred, or otherwise excluded participants will not be eligible to win the Grand Prize Award.

*Privacy and Disclosure under FOIA:*

Personal and contact information is not collected for commercial or marketing purposes. Except as provided herein, information submitted throughout the Competition will be used only to communicate with participants regarding Entries and/or the Competition. Participant Entries and submissions to the Competition may be subject to disclosure under the Freedom of Information Act (''FOIA'').

**Authority:** 15 U.S. C. 3719.

**Richard Cavanagh,**

*Acting Associate Director for Laboratory Programs.*

[FR Doc. 2015–01743 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD513**

### Draft 2014 Marine Mammal Stock Assessment Reports

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

**ACTION:** Notice; request for comments.

**SUMMARY:** NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act. SARs for marine mammals in the Alaska, Atlantic, and Pacific regions were revised according to new information. NMFS solicits public comments on the draft 2014 SARs.

**DATES:** Comments must be received by April 29, 2015.

**ADDRESSES:** The 2014 draft SARs are available in electronic form via the Internet at *http://www.nmfs.noaa.gov/pr/sars/draft.htm*.

Copies of the Alaska Regional SARs may be requested from Dee Allen, Alaska Fisheries Science Center, NMFS, 7600 Sand Point Way, NE BIN 15700, Seattle, WA 98115–0070.

Copies of the Atlantic, Gulf of Mexico, and Caribbean Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

You may submit comments, identified by NOAA–NMFS–2014–0117, by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.

Mail: Send comments or requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Shannon Bettridge, Office of Protected

Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov;* Dee Allen 206–526–4048, *Dee.Allen@noaa.gov*, regarding Alaska regional stock assessments; Gordon Waring, 508–495–2311, *Gordon.Waring@noaa.gov*, regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858–546–7171, *Jim.Carretta@noaa.gov*, regarding Pacific regional stock assessments.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the Exclusive Economic Zone. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term ''strategic stock'' means a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the potential biological removal level; (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific independent Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in the Alaska, Atlantic, and Pacific regions to incorporate new information.

NMFS updated its serious injury designation and reporting process, which uses guidance from previous serious injury workshops, expert opinion, and analysis of historic injury cases to develop new criteria for distinguishing serious from non-serious injury. The NMFS Serious Injury Determination Policy was finalized in January 2012 and was first applied to the draft 2013 marine mammal SARs. The SARs report five-year averages for serious injury; thus, application of the new procedure involved retroactively reviewing the past five years of injury determinations for 2008–2012. NMFS defines serious injury as an ''injury that is more likely than not to result in mortality'' (50 CFR 229.2). Injury determinations for stock assessments revised in 2013 or later incorporate the new serious injury guidelines, based on the most recent five-year period for which data are available. NMFS solicits public comments on the draft 2013 SARs.

On April 16, 2013, NMFS received a petition from the Hawaii Fishermen's Alliance for Conservation and Tradition, Inc., to classify the North Pacific humpback whale population as a distinct population segment (DPS) and delist the DPS under the Endangered Species Act (ESA). On February 26, 2014, the State of Alaska submitted a petition to delineate the Central North Pacific stock of the humpback whale as a DPS and remove the DPS from the List of Endangered and Threatened Species under the ESA. After reviewing the petitions, the literature cited in the petitions, and other literature and information available in our files, NMFS found that both petitioned actions may be warranted and issued positive 90-day findings (78 FR 53391, August 29, 2013; 79 FR 36281, June 26, 2014). Currently, the four humpback whale stocks have depleted status under the MMPA due to their listing as endangered under the ESA. Consideration of both petitioned actions may affect their depleted status.

## Alaska Reports

In the Alaska region, SARs for 21 Alaska stocks (19 ''strategic'', 2 ''non-strategic'') were updated. All stocks were reviewed and the following stocks were revised for 2014: Steller sea lion (western U.S. and eastern U.S. stocks), northern fur seal (eastern Pacific stock), spotted seal (Alaska stock), bearded seal (Alaska stock), ringed seal (Alaska stock), beluga whale (Beaufort Sea, eastern Chukchi Sea, eastern Bering Sea, Bristol Bay, and Cook Inlet stocks), killer whale (AT1 transient stock), harbor porpoise (Southeast Alaska, Gulf of Alaska, and Bering Sea stocks), sperm whale (North Pacific stock), humpback whale (Western North Pacific and central North Pacific stocks), fin whale (northeast Pacific stock), North Pacific right whale (eastern North Pacific stock), bowhead whale (western Arctic stock). Most revisions to the Alaska SARs included updates of abundance and/or mortality and serious injury estimates. Information on the remaining Alaska region stocks can be found in the final 2013 reports (Allen and Angliss, 2014).

The Eastern stock of Steller sea lions was depleted under the MMPA due to its ESA listing as endangered. NMFS is currently evaluating the depleted status of the eastern Steller sea lion following delisting from the ESA. If not depleted, the recovery factor used to calculate potential biological removal level (PBR) would be adjusted from 0.75 to 1.0 per the Guidelines for Assessing Marine Mammal Stocks, and PBR would be 2,193. If the stock continues to be classified as depleted, the recovery factor would remain at 0.75, and PBR would be 1,645.

New survey data provided calculated values of abundance, minimum abundance (Nmin), and PBR for the spotted seal stock. Nmin is now reported as ''unknown'' and PBR as ''undetermined'' rather than a calculated estimate based on age of population estimate (>8 years old) for two stocks of beluga whales: Eastern Chukchi Sea and eastern Bering Sea.

## Atlantic Reports

In the Atlantic region (including the Atlantic coast, Gulf Coast, and U.S. territories in the Caribbean), reports for 53 stocks were updated and three added. Of the updated stocks, 9 stocks are ''strategic,'' and 44 are ''non-strategic.'' Three new Atlantic region reports for strategic stocks were added this year, false killer whales (Western North Atlantic stock), common bottlenose dolphin (Central Georgia estuarine stock), and common bottlenose dolphin (Mississippi Sound, Lake Borgne, Bay Boudreau stock, previously contained in the common bottlenose dolphin, northern Gulf of Mexico bay, sound and estuary SAR). The Lemon Bay stock of common bottlenose dolphin was combined with the Gasparilla Sound, Charlotte Harbor, Pine Island Sound stock of common bottlenose dolphin, based on recent photo-ID data.

All stocks were reviewed and the following stocks were revised for 2014: North Atlantic right whale; humpback whale, Gulf of Maine; fin whale, Western North Atlantic (WNA); sei whale; sperm whale, WNA; North Atlantic killer whale, WNA; common bottlenose dolphin, Gulf of Mexico northern coastal; common bottlenose dolphin, Gulf of Mexico western coastal; common bottlenose dolphin, Barataria Bay; minke whale, Canadian east coast; Northern bottlenose whale; Sowerby's beaked whale; Risso's dolphin, WNA; long-finned pilot whale; short-finned

pilot whale, WNA; Atlantic white-sided dolphin; short-beaked common dolphin; common bottlenose dolphin, Western North Atlantic/offshore ; harbor porpoise, Gulf of Maine/Bay of Fundy; harbor seal, WNA; gray seal, WNA; common bottlenose dolphin, Gulf of Mexico continental shelf; common bottlenose dolphin, Gulf of Mexico eastern coastal; common bottlenose dolphin, Gulf of Mexico Oceanic; common bottlenose dolphin, northern Gulf of Mexico bay, sound and estuary (27 stocks); pantropical spotted dolphin, Gulf of Mexico; and Risso's dolphin Gulf of Mexico. Information on the remaining Atlantic region stocks can be found in the final 2013 reports (Waring *et al.,* 2014).

Most revisions included updates of abundance and/or mortality and serious injury estimates. The status of one stock, Gulf of Maine/Bay of Fundy harbor porpoise, changed from strategic to non-strategic. New survey data provided calculated values of abundance, Nmin, and PBR for the following stocks of common bottlenose dolphin: Gulf of Mexico continental shelf, Gulf of Mexico eastern coastal stock, Gulf of Mexico northern coastal stock, Gulf of Mexico western coastal, Mississippi River Delta, and Mississippi Sound, Lake Borgne, Bay Boudreau.

**Pacific Reports**

In the Pacific region (waters along the west coast of the United States, within waters surrounding the main and Northwest Hawaiian Islands, and within waters surrounding U.S. territories in the Western Pacific), SARs were revised for 10 stocks under NMFS jurisdiction (5 ''strategic'' and 5 ''non-strategic'' stocks) and one was added for the Western North Pacific gray whale (a ''strategic'' stock). All stocks were reviewed and the following stocks were revised for 2014: Hawaiian monk seal; southern Resident killer whale; false killer whale, Main Hawaiian Islands Insular; false killer whale, Hawaii Pelagic; sperm whale, California/Oregon/Washington; Western North Pacific gray whale; California sea lion; Harbor seal, California; Northern elephant seal, California; Eastern North Pacific gray whale; and false killer whale, Northwestern Hawaiian Islands. Information on the remaining Pacific region stocks can be found in the final 2013 reports (Carretta *et al.,* 2014).

New estimates of abundance for the California/Oregon/Washington stock of sperm whales are based on a Bayesian trend analysis that utilizes previously collected line-transect data (Moore and Barlow, 2014), resulting in a more stable time series of abundance estimates. Mortality and serious injury estimates of California/Oregon/Washington sperm whales in California drift gillnets are updated, based on pooling additional years of data (>5 years) to reduce bias and improve precision in mean annual bycatch estimates (Carretta and Moore, 2014). The combination of new abundance estimates and pooling of bycatch estimates over a longer time period for this stock of sperm whales results in mean annual bycatch estimates that no longer exceed PBR.

Dated: January 23, 2015.

**Wanda Cain,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–01751 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD546**

### Notice of Availability of the Draft NOAA Restoration Center Programmatic Environmental Impact Statement

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

**ACTION:** Notice of Availability of a Draft Programmatic Environmental Impact Statement; request for comments.

**SUMMARY:** NMFS announces the availability of the *NOAA Restoration Center Programmatic Environmental Impact Statement.* Publication of this notice begins the public comment period for this Draft Programmatic Environmental Impact Statement (DPEIS). The purpose of the DPEIS is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative programmatic approaches to coastal habitat restoration within the NOAA Restoration Center and other NOAA programs implementing similar habitat restoration activities.

**DATES:** Interested parties should provide written comments by March 20, 2015.

**ADDRESSES:** Interested parties that wish to send comments may send an email to *rc.compliance@noaa.gov.* Interested parties that wish to send comments through regular mail may use the following mailing address: NOAA Restoration Center (F/HC3), ATTN: Restoration DPEIS Comments, 1315 East West Highway, Silver Spring, MD 20910. The NOAA Restoration Center Web site that contains information and updates relevant to this DPEIS can be found at: *http://www.restoration.noaa.gov/environmentalcompliance.*

**FOR FURTHER INFORMATION CONTACT:** Melanie Gange at 301–427–8664 or via the following email address: *rc.compliance@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

In the DPEIS, NOAA proposes to fund or otherwise implement coastal habitat restoration activities through its existing programmatic framework and related procedures. NOAA contains multiple programs that carry out habitat restoration projects throughout the coastal United States, which includes the Great Lakes and territories. Many of these programs are housed within the National Marine Fisheries Service, Office of Habitat Conservation's Restoration Center (NOAA RC). Projects implemented by NOAA vary in terms of their size, complexity, geographic location and NOAA involvement, and often benefit a wide range of habitat types and affect a number of different species. Fish passage, hydrologic/tidal reconnection, shellfish restoration, coral recovery, salt marsh and barrier island restoration, erosion prevention, debris removal, and invasive species removal, are all examples of project types implemented by NOAA through its various programs.

The DPEIS includes a suite of restoration approaches that NOAA proposes will most effectively conserve and restore the coastal and marine resources under NOAA trusteeship. This analysis builds upon and replaces the Programmatic Environmental Assessment (PEA) and Supplemental (SPEA) published in 2002 and 2006, respectively. The analyses in the PEA and SPEA, where relevant, along with NOAA's analyses of individual project impacts, have informed the updated analyses in this DPEIS. NOAA believes that this DPEIS will promote an efficient NEPA compliance process for future NOAA-supported habitat restoration activities, through various programs.

Alternatives: This document provides a programmatic-level environmental analysis to support NOAA's proposal to continue habitat restoration activities involving trust resources throughout the coastal United States. The DPEIS takes a broad look at issues and programmatic-level alternatives (compared to a document for a specific project or action) and provides guidance for future restoration activities to be carried out by NOAA. In addition to

providing a programmatic analysis, NOAA intends to use this document to approve future site-specific actions, including grant actions, so long as the activity being proposed is within the range of alternatives and scope of potential environmental consequences considered within this NEPA analysis. Any future site-specific restoration activities proposed by NOAA that are not within the scope of alternatives or environmental consequences considered in this PEIS will require additional analysis under NEPA.

NOAA has determined that two alternatives are reasonable and meet the purpose and need. These are Alternative 1—Current Management and Alternative 2—Technical Assistance.

''Current Management,'' the No Action Alternative, is a comprehensive restoration approach that includes activities such as technical assistance, on-the-ground riverine and coastal habitat restoration activities, and land and water acquisition activities. For programmatic analyses of on-going programs, where program activities are being analyzed as opposed to a single specific project action, the No Action Alternative can be interpreted as ''no change from current management'' (CEQ 40 Questions, 46 FR 18026 (March 23, 1981). Riverine and coastal habitat restoration activities in this alternative include but are not limited to, fish passage projects; channel, bank and floodplain restoration; buffer area and watershed revegetation; saltmarsh restoration; oyster restoration; marine debris removal; submerged aquatic vegetation restoration; invasive species removal; and coral restoration.

''Technical Assistance'' is an alternative approach that includes no on-the-ground restoration, and is limited to activities including project planning, modeling, feasibility studies, engineering and design studies, and permitting activities.

Impacts Analysis: This DPEIS presents NOAA's restoration activities and their environmental consequences grouped into three categories of restoration activities: Technical assistance; on-the-ground riverine and coastal habitat restoration activities; and land and water acquisition activities. All three of these restoration categories comprise the ''Current Management'' alternative. Technical assistance activities are typically minimally-intrusive, relatively low-cost and do not require extensive on-the-ground activities to be implemented. On-the-ground restoration activities include all of the physical riverine and coastal restoration that the NOAA RC supports. Land and water acquisition activities involve transactions of ownership, usage rights, or access. This alternative is anticipated to have typically long-term beneficial and short-term adverse impacts on the affected environment of various magnitudes and intensities, which are described in the DPEIS.

The ''Technical Assistance'' alternative relies heavily, if not exclusively, on external sources of funding to conduct on-the-ground implementation. NOAA resources would only be focused on advisory or technical assistance aspects of the restoration work. The technical assistance activities would generally cause mostly indirect, long-term beneficial impacts, with short-term adverse impacts for more intrusive monitoring and sampling techniques.

Request for Comment: The publication date of this notice constitutes the start of the comment period under NEPA for the PEIS. NOAA encourages all parties with an interest in or who are affected by habitat restoration activities to provide suggestions and comments. Comments are specifically requested regarding the alternatives, scope of analysis, assessment of impacts, and the process described in Appendix A for determining which future projects are covered by this analysis. For more detailed background information, including program descriptions, restoration project types, and the previously mentioned environmental assessment documents, please visit the NOAA Restoration Center Web site. Interested parties should provide written comments by March 20, 2015.

**Authority:** 16 U.S.C. 661; 16 U.S.C. 1891a.

Dated: January 26, 2015.

**Frederick C. Sutter,**

*Director, Office of Habitat Conservation, National Marine Fisheries Service.*

[FR Doc. 2015–01744 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**RIN 0648–XD724**

## Fishing Capacity Reduction Program for the Pacific Coast Groundfish Fishery

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

**ACTION:** Notice of loan repayment.

**SUMMARY:** NMFS issues this notice to inform interested parties that the Oregon coastal Dungeness crab sub-loan in the fishing capacity reduction program for the Pacific Coast Groundfish Fishery has been repaid. Therefore, buyback fee collections on Oregon coastal Dungeness crab will cease for all landings after December 31, 2014.

**DATES:** Comments must be submitted on or before 5 p.m. EST February 13, 2015.

**ADDRESSES:** Send comments about this notice to Paul Marx, Chief, Financial Services Division, NMFS, Attn: Oregon Coastal Dungeness Crab Buyback, 1315 East-West Highway, Silver Spring, MD 20910 (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Michael A. Sturtevant at (301) 427–8799 or *Michael.A.Sturtevant@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** On November 16, 2004, NMFS published a **Federal Register** document (69 FR 67100) proposing regulations to implement an industry fee system for repaying the reduction loan. The final rule was published July 13, 2005 (70 FR 40225) and fee collection began on September 8, 2005. Interested persons should review these for further program details.

The Oregon coastal Dungeness crab sub-loan of the Pacific Coast Groundfish Capacity Reduction (Buyback) loan in the amount of $1,367,545.28 will be repaid in full upon receipt of buyback fees on landings through December 31, 2014. NMFS has received $2,117,701.75 to repay the principal and interest on this sub-loan since fee collection began September 8, 2005. Based on buyback fees received to date, landings after December 31, 2014 will not be subject to the buyback fee. Therefore, buyback loan fees will no longer be collected in the Oregon coastal Dungeness crab fishery on future landings.

Buyback fees not yet forwarded to NMFS for Oregon coastal Dungeness crab landings through December 31, 2014 should be forwarded to NMFS immediately. Any overpayment of buyback fees submitted to NMFS will be refunded on a pro-rata basis to the fish buyers/processors based upon best available fish ticket landings data. The fish buyers/processors should return excess buyback fees collected to the harvesters, including buyback fees collected but not yet remitted to NMFS for landings after December 31, 2014. Any discrepancies in fees owed and fees paid must be resolved immediately. After the sub-loan is closed, no further adjustments to fees paid and fees received can be made.

Dated: January 23, 2015.

**Basil Brown,**

*Acting Director, Office of Management and Budget, National Marine Fisheries Service.*

[FR Doc. 2015–01724 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Western Pacific Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Eight Regional Fishery Management Councils (RFMCs) will convene a meeting of representatives of their respective Scientific and Statistical Committee (SSC) in Honolulu, HI.

**DATES:** The meeting will be held on February 23, 2015, from 8:30 a.m. to 5:30 p.m., February 24, 2015, from 8:30 a.m. to 4:30 p.m., and February 25, 2015, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at the Ala Moana Hotel Garden Lanai, 410 Atkinson Drive, Honolulu, HI 96814. Host Council: Western Pacific Regional Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813. For specific times and agendas, see **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery Management Council; telephone: (808) 522–8220.

**SUPPLEMENTARY INFORMATION:** The Magnuson Stevens Fishery Conservation and Management Act (MSA) requires that each Council maintain and utilize its SSCs to assist in the development, collection, evaluation, and peer review of information relevant to the development and amendment of fishery management plans (FMPs). In addition, the MSA mandates that each SSC shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices. The MSA also requires the Council to consider the ecosystem in managing the stocks in the FMPs.

At its May 2014 meeting, the Council Coordination Committee (CCC; a group consisting of the leadership from the eight Regional Fishery Management Councils), recommended that a fifth National SSC Workshop be convened to address uncertainties, data-limited situations, and ecosystem considerations in the fishery management process and Ecosystems Based Fishery Management (EBFM). Therefore, the purpose of this meeting is to examine the approaches being taken around the United States by the Council SSCs in addressing biological and management uncertainties, data-limited stocks, habitat and ecological variabilities in EBFM with considerations of a changing climate.

**8:30 a.m.–5:30 p.m., Monday, February 23, 2015**

1. Welcome Remarks
2. Introductions
3. SUBTHEME 1.a: ABC Specification for Data-Limited and Model-Resistant Stocks
   - A. Keynote Presentation: Managing data-poor fisheries down under
   - B. Keynote Presentation: Progress and roadblocks in the estimation of stock status and catch limits for global fisheries
   - C. Round Robin Session: Setting ABCs for data-limited/model-resistant stocks
   - D. Preliminary Q&A to the presenters
   - E. Plenary Discussion: ABC specification for data-limited and model-resistant stocks
4. SUBTHEME 1.b: Implementation of National Standard 2 in the Face of Uncertainty
   - A. Keynote Presentation: National Standard 2 in determining best scientific information available
   - B. Plenary Discussion: Implementation of National Standard 2 in the face of uncertainties
5. Develop Specific Recommendation to the CCC on Subtheme 1

**8:30 a.m.–4:30 p.m., Tuesday, February 24, 2015**

6. SUBTHEME 2: Evaluating Existing ABC Control Rules: Issues, Challenges and Solutions
   - A. Keynote Presentation: Addressing uncertainties in stock assessment in a variable environment
   - B. Keynote Presentation: Use of Management Strategy Evaluation to assess performance of harvest control rules
   - C. Keynote Presentation: Comparing performance among alternative ABC control rules
   - D. Round Robin Session: Evaluation of the current ABC control rules (with emphasis on how each council monitors the performance of the control rules, issues, challenges, and solutions)
   - E. Preliminary Q&A to the presenters
   - F. Plenary Discussion: Evaluating existing ABC control rules: Issues, challenges and solutions
7. Develop Specific Recommendation to the CCC for Subtheme 2
8. SUBTHEME 3.a: Incorporating Ecological, Environmental, and Climate Variability in Stock Assessment and Ecosystem Based Fishery Management
   - A. Keynote Presentation: Incorporating ecological, environmental, and climate considerations in stock assessments and ecosystem-based fishery management
   - B. Plenary Discussion: Incorporating ecological, environmental, and climate variability in stock assessment and ecosystem based fishery management

**8:30 a.m.–5 p.m., Wednesday, February 25, 2015**

   - C. Keynote presentation: Projecting climate change impacts on fish and fisheries
   - D. Keynote presentation: Shifting species distribution with climate change
   - E. Plenary Discussion: Incorporating ecological, environmental, and climatic variability in stock assessments and ecosystem based fishery management
9. Develop Specific Recommendation to the CCC for Subtheme 3.a
10. SUBTHEME 3.b: Building Habitat Condition in the Stock Assessment Process and Fishery Management Strategies
    - A. Keynote Presentation: The Habitat Assessment Improvement Plan: Collecting the habitat data to enhance stock assessment
    - B. Plenary Discussion: Building habitat condition in the stock assessment process and fishery management strategies
    - C. Keynote Presentation: Aspects of Habitat of Particular Concern for fish population dynamics and fishery management
    - D. Plenary Discussion: Building habitat condition in the stock assessment process and fishery management strategies
11. Develop Specific Recommendation to the CCC for Subtheme 3.b

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the MSA, those issues

may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the MSA, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: January 26, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–01690 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD705**

### Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

**ACTION:** Notice of SEDAR 42 assessment webinars for Gulf of Mexico Red Grouper.

**SUMMARY:** The SEDAR 42 assessment of Gulf of Mexico Red Grouper will consist of a series of webinars. This notice is for a webinar associated with the Assessment portion of the SEDAR process. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The assessment webinar for SEDAR 42 will be held on Thursday, February 19, 2015, 10 a.m. to 12 p.m. eastern time.

**ADDRESSES:**

*Meeting Address:* The meeting will be held via webinar. The webinar is open to the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR Address:* 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; telephone: (843) 571–4366; email: *julie.neer@safmc.net.*

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

The items of discussion in the Assessment Process webinars are as follows:

1. Using datasets and initial assessment analysis recommended from the Data Workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Panelists will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

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

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: January 26, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–01689 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD512**

### Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the Ross Sea, January to February 2015

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

**ACTION:** Notice; issuance of an Incidental Harassment Authorization (IHA).

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), notification is hereby given that NMFS has issued an IHA to the National Science Foundation (NSF) Division of Polar Programs, and Antarctic Support Contract (ASC) on behalf of Louisiana State University, to take marine mammals, by Level B

harassment, incidental to conducting a low-energy marine geophysical (seismic) survey in the Ross Sea, January to February 2015.

**DATES:** Effective January 24 to April 9, 2015.

**ADDRESSES:** A copy of the IHA and the application are available by writing Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 or by telephone to the contacts listed below (see **FOR FURTHER INFORMATION CONTACT**).

An electronic copy of the IHA application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed here (see FOR **FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.* Documents cited in this notice, including the IHA application, may also be viewed by appointment, during regular business hours, at the aforementioned address.

NSF and ASC prepared an ''Initial Environmental Evaluation/Environmental Assessment to Perform Marine Geophysical Survey, Collect Bathymetric Measurements, and Conduct Coring by the RVIB *Nathaniel B. Palmer* in the Ross Sea'' (IEE/EA) in accordance with the National Environmental Policy Act (NEPA) and the regulations published by the Council of Environmental Quality (CEQ). It is posted at the foregoing site. NMFS has independently evaluated the IEE/EA and has prepared a separate NEPA analysis titled ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the National Science Foundation and Antarctic Support Contract to Take Marine Mammals by Harassment Incidental to a Low-Energy Marine Geophysical Survey in the Ross Sea, January to April 2015.'' NMFS also issued a Biological Opinion under section 7 of the Endangered Species Act (ESA) to evaluate the effects of the low-energy seismic survey and IHA on marine species listed as threatened or endangered. The NMFS Biological Opinion is available online at: *http://www.nmfs.noaa.gov/pr/consultations/opinion.htm.*

**FOR FURTHER INFORMATION CONTACT:** Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA, (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

**Summary of Request**

On July 15, 2014, NMFS received an application from NSF and ASC requesting that NMFS issue an IHA for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a low-energy marine seismic survey in International Waters (*i.e.,* high seas) in the Ross Sea during January to February 2015. The IHA application includes an addendum which includes incidental take requests for marine mammals related to icebreaking activities.

The research will be conducted by one research institution, the Louisiana State University (Baton Rouge). NSF and ASC plan to use one source vessel, the RVIB *Nathaniel B. Palmer* (*Palmer*), and a seismic airgun array and hydrophone streamer to collect seismic data in the Ross Sea. The vessel will be operated by ASC, which operates the United States Antarctic Program (USAP) under contract with NSF. In support of the USAP, NSF and ASC plan to use conventional low-energy, seismic methodology to perform marine-based studies in the Ross Sea, including evaluation of the timing and duration of two grounding events (*i.e.,* advances of grounded ice) to the outer and middle shelf of the Whales Deep Basin, a West Antarctic Ice Sheet paleo ice stream trough in the eastern Ross Sea (see Figures 1 and 2 of the IHA application). The studies will involve a low-energy seismic survey, acquiring core samples from the seafloor, and performing radiocarbon dating of benthic foraminifera to meet a number of research goals. In addition to the planned operations of the seismic airgun array and hydrophone streamer(s), NSF and ASC intend to operate a single-beam echosounder, multi-beam echosounder, acoustic Doppler current profiler (ADCP), and sub-bottom profiler continuously throughout the survey. NMFS published a notice making preliminary determinations and proposing to issue an IHA on November 17, 2014 (79 FR 68512). The notice initiated a 30-day public comment period.

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array and from icebreaking activities may have the potential to cause behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities, and NSF and ASC have requested an authorization to take 18 species of marine mammals by Level B harassment. Take is not expected to result from the use of the single-beam echosounder, multi-beam echosounder, ADCP, and sub-bottom profiler, as the brief exposure of marine mammals to one pulse, or small numbers of signals, to be generated by these instruments in this particular case as well as their characteristics (*e.g.,* narrow-shaped, downward-directed beam emitted from the bottom of the ship) is not likely to result in the harassment of marine mammals. Also, NMFS does not expect take to result from collision with the source vessel because it is a single vessel moving at a relatively slow, constant cruise speed of 5 knots ([kts]; 9.3 kilometers per hour [km/hr]; 5.8 miles per hour [mph]) during seismic acquisition within the survey, for a relatively short period of time

(approximately 27 operational days). It is likely that any marine mammal will be able to avoid the vessel.

**Description of the Specified Activity**

*Overview*

NSF and ASC plan to use one source vessel, the *Palmer,* a two GI airgun array and one hydrophone streamer to conduct the conventional seismic survey as part of the NSF-funded research project ''Timing and Duration of LGM and post-LGM Grounding Events in the Whales Deep Paleo Ice Streams, Eastern Ross Sea Continental Shelf.'' In addition to the airguns, NSF and ASC intend to conduct a bathymetric survey and core sampling from the *Palmer* during the low-energy seismic survey.

*Dates and Duration*

The *Palmer* is expected to depart from McMurdo Station on approximately January 24, 2015 and arrive at Hobart, Australia on approximately March 20, 2015. Research operations will be conducted over a span of 27 days (from approximately January 24 to February 26, 2015). At the end of the proposed research operations, the *Palmer* will resume other operational activities, and transit to Hobart, Australia. The total distance the *Palmer* will travel in the region to conduct the research activities (*i.e.,* seismic survey, bathymetric survey, transit to coring locations and McMurdo Station) represents approximately 12,000 km (6,479.5 nmi). Some minor deviation from this schedule is possible, depending on logistics and weather (*e.g.,* the cruise may depart earlier or be extended due to poor weather; or there could be additional days of airgun operations if collected data are deemed to be of substandard quality).

*Specified Geographic Region*

The planned project and survey sites are located in selected regions of the Ross Sea (located north of the Ross Ice Shelf) and focus on the Whales Deep Basin trough (encompassing the region between 76 to 78° South, and between 165 to 170° West) (see Figure 2 of the IHA application). The low-energy seismic survey will be conducted in International Waters. Figure 2 of the IHA application illustrates the general bathymetry of the proposed study area near the Ross Ice Shelf and the previously collected data with respect to seismic units and dated cores. Water depths in the survey area are between 100 to 1,000 m. The low-energy seismic survey will be within an area of approximately 3,882 $km^2$ (1,131.8 $nmi^2$). This estimate is based on the maximum number of kilometers for the low-energy seismic survey (1,750 km) multiplied by the area ensonified around the planned tracklines (1.109 km x 2). The ensonified area is based on the predicted rms radii (m) based on modeling and empirical measurements (assuming 100% use of the two 105 $in^3$ GI airguns in 100 to 1,000 m water depths), which was calculated to be 1,109 m (3,638.5 ft) (see Appendix B of the IHA application).

If icebreaking is required during the course of the research activities in the Antarctica region, it is expected to occur on a limited basis. The research activities and associated contingencies are designed to avoid areas of heavy sea ice condition, and the Ross Sea region is typically clear during the January to February time period due to a large polynya which routinely forms in front of the Ross Ice Shelf.

Researchers will work to minimize time spent breaking ice. The planned science operations are more difficult to conduct in icy conditions because the ice noise degrades the quality of the geophysical and ADCP data. Also, time spent breaking ice takes away from time supporting research. Logistically, if the vessel is in heavy ice conditions, researchers will not tow the airgun array and streamer, as this will likely damage equipment and generate noise interference. It is possible that the low-energy seismic survey can be performed in low ice conditions if the *Palmer* could generate an open path behind the vessel.

Because the *Palmer* is not rated to routinely break multi-year ice, operations will generally avoid transiting through older ice (*i.e.,* 2 years or older, thicker than 1 m). If sea ice is encountered during the cruise, it is anticipated the *Palmer* will proceed primarily through one year sea ice, and possibly some new, very thin ice, and will follow leads wherever possible. Satellite imagery from the Ross Sea region (*http://www.iup.physik.uni-bremen.de:8084/ssmis/*) documents that sea ice is at its minimum extent during the month of February.

Based on the proposed tracklines, estimated transit to the proposed study area from McMurdo Station, and expected ice conditions (using historical sea ice extent), it is estimated that the *Palmer* may need to break ice along a distance of approximately 500 km (269.9 nmi) or less. Based on the ship's speed of 5 knots under moderate ice conditions, 500 km represents approximately 54 hours of icebreaking operations. It is noted that typical transit through areas of primarily open water containing brash or pancake ice are not considered icebreaking for the purposes of this assessment.

*Detailed Description of the Specified Activity*

NSF and ASC plan to conduct a low-energy seismic survey in the Ross Sea from January to February 2015. In addition to the low-energy seismic survey, scientific research activities will include conducting a bathymetric profile survey of the seafloor using transducer-based instruments such as a multi-beam echosounder and sub-bottom profiler; acquiring bottom imaging, using underwater camera systems; and collecting approximately 32 core samples from the seafloor using various methods and equipment. Water depths in the survey area are 100 to 1,000 meters (m) (328.1 to 3,280.1 feet [ft]). The low-energy seismic survey is scheduled to occur for a total of approximately 200 hours over the course of the entire cruise, which will be for approximately 27 operational days in January to February 2015. The planned research activities will bisect approximately 25,500 $km^2$ (7,434.6 $nmi^2$) in the Ross Sea region (see Figure 2 of the IHA application). The low-energy seismic survey will be conducted during the day (from nautical twilight-dawn to nautical twilight-dusk) and night, and for up to 100 hours of continuous operations at a time. Note that there will be 24-hour or near 24-hour daylight in the study area between January 24 and February 26, 2015 (*http://www.timeanddate.com/sun/antarctica/mcmurdo?month=2&year=2015*). The operation hours and survey length will include equipment testing, ramp-up, line changes, and repeat coverage. Some minor deviation from these dates will be possible, depending on logistics and weather. The Principal Investigator is Dr. Philip Bart of the Louisiana State University (Baton Rouge).

Grounding events in the Whales Deep Basin are represented by seismically resolvable Grounding Zone Wedges. During the planned activities in the Ross Sea, researchers will acquire additional seismic data and multi-beam bathymetry and imaging to precisely define the depositional and erosional limits of the outer and middle shelf Grounding Zone Wedges. The collection of benthic samples and resulting analyses will test the hypothesis and counter hypothesis regarding the West Antarctic Ice Sheet retreat as it relates to the Whales Deep Basin paleo ice stream through: (1) Radiocarbon dating in situ benthic foraminifera isolated from diamict deposited on the

Grounding Zone Wedges foreset; (2) ramped pyrolysis of acid insoluble organic isolated from diatom ooze overlying Grounding Zone Wedges diamict; (3) calculating the duration of the two grounding events; and (4) extracting pore-water from the Grounding Zone Wedges diamict to determine salinity and $\delta^{18}O$ values to test a numerical model prediction regarding the West Antarctic Ice Sheet retreat.

The procedures to be used for the survey will be similar to those used during previous low-energy seismic surveys by NSF and will use conventional seismic methodology. The planned low-energy seismic survey will involve one source vessel, the *Palmer.* NSF and ASC will deploy a two Sercel Generator Injector (GI) airgun array (each with a discharge volume of 105 $in^3$ [1,720 $cm^3$], in one string, with a total volume of 210 $in^3$ [3,441.3 $cm^3$]) as an energy source, at a tow depth of up to 3 to 4 m (9.8 to 13.1 ft) below the surface (more information on the airguns can be found in Appendix B of the IHA application). A third airgun will serve as a ''hot spare'' to be used as a back-up in the event that one of the two operating airguns malfunctions. The airguns in the array will be spaced approximately 3 m (9.8 ft) apart and 15 to 40 m (49.2 to 131.2 ft) astern of the vessel. The receiving system will consist of one or two 100 m (328.1 ft) long, 24-channel, solid-state hydrophone streamer(s) towed behind the vessel. Data acquisition is planned along a series of predetermined lines, all of which will be in water depths 100 to 1,000 m. As the GI airguns are towed along the survey lines, the hydrophone streamer(s) will receive the returning acoustic signals and transfer the data to the onboard processing system. All planned seismic data acquisition activities will be conducted by technicians provided by NSF and ASC, with onboard assistance by the scientists who have planned the study. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

The weather, sea, and ice conditions will be closely monitored, including the presence of pack ice that could hinder operation of the airgun array and streamer(s) as well as conditions that could limit visibility. If situations are encountered which pose a risk to the equipment, impede data collection, or require the vessel to stop forward progress, the equipment will be shut-down and retrieved until conditions improve. In general, the airgun array and streamer(s) can be retrieved in less than 30 minutes.

The planned seismic survey (including equipment testing, start-up, line changes, repeat coverage of any areas, and equipment recovery) will consist of approximately 1,750 kilometers (km) (944.9 nautical miles [nmi]) of transect lines (including turns) in the study area in the Ross Sea (see Figures 1 and 2 of the IHA application). In addition to the operation of the airgun array, a single-beam and multi-beam echosounder, ADCP, and a sub-bottom profiler will also likely be operated from the *Palmer* continuously throughout the cruise. There will be additional airgun operations associated with equipment testing, ramp-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In NSF and ASC's estimated take calculations, 25% has been added for those additional operations. The portion of the cruise planned for after the low-energy seismic survey in the Ross Sea is not associated with the project; it is associated with McMurdo Station support and will occur regardless of the low-energy seismic survey (*i.e.,* no science activities will be conducted). In addition, the *Palmer* will transit approximately 3,980 km (2,149 nmi) to Australia after the planned support activities for McMurdo Station.

TABLE 1—PLANNED LOW-ENERGY SEISMIC SURVEY ACTIVITIES IN THE ROSS SEA.

| Survey length (km) | Total duration (hr) [1] | Airgun array total volume | Time between airgun shots (distance) | Streamer length (m) |
|---|---|---|---|---|
| 1,750 (944.9 nmi) ..... | ~200 | 2 x 105 $in^3$ (2 x 1,720 $cm^3$) ..... | 5 to 10 seconds (12.5 to 25 m or 41 to 82 ft). | 100 (328.1 ft). |

[1] Airgun operations are planned for no more than 100 continuous hours at a time.

NMFS outlined the purpose of the program in a previous notice of the proposed IHA (79 FR 68512, November 17, 2014). The activities to be conducted have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA. For a more detailed description of the authorized action, including vessel and acoustic source specifications, metrics, characteristics of airgun pulses, predicted sound levels of airguns, bathymetric survey, core sampling, icebreaking activities, etc., the reader should refer to the notice of the proposed IHA (79 FR 68512, November 17, 2014), the IHA application, IEE/EA, EA, and associated documents referenced above this section.

**Comments and Responses**

A notice of preliminary determinations and proposed IHA for NSF and ASC's low-energy seismic survey was published in the **Federal Register** on November 17, 2014 (79 FR 68512). During the 30-day public comment period, NMFS received comments from one private citizen and the Marine Mammal Commission (Commission). The comments are posted online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.* Following are the substantive comments and NMFS's responses:

*Comment 1:* The Commission recommends that NMFS adjust density estimates used to estimate the numbers of potential takes by incorporating some measure of uncertainty when available density data originate from other geographical areas and temporal scales and that it formulate a policy or other guidance setting forth a consistent approach for how applicants should incorporate uncertainty in density estimates.

*Response:* The availability of representative density information for marine mammal species varies widely across space and time. Depending on survey locations and modeling efforts, it may be necessary to consult estimates that are from a different area or season, that are at a non-ideal spatial scale, or that are several years out of date. As the Commission notes in their letter to NMFS, we continue to evaluate available density information and are continuing progress on guidance that would outline a consistent general approach for addressing uncertainty in specific situations where certain types of data are or are not available.

*Comment 2:* The Commission recommends that NMFS follow a consistent approach in assessing the potential for taking by Level B

harassment from exposure to specific types of sound sources (*e.g.,* echosounders, sub-bottom profilers, side-scan sonar, and fish-finding sonar) by all applicants who propose to use them.

*Response:* NMFS acknowledges the Commission's recommendation and note that we continue to work on a consistent approach for addressing potential impacts from active acoustic sources. For this low-energy seismic survey, NMFS assessed the potential for single-beam and multi-beam echosounder, ADCP, and sub-bottom profiler operations to impact marine mammals with the concurrent operation of the airgun array. We assume that, during simultaneous operations of the airgun array and the other active acoustic sources, a marine mammal close enough to be affected by the other active acoustic sources would already be affected by the airguns. Take is not expected to result from the use of the single-beam echosounder, multi-beam echosounder, ADCP, and sub-bottom profiler, as the brief exposure of marine mammals to one pulse, or small number of signals, to be generated by these instruments in this particular case as well as their characteristics (*e.g.,* narrow-shaped, downward-directed beam emitted from the bottom of the ship) is less likely to result in the harassment of marine mammals. Accordingly, NMFS will not require a separate assessment of Level B harassment takes for those sources for this low-energy seismic survey, and NMFS has not authorized take from these other sound sources.

*Comment 3:* The Commission recommends that NMFS develop a clear policy setting forth more explicit criteria and/or thresholds for making small numbers and negligible impact determinations.

*Response:* NMFS is required to authorize the take of ''small numbers'' of a species or stock if the taking (in this case by harassment) will have a negligible impact on the affected species or stocks and will not have an unmitigable impact on the availability of such species or stocks for taking for subsistence purposes. See 16 U.S.C. 1371(a)(5)(D). In determining whether to authorize ''small numbers'' of a species or stock, NMFS determines whether the numbers of marine mammals ''taken'' will be small relative to the estimated population size. Table 5 of this notice reflects that the estimated take for the entire survey area represents small numbers of marine mammals relative to the relevant populations. Modeling results, estimated take numbers, and other analysis do not take into account the implementation of mitigation measures, which will likely further lower the numbers of animals taken. NMFS discusses the rationale for our negligible impact finding in the Analysis and Determinations section.

*Comment 4:* The Commission is concerned that the L–DEO acoustic modeling used is not based on the best available science and does not support its continued use. Therefore, the Commission recommends that NMFS require NSF and ASC to have L–DEO re-estimate the proposed exclusion and buffer zones and associated takes of marine mammals using site-specific environmental (including sound speed profiles, bathymetry, and sediment characteristics at a minimum) and operational (including number/type of airguns, tow depth) parameters for the proposed IHA. The reflective/refractive arrivals are the very measurements that ultimately determine underwater sound propagation and should be accounted for in site-specific modeling. Either empirical measurements from the particular survey site or a model that accounts for the conditions in the proposed survey area should be used to estimate exclusion and buffer zones because L–DEO failed to verify the applicability of its model to conditions outside of the Gulf of Mexico. The Commission recommends that NMFS impose the same requirements for all future IHAs submitted by NSF, ASC, L–DEO, USGS, SIO, or any other relevant entity.

*Response:* At present, L–DEO cannot adjust its modeling methodology to add the environmental and site-specific parameters as requested by the Commission. NMFS is working with L–DEO, NSF, ASC, USGS, SIO, and any other relevant entity to explore ways to better consider site-specific information to inform the take estimates and development of mitigation measures for future seismic surveys with L–DEO and NSF. Also, NSF has been exploring different approaches in collaboration with L–DEO and other academic institutions. NMFS will review and consider the final results from L–DEO's publications (Crone *et al.,* 2013, 2014), in which the results of a calibration off the coast of Washington have been reported, and how they reflect on L–DEO's model.

For this seismic survey, L–DEO developed exclusion and buffer zones based on the conservative deep-water calibration results from Diebold *et al.* (2010). L–DEO's current modeling approach represents the best available information to reach NMFS's determinations for the IHA. The comparisons of L–DEO's model results and the field data collected in the Gulf of Mexico illustrate a degree of conservativeness built into L–DEO's model in deep water.

NMFS acknowledges the Commission's concerns about L–DEO's current modeling approach for estimating exclusion and buffer zones and also acknowledge that L–DEO did not incorporate site-specific sound speed profiles, bathymetry, and sediment characteristics of the research area within the current approach to estimate those zones for this IHA. However, as described below, empirical data collected at two different sites and compared against model predictions indicate that other facets of the model (besides the site-specific factors cited above) do result in a conservative estimate of exposures in the cases tested.

The NSF and ASC IHA application and IEE/EA describe the approach to establishing mitigation exclusion and buffer zones. In summary, L–DEO acquired field measurements for several array configurations at shallow- and deep-water depths during acoustic verification studies conducted in the northern Gulf of Mexico in 2003 (Tolstoy *et al.,* 2004) and in 2007 and 2008 (Tolstoy *et al.,* 2009). Based on the empirical data from the studies, L–DEO developed a sound propagation modeling approach that conservatively predicts received sound levels as a function of distance from a particular airgun array configuration in deep water. In 2010, L–DEO assessed the accuracy of their modeling approach by comparing the sound levels of the field measurements in the Gulf of Mexico study to its model predictions (Diebold *et al.,* 2010). L–DEO reported that the observed sound levels from the field measurements fell almost entirely below the predicted mitigation radii curve for deep water (Diebold *et al.,* 2010). Based on this information, L–DEO has shown that its model can reliably estimate the mitigation radii in deep water and this represents the best available information to reach the determinations for the subject IHA.

NMFS considered reflected and refracted arrivals in reviewing L–DEO's model results and field data collected in the Gulf of Mexico and Washington illustrate a degree of conservativeness built into their model for deep water. Given that L–DEO demonstrated that the model is conservative in deep water, NMFS concludes that the L–DEO model is an effective means to aid in determining potential impacts to marine mammals from the planned seismic survey and estimating take numbers, as

well as establishing buffer and exclusion zones for mitigation.

During a March 2013 meeting, L–DEO discussed its model with the Commission, NMFS, and NSF. L–DEO compared the Gulf of Mexico (GOM) calibration measurements (Tolstoy *et al.,* 2004; Tolstoy *et al.,* 2009; Diebold *et al.,* 2010) comparison with L–DEO model results. L–DEO showed that at the calibration sites the model overestimated the size of the exclusion zones and, therefore, is likely precautionary in most cases. Based on the best available information that the current model overestimates mitigation zones, we did not require L–DEO to re-estimate the proposed buffer and exclusion zones and associated number of marine mammal takes using operational and site-specific environmental parameters for this IHA.

However, we continue to work with the NSF, ASC, L–DEO, and other related entities on verifying the accuracy of their model. L–DEO is currently analyzing whether received levels can be measured in real-time using the ship's hydrophone streamer to estimate the sound field around the ship and determine actual distances to the buffer and exclusion zones. Crone *et al.* (2013 and 2014) are analyzing *Marcus G. Langseth* streamer data collected in 2012 off the Washington coast shelf and slope to measure received levels in situ up to 8 km (4.3 nmi) away from the ship. While results confirm the role that bathymetry plays in propagation, it also confirmed that empirical measurements from the Gulf of Mexico survey used to inform buffer and exclusion zones in shallow water and model results adapted for intermediate water depths also over-estimated the size of the zones for the Washington survey. Preliminary results were presented in a poster session at the American Geophysical Union fall meeting in December 2013 (Crone *et al.,* 2013; available at: *http://berna.ldeo.columbia.edu/agu2013/agu2013.pdf*) and a peer-reviewed journal publication was published in 2014. NMFS will review and consider the final results and how they reflect on the L–DEO model.

L–DEO has conveyed to NMFS that additional modeling efforts to refine the process and conduct comparative analysis may be possible with the availability of research funds and other resources. Obtaining research funds is typically through a competitive process, including those conducted by federal agencies. The use of models for calculating buffer and exclusion zone radii and developing take estimates is not a requirement of the MMPA Incidental Take Authorization (ITA) process. Furthermore, NMFS does not provide specific guidance on model parameters nor prescribe a specific model for applicants as part of the MMPA ITA process. There is a level of variability not only with parameters in models, but the uncertainty associated with data used in models, and therefore the quality of the model results submitted by applicants. NMFS, however, takes all of this variability into consideration when evaluating applications. Applicants use models as a tool to evaluate potential impacts, to estimate the number of takes of marine mammals, and for mitigation purposes. NMFS takes into consideration the model used and its results in determining the potential impacts to marine mammals; however, it is just a component of NMFS's analysis during the MMPA consultation process, as NMFS also takes into consideration other factors associated with the proposed action, such as geographic location, duration of activities, context, intensity, etc. NMFS considers takes generated by modeling as estimates, not absolutes, and they are factored into NMFS's analysis accordingly. Of broader note, NMFS is currently pursuing methods that include site-specific components to allow us to better cross-check isopleth and propagation predictions submitted by applicants. Using this information, NMFS could potentially recommend modifications to take estimates and/or mitigation zones, as appropriate.

*Comment 5:* The Commission states that NMFS has incorrectly characterized the Commission's past comments as advocating that monitoring conducted by an authorized entity always be sufficient to quantify ''the exact number of takes'' that occurred during the action. While that may be ideal, the Commission recognizes that it cannot be achieved regularly in practice. The Commission believes that NMFS should design monitoring and reporting requirements that provide considerably more than rough, qualitative information. The specified monitoring and reporting requirements need to be sufficient to provide reasonably accurate information on the numbers of marine mammals being taken and the manner in which they are taken, not merely better information on the qualitative nature of the impacts.

Also, the Commission recommends that NMFS consult with NSF, ASC, and other relevant entities (*e.g.,* L–DEO, USGS, SIO) to develop, validate, and implement a monitoring program that provides a scientifically sound, reasonably accurate assessment of the types of marine mammal takes and reliable estimates of the numbers of marine mammals taken by incorporating applicable g(0) and f(0) values. NMFS recently stated that it does not generally believe that post-activity take estimates using f(0) and g(0) are required to meet the monitoring requirement of the MMPA in the context of the NSF and L–DEO monitoring plan. However, NMFS did agree that developing and incorporating a way to better interpret the results of their monitoring (perhaps a simplified or generalized version of g(0) and f(0) is a good idea. NMFS further stated that it would consult with the Commission and NMFS scientists prior to finalizing the recommendations.

*Response:* As described in this notice, NMFS believes that the model (used to estimate take), which incorporates animal density, estimated sound propagation of the source, and predicted total area ensonified makes a reasonably accurate prediction of the number of animals likely taken (with the acknowledgement that it does not consider the degree to which animals might avoid the loud source, which likely results in somewhat of an overestimate). Post survey, comparing the actual total area ensonified relative to the predicted area should result in an even more accurate evaluation of exposed animals, which can then be compared to the numbers of animals actually detected to get some sense of how the estimates compare to real likely exposure. Generally for past NSF-funded seismic surveys, the number of detected marine mammals is a small percentage of the predicted exposures. This is expected because marine mammals spend a large portion of their time underwater and they are not expected to always be seen, but the detections allow us to do a broad check to ensure that estimates are not grossly off-base, and to potentially make changes in action or future estimates if appropriate.

In order to make the most accurate estimate of marine mammals based on visual detections, marine mammal scientists use systematic methods (on dedicated marine mammal surveys) to consider both the percentage of time a species spends at the surface (g(0)), as well as the likelihood of seeing it when it is there (f(0)), which is based on environmental conditions, observer capabilities, animal characteristics (behavior at surface, group size, blow size, etc.) distance of animal from the observer, and other factors. Using all of these factors, combined with a well-planned randomized sampling design, a correction factor may be developed to estimate the number of undetected animals based on the detected animals.

The Commission suggests that NMFS require something similar of NSF. Collecting all of the necessary information to inform the development of such a correction factor (which may include biological information about less known species in addition to environmental and detection-based information) to apply to NSF observer detections while also operating the vessel in the manner necessary to achieve the primary goal of NSF's survey would be impractical. More importantly, one of the key factors in developing this type of correction factor is ensuring that the sampling design doesn't unevenly represent some factor that actually affects the density of the surveyed animal. In this scenario, the germane observations are made while the airguns are on, which clearly effects the density of the animals. While we do know the direction in which the airgun operation likely affects density of marine mammals in the vicinity of the source (lowering it), we know very little else and responses and density in the vicinity to airguns would vary across species and context (environmental, operational, animal behavioral state, etc.) in a manner that we do not have the information to quantify, rendering any such correction factor developed using information collected during airgun operation inaccurate.

That said, as the Commission notes, there may be some value in trying to develop some sort of general correction factor for species that suggests a minimal correction factor that can be justified using, perhaps, existing information on availability of species for detection at the surface (if available) or generalized existing information about sightability at different distances to help estimate likely exposures post-survey. However, given the information laid out above, combined with the patchy distribution of marine mammals and their likely overlay with the relatively narrow strip of water ensonified by the NSF survey, caution would be warranted in how any resulting post-survey exposure estimates using such a correction factor were applied. NMFS is open to considering any specific recommendations that the Commission may have regarding generalized correction factors based on existing information and will discuss with the Commission prior to making any recommendations of this nature to applicants. However, we believe that requiring NSF to collect information in the field to support the development of survey-specific correction factors is not appropriate.

*Comment 6:* One private citizen opposed the issuance of an IHA by NMFS and the conduct of the low-energy seismic survey in the Ross Sea by NSF and ASC. The commenter stated that NMFS should protect marine life from harm.

*Response:* As described in detail in the notice of the proposed IHA (79 FR 68512, November 17, 2014), as well as in this document, NMFS does not believe NSF and ASC's low-energy seismic survey would cause injury, serious injury, or mortality to marine mammals, and no take by injury, serious injury, or mortality is authorized. The required monitoring and mitigation measures that NSF and ASC will implement during the low-energy seismic survey will further reduce the potential impacts on marine mammals to the lowest level practicable. NMFS anticipates only behavioral disturbance to occur during the conduct of the low-energy seismic survey.

**Description of the Marine Mammals in the Specified Geographic Area of the Specified Activity**

Various international and national Antarctic research programs (*e.g.,* Antarctic Pack Ice Seals Program, Commission for the Conservation of Antarctic Marine Living Resources, Japanese Whale Research Program under Special Permit in the Antarctic, and NMFS National Marine Mammal Laboratory), academic institutions (*e.g.,* University of Canterbury, Tokai University, Virginia Institute of Marine Sciences, University of Genova), and other organizations (*e.g.,* National Institute of Water and Atmospheric Research Ltd., Institute of Cetacean Research, Nippon Kaiyo Co., Ltd., H.T. Harvey & Associates, Center for Whale Research) have conducted scientific cruises and/or examined data on marine mammal sightings along the coast of Antarctica, Southern Ocean, and Ross Sea, and these data were considered in evaluating potential marine mammals in the planned action area. Records from the International Whaling Commission's International Decade of Cetacean Research (IDCR), Southern Ocean Collaboration Program (SOC), and Southern Ocean Whale and Ecosystem Research (IWC–SOWER) circumpolar cruises were also considered.

The marine mammals that generally occur in the planned action area belong to three taxonomic groups: Mysticetes (baleen whales), odontocetes (toothed whales), and pinnipeds (seals and sea lions). The marine mammal species that could potentially occur within the Southern Ocean in proximity to the action area in the Ross Sea include 20 species of cetaceans and 7 species of pinnipeds.

The Ross Sea and surrounding Southern Ocean is a feeding ground for a variety of marine mammals. In general, many of the species present in the sub-Antarctic study area may be present or migrating through the Southern Ocean in the Ross Sea during the planned low-energy seismic survey. Many of the species that may be potentially present in the study area seasonally migrate to higher latitudes near Antarctica. In general, most large whale species (except for the killer whale) migrate north in the middle of the austral winter and return to Antarctica in the early austral summer.

The five species of pinnipeds that are found in the Southern Ocean and will most likely be present in the planned study area include the crabeater (*Lebodon carcinophagus*), leopard (*Hydrurga leptonyx*), Ross (*Ommatophoca rossii*), Weddell (*Leptonychotes weddellii*), and southern elephant (*Mirounga leonina*) seal. Many of these pinniped species breed on either the pack ice or subantarctic islands. Crabeater seals are more common in the northern regions of the Ross Sea, concentrated in the pack ice over the Antarctic Slope Front. Leopard seals are often seen during the austral summer off the Adelie penguin (*Pygoscelis adeliae*) rookeries of Ross Island. Ross seals are often found in pack ice and open waters, they seem to prefer dense consolidated pack ice rather than the open pack ice that is frequented by crabeater seals. The Weddell seal is considered to be common and frequently encountered in the Ross Sea. Southern elephant seals may enter the Ross Sea in the austral summer from breeding and feeding grounds further to the north. They are considered uncommon in the Ross Sea. The southern elephant seal and Antarctic fur seal have haul-outs and rookeries that are located on subantarctic islands and prefer beaches. Antarctic (*Arctocephalus gazella*) and Subantarctic (*Arctocephalus tropicalis*) fur seals preferred habitat is not in the proposed study area, and thus it is not considered further in this document.

Marine mammal species likely to be encountered in the planned study area that are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), includes the southern right (*Eubalaena australis*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whale.

In addition to the 13 species known to occur in the Ross Sea, there are 7 cetacean species with ranges that are

known to potentially occur in the waters of the proposed study area: Southern right, Cuvier's beaked (*Ziphius cavirostris*), Gray's beaked (*Mesoplodon grayi*), Hector's beaked (*Mesoplodon hectori*), and spade-toothed beaked (*Mesoplodon traversii*) whale, southern right whale dolphin (*Lissodelphis peronii*), and spectacled porpoise (*Phocoena dioptrica*). However, these species have not been sighted and are not expected to occur where the planned activities will take place. These species are not considered further in this document. Table 4 (below) presents information on the habitat, occurrence, distribution, abundance, population, and conservation status of the species of marine mammals that may occur in the planned study area during January to February 2015.

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE LOW-ENERGY SEISMIC SURVEY AREA IN THE ROSS SEA

[See text and Tables 6 and 7 in NSF and ASC's IHA application for further details]

| Species | Habitat | Occurrence | Range | Population estimate | ESA [1] | MMPA [2] |
|---|---|---|---|---|---|---|
| **Mysticetes** | | | | | | |
| Southern right whale (*Eubalaena australis*). | Coastal, pelagic | Rare | Circumpolar 20 to 55° South. | 8,000 [3] to 15,000 [4] | EN | D. |
| Humpback whale (*Megaptera novaeangliae*). | Pelagic, nearshore waters, and banks. | Common | Cosmopolitan | 35,000 to 40,000 [3]—Worldwide 9,484 [5]—Scotia Sea and Antarctica Peninsula. | EN | D. |
| Minke whale (*Balaenoptera acutorostrata* including dwarf sub-species). | Pelagic and coastal | Common | Circumpolar—Southern Hemisphere to 65° South. | NA | NL | NC. |
| Antarctic minke whale (*Balaenoptera bonaerensis*). | Pelagic, ice floes | Common | 7° South to ice edge (usually 20 to 65° South). | Several 100,000 [3]—Worldwide 18,125 [5]—Scotia Sea and Antarctica Peninsula. | NL | NC. |
| Sei whale (*Balaenoptera borealis*). | Primarily offshore, pelagic. | Uncommon | Migratory, Feeding Concentration 40 to 50° South. | 80,000 [3]—Worldwide | EN | D. |
| Fin whale (*Balaenoptera physalus*). | Continental slope, pelagic. | Common | Cosmopolitan, Migratory. | 140,000 [3]—Worldwide 4,672 [5]—Scotia Sea and Antarctica Peninsula. | EN | D. |
| Blue whale (*Balaenoptera musculus;* including pygmy blue whale [*Balaenoptera musculus brevicauda*]). | Pelagic, shelf, coastal | Uncommon | Migratory Pygmy blue whale—North of Antarctic Convergence 55° South. | 8,000 to 9,000 [3]—Worldwide 1,700 [6]—Southern Ocean. | EN | D. |
| **Odontocetes** | | | | | | |
| Sperm whale (*Physeter macrocephalus*). | Pelagic, deep sea | Common | Cosmopolitan, Migratory. | 360,000 [3]—Worldwide 9,500 [3]—Antarctic. | EN | D. |
| Arnoux's beaked whale (*Berardius arnuxii*). | Pelagic | Common | Circumpolar in Southern Hemisphere, 24 to 78° South. | NA | NL | NC. |
| Cuvier's beaked whale (*Ziphius cavirostris*). | Pelagic | Rare | Cosmopolitan | NA | NL | NC. |
| Southern bottlenose whale (*Hyperoodon planifrons*). | Pelagic | Common | Circumpolar—30° South to ice edge. | 500,000 [3]—South of Antarctic Convergence. | NL | NC. |
| Gray's beaked whale (*Mesoplodon grayi*). | Pelagic | Rare | 30° South to Antarctic waters. | NA | NL | NC. |
| Hector's beaked whale (*Mesoplodon hectori*). | Pelagic | Rare | Circumpolar—cool temperate waters of Southern Hemisphere. | NA | NL | NC. |
| Spade-toothed beaked whale (*Mesoplodon traversii*). | Pelagic | Rare | Circumantarctic | NA | NL | NC. |
| Strap-toothed beaked whale (*Mesoplodon layardii*). | Pelagic | Common | 30° South to Antarctic Convergence. | NA | NL | NC. |
| Killer whale (*Orcinus orca*) | Pelagic, shelf, coastal, pack ice. | Common | Cosmopolitan | 80,000 [3]—South of Antarctic Convergence 25,000 [7]—Southern Ocean. | NL | NC. |
| Long-finned pilot whale (*Globicephala melas*). | Pelagic, shelf, coastal | Common | Circumpolar—19 to 68° South in Southern Hemisphere. | 200,000 [3 8]—South of Antarctic Convergence. | NL | NC. |

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE LOW-ENERGY SEISMIC SURVEY AREA IN THE ROSS SEA—Continued

[See text and Tables 6 and 7 in NSF and ASC's IHA application for further details]

| Species | Habitat | Occurrence | Range | Population estimate | ESA [1] | MMPA [2] |
|---|---|---|---|---|---|---|
| Southern right whale dolphin (*Lissodelphis peronii*). | Pelagic | Rare | 12 to 65° South | NA | NL | NC. |
| Hourglass dolphin (*Lagenorhynchus cruciger*). | Pelagic, ice edge | Common | 33° South to pack ice | 144,000 [3]—South of Antarctic Convergence. | NL | NC. |
| Spectacled porpoise (*Phocoena dioptrica*). | Coastal, pelagic | Rare | Circumpolar—Southern Hemisphere. | NA | NL | NC. |
| **Pinnipeds** | | | | | | |
| Crabeater seal (*Lobodon carcinophaga*). | Coastal, pack ice | Common | Circumpolar—Antarctic. | 5,000,000 to 15,000,000 [3 9]—Worldwide. | NL | NC. |
| Leopard seal (*Hydrurga leptonyx*). | Pack ice, sub-Antarctic islands. | Common | Sub-Antarctic islands to pack ice. | 220,000 to 440,000 [3 10]—Worldwide. | NL | NC. |
| Ross seal (*Ommatophoca rossii*) | Pack ice, smooth ice floes, pelagic. | Common | Circumpolar—Antarctic. | 130,000 [3] 20,000 to 220,000 [14]—Worldwide. | NL | NC. |
| Weddell seal (*Leptonychotes weddellii*). | Fast ice, pack ice, sub-Antarctic islands. | Common | Circumpolar—Southern Hemisphere. | 500,000 to 1,000,000 [3 11]—Worldwide. | NL | NC. |
| Southern elephant seal (*Mirounga leonina*). | Coastal, pelagic, sub-Antarctic waters. | Uncommon | Circumpolar—Antarctic Convergence to pack ice. | 640,000 [12] to 650,000 [3]—Worldwide 470,000—South Georgia Island [14]. | NL | NC. |
| Antarctic fur seal (*Arctocephalus gazella*). | Shelf, rocky habitats | Rare | Sub-Antarctic islands to pack ice edge. | 1,600,000 [13] to 3,000,000 [3]—Worldwide. | NL | NC. |
| Subantarctic fur seal (*Arctocephalus tropicalis*). | Shelf, rocky habitats | Rare | Subtropical front to sub-Antarctic islands and Antarctica. | Greater than 310,000 [3]—Worldwide. | NL | NC. |

NA = Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[2] U.S. Marine Mammal Protection Act: D = Depleted, S = Strategic, NC = Not Classified.
[3] Jefferson *et al.,* 2008.
[4] Kenney, 2009.
[5] Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) survey area (Reilly *et al.,* 2004)
[6] Sears and Perrin, 2009.
[7] Ford, 2009.
[8] Olson, 2009.
[9] Bengston, 2009.
[10] Rogers, 2009.
[11] Thomas and Terhune, 2009.
[12] Hindell and Perrin, 2009.
[13] Arnould, 2009.
[14] Academic Press, 2009.

Refer to sections 3 and 4 of NSF and ASC's IHA application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these other marine mammal species and their occurrence in the planned action area. The IHA application also presents how NSF and ASC calculated the estimated densities for the marine mammals in the proposed study area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the IHA.

**Potential Effects of the Specified Activity on Marine Mammals**

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.,* seismic airgun operation, vessel movement, gear deployment, and icebreaking) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measureable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will

consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low-frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia* spp., the franciscana [*Pontoporia blainvillei*], and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Phocid pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz;
- Otariid pinnipeds in water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 18 marine mammal species (13 cetacean and 5 pinniped species) are likely to occur in the low-energy seismic survey area. Of the 13 cetacean species likely to occur in NSF and ASC's action area, 6 are classified as low-frequency cetaceans (humpback, minke, Antarctic minke, sei, fin, and blue whale), and 7 are classified as mid-frequency cetaceans (sperm, Arnoux's beaked, southern bottlenose, strap-toothed beaked, killer, and long-finned pilot whale, and hourglass dolphin) (Southall *et al.,* 2007). Of the 5 pinniped species likely to occur in NSF and ASC's action area, all are classified as phocid pinnipeds (crabeater, leopard, Ross, Weddell, and southern elephant seal) (Southall *et al.,* 2007). A species functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the study area. The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the planned project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term. NMFS described the range of potential effects from the specified activity in the notice of the proposed IHA (79 FR 68512, November 17, 2014). A more comprehensive review of these issues can be found in the ''Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement prepared for Marine Seismic Research that is funded by the National Science Foundation and conducted by the U.S. Geological Survey'' (NSF/USGS, 2011) and L–DEO's ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Atlantic Ocean off Cape Hatteras, September to October 2014.''

The notice of the proposed IHA (79 FR 68512, November 17, 2014) included a discussion of the effects of sounds from airguns, bathymetric surveys, core sampling, icebreaking activities, and other acoustic devices and sources on mysticetes and odontocetes, including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. The notice of the proposed IHA (79 FR 68512, November 17, 2014) also included a discussion of the effects of vessel movement and collisions as well as entanglement. NMFS refers the readers to NSF and ASC's IHA application and IEE/EA for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels.

**Anticipated Effects on Marine Mammal Habitat, Fish, and Invertebrates**

NMFS included a detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, in the notice of the proposed IHA (79 FR 68512, November 17, 2014). The low-energy seismic survey is not anticipated to have any permanent impact on habitats used by the marine mammals in the study area, including the food sources they use (*i.e.,* fish and invertebrates). Additionally, no physical damage to any habitat is anticipated as a result of conducting airgun operations during the low-energy seismic survey. While NMFS anticipates that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible, which was considered in further detail earlier in the notice of the proposed IHA (79 FR 68512, November 17, 2014), as behavioral modification. The main impact associated with the planned activity will be temporarily elevated noise levels and the associated direct effects on marine mammals.

**Mitigation**

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses (where relevant).

NSF and ASC reviewed the following source documents and have incorporated a suite of appropriate mitigation measures into their project description.

(1) Protocols used during previous NSF and USGS-funded seismic research cruises as approved by NMFS and detailed in the ''Final Programmatic

Environmental Impact Statement/ Overseas Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey;''

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the adverse impacts from acoustic stimuli associated with the planned activities, NSF, ASC, and their designees must implement the following mitigation measures for marine mammals:

(1) Exclusion zones around the sound source;

(2) Speed and course alterations;

(3) Shut-down procedures; and

(4) Ramp-up procedures.

*Exclusion Zones*—During pre-planning of the cruise, the smallest airgun array was identified that could be used and still meet the geophysical scientific objectives. NSF and ASC use radii to designate exclusion and buffer zones and to estimate take for marine mammals. Table 3 (see below) shows the distances at which one would expect to receive three sound levels (160, 180, and 190 dB) from the two GI airgun array. The 180 and 190 dB level shut-down criteria are generally applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000). NSF and ASC used these levels to establish the exclusion and buffer zones. Table 3. Predicted and modeled (two 105 $in^3$ GI airgun array) distances to which sound levels ≥ 160, 180, and 190 dB re 1 μPa (rms) could be received in deep water during the low-energy seismic survey in the Ross Sea, January to February 2015.

| Source and total volume | Tow depth (m) | Water depth (m) | Predicted RMS radii distances (m) for 2 GI Airgun Array | | |
|---|---|---|---|---|---|
| | | | 160 dB | 180 dB | 190 dB |
| Two GI Airguns (105 $in^3$). | 3 to 4 ..... | Intermediate (100 to 1,000) .. | 1,109 (3,638.5 ft). | 111 (364.2 ft) .... | 36 (118.1 ft) *100 will be used for pinnipeds as described in NSF/USGS PEIS* |

Based on the NSF/USGS PEIS and Record of Decision, for situations in which incidental take of marine mammals is anticipated, NSF and ASC have established standard exclusion zones of 100 m for cetaceans and pinnipeds for all low-energy acoustic sources in water depths greater than 100 m. While NMFS views the 100 m for pinnipeds appropriate, NMFS is requiring an exclusion zone of 111 m for cetaceans based on the predicted and modeled values by L–DEO and to be more conservative. See below for further explanation.

Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 45 $in^3$ Nucleus G airguns, in relation to distance and direction from the airguns (see Figure 2 of Appendix B of the IHA application). In addition, propagation measurements of pulses from two GI airguns have been reported for shallow water (approximately 30 m [98.4 ft] depth) in the GOM (Tolstoy *et al.,* 2004). However, measurements were not made for the two GI airguns in deep water. The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airguns where sound levels are predicted to be 190, 180, and 160 dB re 1 μPa (rms) in intermediate water were determined (see Table 3 above).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern GOM in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009). Results of the 18 and 36 airgun arrays are not relevant for the two GI airguns to be used in the planned low-energy seismic survey because the airgun arrays are not the same size or volume. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). Measurements were not made for the two GI airgun array in deep water; however, NSF and ASC plan to use the safety radii predicted by L–DEO's model for the proposed GI airgun operations in intermediate water, although they are likely conservative given the empirical results for the other arrays.

Based on the modeling data, the outputs from the pair of 105 $in^3$ GI airguns planned to be used during the low-energy seismic survey are considered a low-energy acoustic source in the NSF/USGS PEIS (2011) for marine seismic research. A low-energy seismic source was defined in the NSF/USGS PEIS as an acoustic source whose received level at 100 m is less than 180 dB. The NSF/USGS PEIS also established for these low-energy sources, a standard exclusion zone of 100 m for all low-energy sources in water depths greater than 100 m. This standard 100 m exclusion zone will be used during the low-energy seismic survey. The 180 and 190 dB (rms) radii are typically used as shut-down criteria applicable to cetaceans and pinnipeds, respectively; these levels were used to establish exclusion zones. Therefore, the assumed 180 and 190 dB radii are 100 m for intermediate and deep water. If the PSO detects a marine mammal within or about to enter the appropriate exclusion zone, the airguns will be shut-down immediately.

*Speed and Course Alterations*—If a marine mammal is detected outside the exclusion zone and, based on its position and direction of travel (relative motion), is likely to enter the exclusion zone, changes of the vessel's speed and/or direct course will be considered if this does not compromise operational safety or damage the deployed equipment. This will be done if operationally practicable while minimizing the effect on the planned science objectives. For marine seismic surveys towing large streamer arrays, course alterations are not typically implemented due to the vessel's limited maneuverability. However, the *Palmer* will be towing a relatively short hydrophone streamer, so its maneuverability during operations with the hydrophone streamer will not be limited as vessels towing long streamers, thus increasing the potential to implement course alterations, if necessary. After any such speed and/or course alteration is begun, the marine mammal activities and movements relative to the seismic vessel will be closely monitored to ensure that the marine mammal does not approach within the exclusion zone. If the marine mammal appears likely to enter the exclusion zone, further mitigation actions will be taken, including further speed and/or course alterations, and/or

shut-down of the airgun(s). Typically, during airgun operations, the source vessel is unable to change speed or course, and one or more alternative mitigation measures will need to be implemented.

*Shut-down Procedures*—If a marine mammal is detected outside the exclusion zone for the airgun(s) and the vessel's speed and/or course cannot be changed to avoid having the animal enter the exclusion zone, NSF and ASC will shut-down the operating airgun(s) before the animal is within the exclusion zone. Likewise, if a marine mammal is already within the exclusion zone when first detected, the seismic source will be shut-down immediately.

Following a shut-down, NSF and ASC will not resume airgun activity until the marine mammal has cleared the exclusion zone. NSF and ASC will consider the animal to have cleared the exclusion zone if:

- A PSO has visually observed the animal leave the exclusion zone, or
- A PSO has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (*i.e.,* small odontocetes and pinnipeds), or 30 minutes for species with longer dive durations (*i.e.,* mysticetes and large odontocetes, including sperm, killer, and beaked whales).

Although power-down procedures are often standard operating practice for seismic surveys, they will not be used during this planned low-energy seismic survey because powering-down from two airguns to one airgun will make only a small difference in the exclusion zone(s) that probably will not be enough to allow continued one-airgun operations if a marine mammal came within the exclusion zone for two airguns.

*Ramp-up Procedures*—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns and to provide the time for them to leave the area, avoiding any potential injury or impairment of their hearing abilities. NSF and ASC will follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a shut-down has exceeded that period. NSF and ASC proposed that, for the present cruise, this period will be approximately 15 minutes. SIO, L–DEO, and USGS have used similar periods (approximately 15 minutes) during previous low-energy seismic surveys.

Ramp-up will begin with a single GI airgun (105 $in^3$). The second GI airgun (105 $in^3$) will be added after 5 minutes. During ramp-up, the PSOs will monitor the exclusion zone, and if marine mammals are sighted, a shut-down will be implemented as though both GI airguns were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, NSF and ASC will not commence the ramp-up. Given these provisions, it is likely that the airgun array will not be ramped-up from a complete shut-down during low light conditions, at night, or in thick fog, because the outer part of the exclusion zone for that array will not be visible during those conditions. If one airgun has been operating, ramp-up to full power will be permissible during low light, at night, or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. NSF and ASC will not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones.

*Mitigation Conclusions*

NMFS has carefully evaluated the applicant's mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance of minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of time (total number or number at biologically important time or location) individuals will be exposed to received levels of airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of airguns, or other activities, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on NMFS's evaluation of the applicant's measures, as well as other measures considered by NMFS or recommended by the public, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Monitoring and Reporting**

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. NSF and ASC submitted a marine

mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the IHA application. The plan has not been modified or supplemented between the notice of the proposed IHA (79 FR 68512, November 17, 2014) and this final notice announcing the issuance of the IHA, as none of the comments or new information received from the public during the public comment period required a change to the plan.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of sound (airguns) that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information); and
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

*Monitoring*

NSF and ASC will conduct marine mammal monitoring during the low-energy seismic survey, in order to implement the mitigation measures that require real-time monitoring and to satisfy the anticipated monitoring requirements of the IHA. NSF and ASC's ''Monitoring Plan'' is described below this section. NSF and ASC understand that this monitoring plan will be subject to review by NMFS and that refinements may be required. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. NSF and ASC are prepared to discuss coordination of their monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

*Vessel-Based Visual Monitoring*

NSF and ASC's PSOs will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during icebreaking activities, daytime airgun operations and during any ramp-ups of the airguns at night. PSOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations and after an extended shut-down (*i.e.,* greater than approximately 15 minutes for this low-energy seismic survey). When feasible, PSOs will conduct observations during daytime periods when the seismic system is not operating (such as during transits) for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSO observations, the airguns will be shut-down when marine mammals are observed within or about to enter a designated exclusion zone.

During seismic operations in the Ross Sea, at least three PSOs will be based aboard the *Palmer.* At least one PSO will stand watch at all times while the *Palmer* is operating airguns during the low-energy seismic survey; this procedure will also be followed when the vessel is in transit and conducting icebreaking. NSF and ASC will appoint the PSOs with NMFS's concurrence. The lead PSO will be experienced with marine mammal species in the Ross Sea and/or Southern Ocean, the second and third PSOs will receive additional specialized training from the lead PSO to ensure that they can identify marine mammal species commonly found in the Ross Sea and Southern Ocean. Observations will take place during ongoing daytime operations and ramp-ups of the airguns. During the majority of seismic operations, at least one PSO will be on duty from observation platforms (*i.e.,* the best available vantage point on the source vessel) to monitor marine mammals near the seismic vessel. PSO(s) will be on duty in shifts no longer than 4 hours in duration. Other crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the low-energy seismic survey, the crew will be given additional instruction on how to do so.

The *Palmer* is a suitable platform for marine mammal observations and will serve as the platform from which PSOs will watch for marine mammals before and during seismic operations. Two locations are likely as observation stations onboard the *Palmer.* One observing station is located on the bridge level, with the PSO eye level at approximately 16.5 m (54.1 ft) above the waterline and the PSO will have a good view around the entire vessel. In addition, there is an aloft observation tower for the PSO approximately 24.4 m (80.1 ft) above the waterline that is protected from the weather, and affords PSOs an even greater view. The approximate view around the vessel from the bridge is 270° and from the aloft observation tower is 360°.

Standard equipment for PSOs will be reticle binoculars. Night-vision equipment will not be available or necessary as there will be 24-hour daylight or nautical twilight during the cruise. The PSOs will be in communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shut-down. During daylight, the PSO(s) will scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7 x 50 Fujinon FMTRC–SX) and the naked eye. These binoculars will have a built-in daylight compass. Estimating distances is done primarily with the reticles in the binoculars. The PSO(s) will be in direct (radio) wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory during seismic operations, so they can advise the vessel operator, science support personnel, and the science party promptly of the need for avoidance maneuvers or a shut-down of the seismic source. PSOs will monitor for the presence of pinnipeds and cetaceans during icebreaking activities, and will be limited to those marine mammal species in proximity to the ice margin habitat. Observations within the buffer zone will also include pinnipeds that may be present on the surface of the sea ice (*i.e.,* hauled-out) and that could potentially dive into the water as the vessel approaches, indicating disturbance from noise generated by icebreaking activities).

When a marine mammal is detected within or about to enter the designated exclusion zone, the airguns will immediately be shut-down, unless the

vessel's speed and/or course can be changed to avoid having the animal enter the exclusion zone. The PSO(s) will continue to maintain watch to determine when the animal is outside the exclusion zone by visual confirmation. Airgun operations will not resume until the animal is confirmed to have left the exclusion zone, or is not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, killer, and beaked whales).

*PSO Data and Documentation*

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment (as defined in the MMPA). They will also provide information needed to order a shut-down of the airguns when a marine mammal is within or near the exclusion zone. Observations will also be made during icebreaking activities as well as daylight periods when the *Palmer* is underway without seismic airgun operations (*i.e.,* transits to, from, and through the study area) to collect baseline biological data.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the seismic source or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or shut-down), sea state, wind force, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding ramp-ups or shut-downs will be recorded in a standardized format. Data will be entered into an electronic database. The data accuracy will be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database by the PSOs at sea. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide the following information:

1. The basis for real-time mitigation (airgun shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without airgun operations and icebreaking activities.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without airgun operations and icebreaking activities.

*Reporting*

NSF and ASC will submit a comprehensive report to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report submitted to NMFS will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations and all marine mammal sightings (*i.e.,* dates, times, locations, activities, and associated seismic survey activities). The report will include, at a minimum:

- Summaries of monitoring effort—total hours, total distances, and distribution of marine mammals through the study period accounting for Beaufort sea state and other factors affecting visibility and detectability of marine mammals;
- Analyses of the effects of various factors influencing detectability of marine mammals including Beaufort sea state, number of PSOs, and fog/glare;
- Species composition, occurrence, and distribution of marine mammals sightings including date, water depth, numbers, age/size/gender, and group sizes, and analyses of the effects of airgun operations and icebreaking activities;
- Sighting rates of marine mammals during periods with and without airgun operations and icebreaking activities (and other variables that could affect detectability);
- Initial sighting distances versus airgun operations and icebreaking activity state;
- Closest point of approach versus airgun operations and icebreaking activity state;
- Observed behaviors and types of movements versus airgun operations and icebreaking activity state;
- Numbers of sightings/individuals seen versus airgun operations and icebreaking activity state; and
- Distribution around the source vessel versus airgun operations and icebreaking activity state.

The report will also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways. NMFS will review the draft report and provide any comments it may have, and NSF and ASC will incorporate NMFS's comments and prepare a final report. After the report is considered final, it will be publicly available on the NMFS Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

*Reporting Prohibited Take*—In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), NSF and ASC shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with NSF and ASC to

determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. NSF and ASC may not resume their activities until notified by NMFS via letter or email, or telephone.

*Reporting an Injured or Dead Marine Mammal with an Unknown Cause of Death*—In the event that NSF and ASC discover an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), NSF and ASC shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS shall work with NSF and ASC to determine whether modifications in the activities are appropriate.

*Reporting an Injured or Dead Marine Mammal Not Related to the Activities*—In the event that NSF and ASC discover an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate or advanced decomposition, or scavenger damage), NSF and ASC shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* within 24 hours of discovery. NSF and ASC shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

**Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

TABLE 4—NMFS'S CURRENT UNDERWATER ACOUSTIC EXPOSURE CRITERIA

| Impulsive (non-explosive) sound | | |
|---|---|---|
| Criterion | Criterion definition | Threshold |
| Level A harassment (injury) | Permanent threshold shift (PTS) (any level above that which is known to cause TTS). | 180 dB re 1 μPa-m (root means square [rms]) (cetaceans) 190 dB re 1 μPa-m (rms) (pinnipeds). |
| Level B harassment | Behavioral disruption (for impulsive noise) | 160 dB re 1 μPa-m (rms). |
| Level B harassment | Behavioral disruption (for continuous noise) | 120 dB re 1 μPa-m (rms). |

Level B harassment is anticipated and authorized as a result of the low-energy seismic survey in the Ross Sea. Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array and icebreaking activities are expected to result in the behavioral disturbance of some marine mammals. There is no evidence that the planned activities for which NSF and ASC seek the IHA could result in injury, serious injury, or mortality. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe NSF and ASC's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be affected during the low-energy seismic survey in the Ross Sea. The estimates are based on a consideration of the number of marine mammals that could be harassed during the approximately 200 hours and 1,750 km of seismic airgun operations with the two GI airgun array to be used and 500 km of icebreaking activities.

During simultaneous operations of the airgun array and the other sound sources, any marine mammals close enough to be affected by the single and multi-beam echosounders, ADCP, or sub-bottom profiler will already be affected by the airguns. During times when the airguns are not operating, it is unlikely that marine mammals will exhibit more than minor, short-term responses to the echosounders, ADCPs, and sub-bottom profiler given their characteristics (*e.g.,* narrow, downward-directed beam) and other considerations described previously in the notice of the proposed IHA (79 FR 68512, November 17, 2014). Therefore, for this activity, take was not authorized specifically for these sound sources beyond that which is already planned to be authorized for airguns and icebreaking activities.

There are no stock assessments and very limited population information available for marine mammals in the Ross Sea. Published estimates of marine mammal densities are limited for the planned low-energy seismic survey's action area. Available density estimates (using number of animals per $km^2$) from the Naval Marine Species Density Database (NMSDD) (NAVFAC, 2012) were used for one mysticete and one odontocete (*i.e.,* sei whale and Arnoux's beaked whale). Densities for minke (including the dwarf sub-species) whales were unavailable and the densities for Antarctic minke whales were used as proxies.

For other mysticetes and odontocetes, reported sightings data from one previous research survey (*i.e.,* International Whaling Commission Southern Ocean Whale and Ecosystem Research [IWC SOWER]) in the Ross Sea and vicinity were used to identify species that may be present in the proposed action area and to estimate densities. Available sightings data from the 2002 to 2003 IWC SOWER Circumpolar Cruise, Area V (Ensor *et al.,* 2003) were used to estimate densities for five mysticetes (*i.e.,* humpback, Antarctic minke, minke, fin, and blue whale)and six odontocetes (*i.e.,* sperm, southern bottlenose, strap-toothed beaked, killer, long-finned pilot whale and hourglass dolphin). Densities of pinnipeds (*i.e.,* crabeater, leopard, Ross, Weddell, and southern elephant seal) were estimated using data from two surveys (NZAI, 2001; Pinkerton and Bradford-Grieve, n.d.) and dividing the estimated population of animals by the area of the Ross Sea (approximately 300,000 $km^2$ [87,466 $nmi^2$]). While these surveys were not specifically designed to quantify marine mammal densities,

there was sufficient information to develop density estimates.

The densities used for purposes of estimating potential take do not take into account the patchy distributions of marine mammals in an ecosystem, at least on the moderate to fine scales over which they are known to occur. Instead, animals are considered evenly distributed throughout the assessed study area and seasonal movement patterns are not taken into account as none are available.

Some marine mammals that were present in the area during these surveys may not have been observed. Southwell *et al.* (2008) suggested a 20 to 40% sighting factor for pinnipeds, and the most conservative value from Southwell *et al.* (2008) was applied for cetaceans. Therefore, the estimated frequency of sightings data in the notice of the proposed IHA (79 FR 68512, November 17, 2014) and this IHA for cetaceans incorporates a correction factor of 5, which assumes only 20% of the animals present were reported due to sea and other environmental conditions that may have hindered observation, and therefore, there were 5 times more cetaceans actually present. The correction factor (20%) was intended to conservatively account for unobserved (*i.e.,* not sighted and reported) animals.

The pinnipeds that may be present in the study area during the planned action and are expected to be observed occur mostly near pack ice, coastal areas, and rocky habitats on the shelf, and are not prevalent in open sea areas where the low-energy seismic survey will be conducted. Because density estimates for pinnipeds in the sub-Antarctic and Antarctic regions typically represent individuals that have hauled-out of the water, those estimates are not necessarily representative of individuals that are in the water and could be potentially exposed to underwater sounds during the seismic airgun operations and icebreaking activities; therefore, the pinniped densities have been adjusted downward to account for this consideration. Take was not requested for Antarctic and Subantarctic seals because preferred habitat for these species is not within the planned action area. Although there is some uncertainty about the representativeness of the data and the assumptions used in the calculations below, the approach used here is believed to be the best available approach, using the best available science.

TABLE 5—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 120 dB (ICEBREAKING) AND 160 dB (AIRGUN OPERATIONS) DURING NSF AND ASC'S LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 500 km OF TRACKLINES/APPROXIMATELY 21,540 km$^2$ ENSONIFIED AREA FOR ICEBREAKING ACTIVITIES AND APPROXIMATELY 1,750 km OF TRACKLINES/APPROXIMATELY 3,882 km$^2$ [1.109 km × 2 × 1,750 km] ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE ROSS SEA, JANUARY TO FEBRUARY 2015

| Species | Density (# of animals/km$^2$) [1] | Calculated take from seismic airgun operations (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2] | Calculated take from icebreaking operations (i.e., estimated number of individuals exposed to sound levels ≥120 dB re 1 μPa) [3] | Total authorized take | Abundance [4] | Approximate percentage of population estimate (authorized take) [5] | Population trend [6] |
|---|---|---|---|---|---|---|---|
| **Mysticetes** | | | | | | | |
| Southern right whale. | NA | 0 | 0 | 0 | 8,000 to 15,000 ..... | NA ..... | Increasing at 7 to 8% per year. |
| Humpback whale. | 0.0321169 | 125 | 692 | 817 | 35,000 to 40,000—Worldwide 9,484—Scotia Sea and Antarctica Peninsula. | 0.03—Worldwide 9.88—Scotia Sea and Antarctic Peninsula. | Increasing. |
| Antarctic minke whale. | 0.0845595 | 329 | 1,822 | 2,151 | Several 100,000—Worldwide 18,125—Scotia Sea and Antarctica Peninsula. | 11.87—Scotia Sea and Antarctica Peninsula. | Stable. |
| Minke whale (including dwarf minke whale subspecies). | 0.08455 | 329 | 1,822 | 2,151 | NA ..... | NA ..... | NA. |
| Sei whale ..... | 0.0046340 | 18 | 100 | 118 | 80,000—Worldwide .... | 0.15 ..... | NA |
| Fin whale ..... | 0.0306570 | 120 | 661 | 781 | 140,000—Worldwide 4,672—Scotia Sea and Antarctica Peninsula. | 0.56—Worldwide 16.72—Scotia Sea and Antarctica Peninsula. | NA. |
| Blue whale ..... | 0.0065132 | 26 | 141 | 167 | 8,000 to 9,000—Worldwide 1,700—Southern Ocean. | 2.09—Worldwide 9.82—Southern Ocean. | NA. |

TABLE 5—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 120 dB (ICEBREAKING) AND 160 dB (AIRGUN OPERATIONS) DURING NSF AND ASC'S LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 500 km OF TRACKLINES/APPROXIMATELY 21,540 km$^2$ ENSONIFIED AREA FOR ICEBREAKING ACTIVITIES AND APPROXIMATELY 1,750 km OF TRACKLINES/APPROXIMATELY 3,882 km$^2$ [1.109 km × 2 × 1,750 km] ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE ROSS SEA, JANUARY TO FEBRUARY 2015—Continued

| Species | Density (# of animals/km$^2$) [1] | Calculated take from seismic airgun operations (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2] | Calculated take from icebreaking operations (i.e., estimated number of individuals exposed to sound levels ≥120 dB re 1 μPa) [3] | Total authorized take | Abundance [4] | Approximate percentage of population estimate (authorized take) [5] | Population trend [6] |
|---|---|---|---|---|---|---|---|
| **Odontocetes** | | | | | | | |
| Sperm whale ... | 0.0098821 | 39 | 213 | 252 | 360,000—Worldwide 9,500—Antarctic. | 0.07—Worldwide 2.65—Antarctic. | NA. |
| Arnoux's beaked whale. | 0.0134420 | 53 | 290 | 343 | NA ..... | NA ..... | NA. |
| Strap-toothed beaked whale. | 0.0044919 | 18 | 97 | 115 | NA ..... | NA ..... | NA. |
| Southern bottlenose whale. | 0.0117912 | 46 | 254 | 300 | 50,000—South of Antarctic Convergence. | 0.6 ..... | NA. |
| Killer whale ..... | 0.0208872 | 82 | 450 | 532 | 80,000—South of Antarctic Convergence 25,000—Southern Ocean. | 0.67—South of Antarctic Convergence 2.13—Southern Ocean. | NA. |
| Long-finned pilot whale. | 0.0399777 | 156 | 862 | 1,018 | 200,000—South of Antarctic Convergence. | 0.51 ..... | NA. |
| Hourglass dolphin. | 0.0189782 | 74 | 409 | 483 | 144,000—South of Antarctic Convergence. | 0.34 ..... | NA. |
| **Pinnipeds** | | | | | | | |
| Crabeater seal | 0.6800000 | 2,640 | 14,648 | 17,288 | 5,000,000 to 15,000,000—Worldwide. | 0.35 ..... | Increasing. |
| Leopard seal ... | 0.0266700 | 104 | 575 | 679 | 220,000 to 440,000—Worldwide. | 0.31 ..... | NA. |
| Ross seal ..... | 0.0166700 | 65 | 360 | 425 | 130,000 ..... 20,000 to 220,000—Worldwide. | 2.13 ..... | NA. |
| Weddell seal ... | 0.1066700 | 415 | 2,298 | 2,713 | 500,000 to 1,000,000—Worldwide. | 0.54 ..... | NA. |
| Southern elephant seal. | 0.0001300 | 1 | 3 | 4 | 640,000 to 650,000—Worldwide; 470,000—South Georgia Island. | <0.01—Worldwide or South Georgia Island. | Increasing, decreasing, or stable depending on breeding population. |

NA = Not available or not assessed.

[1] Densities based on sightings from IWC SOWER Report 2002, NMSDD, or State of the Ross Sea Region (NZAI, 2001) data.

[2] Calculated take is estimated density (reported density times correction factor) multiplied by the area ensonified to 160 dB (rms) around the planned seismic lines, increased by 25% for contingency.

[3] Calculated take is estimated density (reported density times correction factor) multiplied by the area ensonified to 120 dB (rms) around the planned transit lines where icebreaking activities may occur.

[4] See population estimates for marine mammal species in Table 2 (above).

[5] Total requested authorized takes expressed as percentages of the species or regional populations.

[6] Jefferson *et al.* (2008).

Icebreaking in Antarctic waters will occur, as necessary, between the latitudes of approximately 76 to 78° South and between 165 and 170° West. Based on a historical sea ice extent and the planned tracklines, it is estimated that the *Palmer* will actively break ice up to a distance of 500 km. Based on the ship's speed of 5 kts under moderate ice

conditions, this distance represents approximately 54 hours of icebreaking activities. This calculation is likely an overestimation because icebreakers often follow leads when they are available and thus do not break ice at all times. The estimated number of takes for pinnipeds accounts for both animals that may be in the water and those hauled-out on ice surfaces. While the number of cetaceans that may be encountered within the ice margin habitat will be expected to be less than open water, the estimates utilize densities for open water and therefore represent conservative estimates.

Numbers of marine mammals that might be present and potentially disturbed are estimated based on the available data about marine mammal distribution and densities in the planned Ross Sea study area. NSF and ASC estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations and greater than or equal to 120 dB re 1 μPa (rms) for icebreaking activities on one or more occasions by considering the total marine area that will be within the 160 dB radius around the operating airgun array and 120 dB radius for icebreaking activities on at least one occasion and the expected density of marine mammals in the area (in the absence of the a seismic survey and icebreaking activities). The number of possible exposures can be estimated by considering the total marine area that will be within the 160 dB radius (the diameter is 1,109 m multiplied by 2) around the operating airguns. The ensonified area for icebreaking was estimated by multiplying the distance of the icebreaking activities (500 km) by the estimated diameter for the area within the 120 dB radius (*i.e.,* diameter is 43.08 km [21.54 km × 2]). The 160 dB radii are based on acoustic modeling data for the airguns that may be used during the planned action (see Attachment B of the IHA application). As summarized in Table 3 (see above and Table 8 of the IHA application), the modeling results for the planned low-energy seismic airgun array indicate the received levels are dependent on water depth. Since the majority of the planned airgun operations will be conducted in waters 100 to 1,000 m deep, the buffer zone of 1,109 m for the two 105 $in^3$ GI airguns was used.

The number of different individuals potentially exposed to received levels greater than or equal to 160 dB re 1 μPa (rms) from seismic airgun operations and 120 dB re 1 μPa (rms) for icebreaking activities was calculated by multiplying:

(1) The expected species density (in number/$km^2$); and

(2) The anticipated area to be ensonified to that level during airgun operations and icebreaking activities.

Applying the approach described above, approximately 3,882 $km^2$ (including the 25% contingency) will be ensonified within the 160 dB isopleth for seismic airgun operations and approximately 21,540 $km^2$ will be ensonified within the 120 dB isopleth for icebreaking activities on one or more occasions during the planned low-energy seismic survey. The take calculations within the study sites do not explicitly add animals to account for the fact that new animals (*i.e.,* turnover) not accounted for in the initial density snapshot could also approach and enter the area ensonified above 160 dB for seismic airgun operations and 120 dB for icebreaking activities. However, studies suggest that many marine mammals will avoid exposing themselves to sounds at this level, which suggests that there will not necessarily be a large number of new animals entering the area once the seismic survey and icebreaking activities started. Because this approach for calculating take estimates does not account for turnover in the marine mammal populations in the area during the course of the planned low-energy seismic survey, the actual number of individuals exposed may be underestimated. However, any underestimation is likely offset by the conservative (*i.e.,* probably overestimated) line-kilometer distances (including the 25% contingency) used to calculate the survey area, and the fact the approach assumes that no cetaceans or pinnipeds will move away or toward the tracklines as the *Palmer* approaches in response to increasing sound levels before the levels reach 160 dB for seismic airgun operations and 120 dB for icebreaking activities, which is likely to occur and which will decrease the density of marine mammals in the survey area. Another way of interpreting the estimates in Table 5 is that they represent the number of individuals that will be expected (in absence of a seismic and icebreaking program) to occur in the waters that will be exposed to greater than or equal to 160 dB (rms) for seismic airgun operations and greater than or equal to 120 dB (rms) for icebreaking activities.

NSF and ASC's estimates of exposures to various sound levels assume that the planned low-energy seismic survey will be carried out in full; however, the ensonified areas calculated using the planned number of line-kilometers has been increased by 25% to accommodate lines that may need to be repeated, equipment testing, etc. As is typical during offshore ship surveys, inclement weather and equipment malfunctions will be likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. The estimates of the numbers of marine mammals potentially exposed to 160 dB (rms) received levels are precautionary and probably overestimate the actual numbers of marine mammals that could be involved. These estimates assume that there will be no weather, equipment, or mitigation delays that limit the seismic operations, which is highly unlikely.

Table 5 shows the estimates of the number of different individual marine mammals anticipated to be exposed to greater than or equal to 120 dB re 1 μPa (rms) for icebreaking activities and greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations during the low-energy seismic survey if no animals moved away from the survey vessel. The total authorized take is given in the column that is fifth from the left of Table 5.

**Encouraging and Coordinating Research**

NSF and ASC will coordinate the planned marine mammal monitoring program associated with the low-energy seismic survey with other parties that express interest in this activity and area. NSF and ASC will coordinate with applicable U.S. agencies (*e.g.,* NMFS), and will comply with their requirements. The action will complement fieldwork studying other Antarctic ice shelves, oceanographic studies, and ongoing development of ice sheet and other ocean models. It will facilitate learning at sea and ashore by students, help to fill important spatial and temporal gaps in a lightly sampled region of the Ross Sea, provide additional data on marine mammals present in the Ross Sea study areas, and communicate its findings concerning the chronology and cause of eastern Ross Sea grounding-line translations during the last glacial cycle via reports, publications, and public outreach.

**Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses**

Section 101(a)(5)(D) of the MMPA also requires NMFS to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals

implicated by this action (in the Ross Sea study area). Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Analysis and Determinations**

*Negligible Impact*

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.) and the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated serious injuries and or mortalities;

(2) The number and nature of anticipated injuries;

(3) The number, nature, intensity, and duration of takes by Level B harassment (all of which are relatively limited in this case);

(4) The context in which the takes occur (*e.g.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(5) The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(6) Impacts on habitat affecting rates of recruitment/survival; and

(7) The effectiveness of monitoring and mitigation measures.

NMFS has determined that the specified activities associated with the marine seismic survey are not likely to cause PTS, or other, non-auditory injury, serious injury, or death, based on the analysis above and the following factors:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the operation of the airgun(s) to avoid acoustic harassment;

(3) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the implementation of the required monitoring and mitigation measures (including shut-down measures); and

(4) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of the NSF and ASC's planned low-energy seismic survey, and none are authorized by NMFS. Table 5 of this document outlines the number of authorized Level B harassment takes that are anticipated as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described in this notice (see ''Potential Effects on Marine Mammals'' section above), the activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given the planned mitigation and monitoring measures to minimize impacts to marine mammals. Additionally, the low-energy seismic survey will not adversely impact marine mammal habitat.

For the marine mammal species that may occur within the action area, there are no known designated or important feeding and/or reproductive areas. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While airgun operations are anticipated to occur on consecutive days, the estimated duration of the survey will not last more than a total of approximately 27 operational days. Additionally, the low-energy seismic survey will be increasing sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals), which is constantly travelling over distances, so individual animals likely will only be exposed to and harassed by sound for less than a day.

As mentioned previously, NMFS estimates that 18 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Table 2 and 5 of this document. As shown in those tables, the takes all represent small proportions of the overall populations of these marine mammal species (*i.e.,* all are less than or equal to 16%).

Of the 18 marine mammal species under NMFS jurisdiction that may or are known to likely occur in the study area, six are listed as threatened or endangered under the ESA: Humpback, sei, fin, blue, and sperm whales. These species are also considered depleted under the MMPA. None of the other marine mammal species that may be taken are listed as depleted under the MMPA. Of the ESA-listed species, incidental take has been authorized for five species. No incidental take has been authorized for the southern right whale as they are generally not expected in the proposed action area; however, a few animals have been sighted in Antarctic waters in the austral summer. To protect these marine mammals in the study area, NSF and ASC will be required to cease airgun operations if any marine mammal enters designated exclusion zones. No injury, serious injury, or mortality is expected to occur for any of these species, and due to the nature, degree, and context of the Level B harassment anticipated, and the activity is not expected to impact rates of recruitment or survival for any of these species.

NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. NMFS has determined that, provided that the aforementioned mitigation and monitoring measures are implemented, the impact of conducting a low-energy marine seismic survey in the Ross Sea, January to February 2015, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid

the resultant acoustic disturbance, alternate areas are available for species to move to and the activity's duration is short and sporadic duration. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section above) in this notice, the proposed activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given the NMFS and applicant's plan to implement mitigation and monitoring measures will minimize impacts to marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from NSF and ASC's low-energy seismic survey will have a negligible impact on the affected marine mammal species or stocks.

*Small Numbers*

As mentioned previously, NMFS estimates that 18 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Tables 2 and 5 of this document.

The estimated numbers of individual cetaceans and pinnipeds that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the low-energy seismic survey (including a 25% contingency) and greater than or equal to 120 dB re 1 μPa (rms) for icebreaking activities are in Table 5 of this document. Of the cetaceans, 937 humpback, 2,151 Antarctic minke, 2,151 minke, 118 sei, 781 fin, 167 blue, and 252 sperm whales could be taken by Level B harassment during the planned low-energy seismic survey, which will represent 9.88, 11.87, unknown, 0.15, 16.72, 9.82, and 2.65% of the affected worldwide or regional populations, respectively. In addition, 343 Arnoux's beaked, 115 strap-toothed beaked, and 300 southern bottlenose whales could be taken be Level B harassment during the planned low-energy seismic survey, which will represent unknown, unknown, and 0.6% of the affected worldwide or regional populations, respectively. Of the delphinids, 532 killer whales, 1,018 long-finned pilot whales, and 483 hourglass dolphins could be taken by Level B harassment during the planned low-energy seismic survey, which will represent 2.13, 0.51, and 0.34 of the affected worldwide or regional populations, respectively. Of the pinnipeds, 17,288 crabeater, 679 leopard, 425 Ross, 2,713 Weddell, and 4 southern elephant seals could be taken by Level B harassment during the planned low-energy seismic survey, which will represent 0.35, 0.31, 2.13, 0.54, and <0.01 of the affected worldwide or regional population, respectively.

No known current worldwide or regional population estimates are available for 3 species under NMFS's jurisdiction that could potentially be affected by Level B harassment over the course of the IHA. These species include the minke, Arnoux's beaked, and strap-toothed beaked whales. Minke whales occur throughout the North Pacific Ocean and North Atlantic Ocean and the dwarf sub-species occurs in the Southern Hemisphere (Jefferson *et al.,* 2008). Arnoux's beaked whales have a vast circumpolar distribution in the deep, cold waters of the Southern Hemisphere generally southerly from 34°South. Strap-toothed beaked whales are generally found in deep temperate waters (between 35 to 60°South) of the Southern Hemisphere (Jefferson *et al.,* 2008). Based on these distributions and preferences of these species and the relatively small footprint of the low-energy seismic survey compared to these distributions, NMFS concludes that the authorized take of these species likely represent small numbers relative to the affected species' overall population sizes.

NMFS makes its small numbers determination based on the number of marine mammals that will be taken relative to the populations of the affected species or stocks. The authorized take estimates all represent small numbers relative to the affected species or stock size (*i.e.,* all are less than or equal to 16%), with the exception of the three species (*i.e.,* minke, Arnoux's beaked, and strap-toothed beaked whales) for which a qualitative rationale was provided. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks. See Table 5 for the authorized take numbers of marine mammals.

**Endangered Species Act**

Of the species of marine mammals that may occur in the planned survey area, six are listed as endangered under the ESA: The southern right, humpback, sei, fin, blue, and sperm whales. Under section 7 of the ESA, NSF, on behalf of ASC and one other research institution (Louisiana State University), initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this low-energy seismic survey. NMFS's Office of Protected Resources, Permits and Conservation Division, initiated and engaged in formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. These two consultations were consolidated and addressed in a single Biological Opinion addressing the direct and indirect effects of these independent actions. In January 2015, NMFS issued a Biological Opinion that concluded that the action is not likely to jeopardize the continued existence of the six listed cetaceans that may occur in the study area and included an Incidental Take Statement (ITS) incorporating the requirements of the IHA as Terms and Conditions of the ITS. Compliance with those Terms and Conditions is likewise a mandatory requirement of the IHA. The Biological Opinion also concluded that designated critical habitat of these species does not occur in the action area and would not be affected by the low-energy seismic survey.

**National Environmental Policy Act**

With NSF and ASC's complete IHA application, NSF and ASC provided NMFS an ''Initial Environmental Evaluation/Environmental Assessment to Perform Marine Geophysical Survey, Collect Bathymetric Measurements, and Conduct Sediment Coring by the RVIB *Nathaniel B. Palmer* in the Ross Sea,'' (IEE/EA), prepared by AECOM on behalf of NSF and ASC. The IEE/EA analyzes the direct, indirect, and cumulative environmental impacts of the planned specified activities on marine mammals, including those listed as threatened or endangered under the ESA. NMFS, after independently reviewing and evaluating the document for sufficiency and compliance with Council on Environmental Quality (CEQ) NEPA regulations and NOAA Administrative Order 216–6 § 5.09(d), will conduct a separate NEPA analysis and has prepared an ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the National Science Foundation and Antarctic Support Contract to Take

Marine Mammals by Harassment Incidental to a Low-Energy Marine Geophysical Survey in the Ross Sea, January to April 2015.'' NMFS has determined that the issuance of the IHA is not likely to result in significant impacts on the human environment and issued a Finding of No Significant Impact (FONSI).

**Authorization**

NMFS has issued an IHA to NSF and ASC for conducting a low-energy seismic survey in the Ross Sea, incorporating the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: January 26, 2015.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–01692 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

### Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* United States Patent and Trademark Office (USPTO).

*Title:* Ombudsman Survey.

*Agency Approval Number:* 0651—New.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 91.67 hours annually.

*Number of Respondents:* 1,100 responses per year.

*Average Hours per Response:* The USPTO estimates that it will take the public approximately 5 minutes (0.083 hours) to prepare the appropriate form or documents and submit to the USPTO.

*Needs and Uses:* The objectives of the Patents Ombudsman Program are: (1) To facilitate complaint-handling for pro se applicants and applicant's representatives whose applications have stalled in the examination process; (2) to track complaints to ensure each is handled within ten business days; (3) to provide feedback and early warning alerts to USPTO management regarding training needs based on complaint trends; and (4) to build a database of frequently asked questions accessible to the public that give commonly seen problems and effective resolutions. The USPTO Ombudsman survey is a key component of the process evaluation, providing a program monitoring system and identifying potential opportunities for Ombudsman Program enhancement. This survey is being conducted by the USPTO's Ombudsman Program and will be developed, administered, and summarized by USPTO personnel.

*Affected Public:* Businesses or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov*.

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *www.reginfo.gov*.

Paper copies can be obtained by:

• *Email: InformationCollection@uspto.gov*. Include ''0651—New copy request'' in the subject line of the message.

• *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before March 2, 2015 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: January 23, 2015.

**Marcie Lovett,**

*Records Management Division Director, USPTO, Office of the Chief Information Officer.*

[FR Doc. 2015–01684 Filed 1–28–15; 8:45 am]

**BILLING CODE 3510–16–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2014–HA–0085]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Fred Licari, 571–372–0493.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form and OMB Number:* TRICARE DoD/CHAMPUS Medical Claim—Patient's Request for Medical Reimbursement; DD Form 2642; OMB Control Number 0720–0006.

*Type of Request:* Reinstatement.

*Number of Respondents:* 774,000.

*Responses per Respondent:* 1.

*Annual Responses:* 774,000.

*Average Burden per Response:* 15 minutes.

*Annual Burden Hours:* 193,500.

*Needs and Uses:* This form is used solely by beneficiaries requesting reimbursement for medical expenses under the TRICARE Program. The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility; other health insurance eligibility; certification of the beneficiary eligibility and other health insurance liability; certification that the beneficiary received the care and reimbursement for the medical services received.

*Affected Public:* Individuals or Households.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Mr. Joshua Brammer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Joshua Brammer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

*DOD Clearance Officer:* Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: January 26, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–01655 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2015–HA–0006]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Health Affairs, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 30, 2015.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Assistant Secretary of Defense for Health Affairs (OASD), Falls Church, VA 22041–3206, or call (703) 681–0039.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Defense Medical Human Resources System internet (DMHRSi); OMB Control Number 0720–0041.

*Needs and Uses:* DMHRSi is a Department of Defense software application that provides the Military Health System (MHS) with a comprehensive enterprise human resource system with capabilities to manage personnel, manpower, education & training, labor cost assignment and readiness functional areas. It has built-in safeguards to limit access and visibility of personal or sensitive information in accordance with the Privacy Act of 1974. The application accounts for everyone in the MHS—Active Duty, Reserves, National Guard, government civilian, contractors and volunteers assigned or borrowed—this also includes nonappropriated fund employees and foreign nationals.

*Affected Public:* Federal Government, Individuals or households. Business or other For-Profit and Not-For-Profit Institutions.

*Annual Burden Hours:* 10,625.

*Number of Respondents:* 85,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* 7.5 minutes.

*Frequency:* Quarterly.

The Defense Medical Human Resources System—internet—DMHRSi is a Department of Defense application that provides the MHS with a joint comprehensive enterprise human resource system with capabilities to manage human capital across the entire spectrum of medical facilities and person types—military, civilian, contractor, Reserve component and volunteer. DMHRSi not only provides visibility of all personnel working within MHS activities, it assists in the standardization/centralization of Joint medical HR information; accurate Joint data collection and reporting and standardized management and analysis. DMHRSi is deployed to all DHP funded activities and includes 170K MHS users, The system utilizes best practices in a commercial off the shelf application across five functional areas—Manpower management, Personnel management, Labor Cost Assignment, Education and Training management, and Medical Readiness. The Manpower management function provides a standard MHS information system to support efficient medical personnel distribution at the activity level to include: Education, training, provider and support staff assignment, and labor utilization and cost. Additionally, DMHRSi facilitates medical manpower requirements and authorization tracking and reporting at a Joint level in peacetime and wartime. The personnel management function provides personnel visibility and accountability across the MHS as well as the ability to match personnel assets to command needs and assign individuals to work centers. This includes Defense Health Program (DHP) and non-DHP personnel including, civilians, volunteers and contractor personnel. Additionally, staffing and scheduling supports duty assignments, labor utilization, and workload acuity measurement and reporting. It standardizes and streamlines business processes on a Joint level. For Labor Cost Assignment, DMHRSi provides the ability to assign the costs of the human capital assets to the appropriate health care delivery product line, education and training efforts, or mandated readiness activities as mandated by Medical Expense Performance Reporting System (MEPRS) guidelines. This joint tool replaces three distinct Service-level MEPRS tools. The MHS has a more precise method of recording of labor hours and more accurate reporting of costs accrued and resource utilization thus, resulting in more timely and detailed data for executive information and decision making. For Education and Training, DMHRSi centralizes education and training data and resources and enables online registration and approval of courses supports MHS health care personnel education, training, and course management for individual development and maintenance of skills and command specific needs. The education and training features feeds into the Readiness requirements. For Readiness, DMHRSi supports individual personnel and unit readiness in documenting, monitoring, evaluating and reporting of ongoing person-specific and team/unit personnel training and certification to provide immediate readiness status for deployment to theater operations.

The information in DMHRSi is sometimes personal or sensitive;

therefore, it contains built-in safeguards to limit access and visibility of this information. DMHRSi uses role-based security so a user sees only the information for which permission has been granted. It uses state-of-the-market 128-bit encryption security for our transactions. It is DIACAP certified having been subjected to and passed thorough security testing and evaluation by independent parties. It meets safeguards specified by the Privacy Act of 1974 in that it maintains a published Department of Defense (DoD) Privacy Impact Assessment and System of Record covering Active Duty Military, Reserve, National Guard, and government civilian employees, to include non-appropriated fund employees and foreign nationals, DoD contractors, and volunteers. DMHRSi is hosted in a secure facility managed by the Defense Information Systems Agency. A detailed Privacy Act Statement appears prior to system access. As an HR system, DMHRSi will collect and store Social Security Numbers (SSN). Although DMHRSi issues each individual a distinctive employee number, collection of SSNs is required for successful continuity of operations within DoD and interoperability with federal organizations external to DoD. As the DoD and other federal organizations migrate from the use of the SSN as a primary means of identification in accordance with executive guidelines, DMHRSi will reduce usage. Protection of personally identifiable information (PII) is required by federal statues and policy and DoD guidelines and regulations. Future capabilities include an even greater reduction in access and full encryption of PII.

Dated: January 26, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–01657 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2015–OS–0007]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics/Defense Standardization Program Office, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 30, 2015.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Standardization Program Office, Defense Logistics Agency, 8725 John J. Kingman Road, STOP 5100, ATTN: Mr. Tim Koczanski, Fort Belvoir, VA 22060, or call the Defense Standardization Program Office at (703) 767–6870.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Certification of Qualified Products; DD Form 1718; OMB Control Number 0704–0487.

*Needs and Uses:* The information collection requirement is necessary to obtain, certify and record qualification of products or processes falling under the DoD Qualification Program. This form is included as an exhibit in an appeal or hearing case file as evidence of the reviewer's products or process qualifications in advance of, and independent of an acquisition.

*Affected Public:* Business or other for profit.

*Annual Burden Hours:* 638.

*Number of Respondents:* 1,276.

*Responses per Respondent:* 1.

*Annual Responses:* 1,276.

*Average Burden per Response:* 0.30 minutes.

*Frequency:* Biennially.

Respondents are individuals who supply products to the Department of Defense that are listed on Qualified Products Lists (QPLs) or Qualified Manufacturers List (QMLs). DD Form 1718, ''Certification of Qualified Products'' records and certifies, from the manufacturers, distributor, or reseller that the products still conforms to the specification. If the form is not included in the contract file, individuals procuring these items cannot be assured that the products conform to the specification and therefore are qualified products from qualified sources. The use of the DD Form 1718 is essential in maintaining the integrity of the qualification program.

Dated: January 26, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–01676 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID DoD–2014–OS–0129]**

### Notice of Availability (NOA) for Finding of No Significant Impact (FONSI) for the Environmental Assessment (EA) Addressing Implementation of the Real Property Master Plan at Defense Distribution Center, Susquehanna, Pennsylvania

**AGENCY:** Defense Logistics Agency (DLA), Department of Defense.

**ACTION:** Notice of Availability (NOA) for Finding of No Significant Impact (FONSI) for the Environmental Assessment (EA) Addressing Implementation of the Real Property

Master Plan at Defense Distribution Center, Susquehanna, Pennsylvania.

**SUMMARY:** On August 26, 2014, DLA published an NOA in the **Federal Register** (79 FR 50895) announcing the publication of the EA Addressing Implementation of the Real Property Master Plan (RPMP) at Defense Distribution Center, Susquehanna, Pennsylvania. The EA was available for a 30-day public comment period that ended September 25, 2014. The EA was prepared as required under the National Environmental Policy Act (NEPA) of 1969. In addition, the EA complied with DLA Regulation (DLAR) 1000.22. No comments were received during the public comment period. This FONSI documents the decision of DLA to implement the RPMP and its component plans at Defense Distribution Center, Susquehanna, Pennsylvania. DLA has determined that the Proposed Action is not a major Federal action significantly affecting the quality of the human environment within the context of NEPA and that no significant impacts on the human environment are associated with this decision.

**FOR FURTHER INFORMATION CONTACT:** Ira Silverberg at 703–767–0705 during normal business hours Monday through Friday, from 8:00 a.m. to 4:30 p.m. (EST) or by email: *ira.silverberg@dla.mil*.

**SUPPLEMENTARY INFORMATION:** DLA completed an EA to address the potential environmental consequences associated with the proposed implementation of the RPMP and its component plans at Defense Distribution Center, Susquehanna, Pennsylvania. This FONSI incorporates the EA by reference and summarizes the results of the analyses in the EA.

*Purpose and Need for Action:* The purpose of the Proposed Action is to implement the installation's RPMP and its component plans to establish a foundation providing direction for the future development of the facilities, infrastructure, transportation system, and environmental conditions at Defense Distribution Center, Susquehanna, Pennsylvania. The Proposed Action is needed to ensure that the installation is able to meet its current and future mission requirements while protecting its natural resources and ensuring the energy efficiency and sustainability of the installation.

*Proposed Action and Alternatives:* Under the Proposed Action, the DLA would implement the installation's RPMP and its component plans. The RPMP provides the direction for the future development of the installation over the next 20 to 30 years and identifies a series of building, infrastructure, and transportation projects that would ensure that the installation is able to meet its current and future mission requirements in a sustainable and environmentally conscious manner.

Implementing the projects in the RPMP would replace undersized, outdated buildings and infrastructure with modern, energy-efficient, sustainable buildings and infrastructure. The proposed projects include the construction of 4,201,966 square feet of buildings and the demolition of 2,503,790 square feet of buildings, which would result in an increase in impervious surface, including more parking spaces. Additionally, the proposed projects include a transit and non-motorized transportation system consisting of two transit hubs; multiple bus stops; a variety of bus, pedestrian, and bicycle routes; and rail access to reduce truck conveyance.

Component plans of the RPMP include the Net-Zero Energy Plan (NZEP), Sustainability Plan (SP), Integrated Natural Resources Management Plan (INRMP), and Integrated Pest Management Plan (IPMP) for the installation. The NZEP balances the installation's future energy demand from buildings, industrial processes, fleet vehicles, and equipment with onsite and offsite renewable energy production. The SP provides a pathway for the installation to move toward compliance with relevant Federal mandates regarding sustainability. The INRMP is the installation's plan for managing its natural resources while ensuring the success of the military mission. The IPMP is the installation's plan for its pest management program.

Implementation of the NZEP, SP, INRMP, and IPMP would enable the installation to reduce energy and fossil fuel use, increase alternative fuel use, achieve a net-zero energy footprint, meet or exceed relevant Federal sustainability mandates, practice sound natural resources stewardship, comply with environmental policies and regulations, and reduce reliance on pesticides while reducing real property damage and maintenance costs.

*Description of the No Action Alternative:* Under the No Action Alternative, DLA would not implement the installation's RPMP or its component plans. In general, implementation of the No Action Alternative would require that DLA continue to use the existing outdated, undersized, and inefficient facilities and abandon the proposed infrastructure enhancements, sustainability improvements, and natural resources projects of the component plans, which would hamper the ability of the installation to meet its current and future mission requirements. The No Action Alternative would not meet the purpose of and need for the Proposed Action.

*Potential Environmental Impacts:* No significant effects on environmental resources would be expected from the Proposed Action. Insignificant, adverse effects on recreation, geological resources, water resources, and transportation and infrastructure would be expected. Insignificant, beneficial effects on airspace management and safety, land use and recreation, noise, air quality, geological resources, water resources, biological resources, transportation and infrastructure, and hazardous materials and wastes also would be expected. Details of the environmental consequences are discussed in the EA, which is hereby incorporated by reference.

*Determination:* DLA has determined that implementation of the Proposed Action will not have a significant effect on the human environment. Human environment was interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. Specifically, no highly uncertain or controversial impacts, unique or unknown risks, or cumulatively significant effects were identified. Implementation of the Proposed Action will not violate any Federal, state, or local laws. Based on the results of the analyses performed during preparation of the EA, Mr. Marvin Wenberg, Acting Director, DLA Installation Support, concludes that implementation of the RPMP and its component plans at Defense Distribution Center, Susquehanna, Pennsylvania, does not constitute a major Federal action significantly affecting the quality of the human environment within the context of NEPA. Therefore, an environmental impact statement for the Proposed Action is not required.

Dated: January 23, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–01641 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Termination of Response Systems to Adult Sexual Assault Crimes Panel

**AGENCY:** DoD.

**ACTION:** Termination of Federal Advisory Committee.

**SUMMARY:** The Department of Defense is publishing this notice to announce that it is terminating the Response Systems to Adult Sexual Assault Crimes Panel, effective July 27, 2014.

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

**SUPPLEMENTARY INFORMATION:** This committee is being terminated under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix), 41 CFR 102–3.55, and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), effective September 30, 2014.

Dated: January 26, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–01659 Filed 1–28–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Inland Waterways Users Board; Request for Nominations

**AGENCY:** Department of the Army, DOD.

**ACTION:** Notice.

**SUMMARY:** Section 302 of Public Law 99–662 established the Inland Waterways Users Board. The Board is an independent Federal advisory committee. The Secretary of the Army appoints its 11 (eleven) representative organizations. This notice is to solicit nominations for 1 appointment to a two-year term that will begin after May 28, 2015.

**ADDRESSES:** Institute for Water Resources, U.S. Army Corps of Engineers, Attention: Inland Waterways Users Board Nominations Committee, Mr. Mark R. Pointon, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** The selection, service, and appointment of representative organizations to the Board are covered by provisions of Section 302 of Public Law 99–662. The substance of those provisions is as follows:

*a. Selection.* Representative organizations are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways, to represent geographical regions, and to be representative of waterborne commerce as determined by commodity ton-miles and tonnage statistics.

*b. Service.* The Board is required to meet at least semi-annually to develop and make recommendations to the Secretary of the Army on waterways construction and rehabilitation priorities and spending levels for commercial navigation improvements, and report its recommendations annually to the Secretary and Congress.

*c. Appointment.* The operation of the Board and appointment of representative organizations are subject to the Federal Advisory Committee Act (Pub. L. 92–463, as amended) and departmental implementing regulations. Representative organizations serve without compensation but their expenses due to Board activities are reimbursable. The considerations specified in Section 302 for the selection of representative organizations to the Board, and certain terms used therein, have been interpreted, supplemented, or otherwise clarified as follows:

*(1) Carriers and Shippers.* The law uses the terms ''primary users and shippers.'' Primary users have been interpreted to mean the providers of transportation services on inland waterways such as barge or towboat operators. Shippers have been interpreted to mean the purchasers of such services for the movement of commodities they own or control. Representative firms are appointed to the Board, and they must be either a carrier or shipper or both. For that purpose a trade or regional association is neither a shipper nor primary user.

*(2) Geographical Representation.* The law specifies ''various'' regions. For the purposes of the Board, the waterways subjected to fuel taxes and described in Public Law 95–502, as amended, have been aggregated into six regions. They are (1) the Upper Mississippi River and its tributaries above the mouth of the Ohio; (2) the Lower Mississippi River and its tributaries below the mouth of the Ohio and above Baton Rouge; (3) the Ohio River and its tributaries; (4) the Gulf Intracoastal Waterway in Louisiana and Texas; (5) the Gulf Intracoastal Waterway east of New Orleans and associated fuel-taxed waterways including the Tennessee-Tombigbee, plus the Atlantic Intracoastal Waterway below Norfolk; and (6) the Columbia-Snake Rivers System and Upper Willamette. The intent is that each region shall be represented by at least one representative organization, with that representation determined by the regional concentration of the firm's traffic on the waterways.

*(3) Commodity Representation.* Waterway commerce has been aggregated into six commodity categories based on ''inland'' ton-miles shown in Waterborne Commerce of the United States. These categories are (1) Farm and Food Products; (2) Coal and Coke; (3) Petroleum, Crude and Products; (4) Minerals, Ores, and Primary Metals and Mineral Products; (5) Chemicals and Allied Products; and (6) All Other. A consideration in the selection of representative organizations to the Board will be that the commodities carried or shipped by those firms will be reasonably representative of the above commodity categories.

*d. Nomination.* Reflecting preceding selection criteria, the current representation by the one organization for the vacant position includes the Upper Mississippi River (Region 1), shipper or carrier/shipper representation and commodity representation of Farm and Food Products, Minerals, Ores, and Primary Metals and Mineral Products, and All Other. Consideration of qualified candidates will be consistent with the current composition of the Board to remain well-balanced, and consistent with the Board's balance plan.

Individuals, firms or associations may nominate representative organizations to serve on the Board. Nominations will:

(1) Include the commercial operations of the carrier and/or shipper representative organization being nominated. This commercial operations information will show the actual or

estimated ton-miles of each commodity carried or shipped on the inland waterways system in a recent year (or years), using the waterway regions and commodity categories previously listed.

(2) State the region(s) to be represented.

(3) State whether the nominated representative organization is a carrier, shipper or both.

(4) Provide the name of an individual to be the principle person representing the organization and information pertaining to their personal qualifications, to include a bio or a resume.

Previous nominations received in response to notices published in the **Federal Register** in prior years will not be retained for consideration. Renomination of representative organizations is required.

e. *Deadline for Nominations.* All nominations must be received at (see **ADDRESSES**) no later than February 20, 2015.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2015–01712 Filed 1–28–15; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

### Intent To Prepare a Draft Supplemental Environmental Impact Statement (Supplement 2) for the Mississippi River, Baton Rouge to the Gulf of Mexico, Mississippi River-Gulf Outlet, Louisiana, New Industrial Canal Lock and Connecting Channels Project, New Orleans, LA

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

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps), New Orleans District intends to prepare a Draft Supplemental Environmental Impact Statement (EIS), integrated with a General Reevaluation Report, for the Mississippi River, Baton Rouge to the Gulf of Mexico Mississippi River-Gulf Outlet, Louisiana New Industrial Canal Lock and Connecting Channels Project, hereinafter referred to as ''the Project''. This project is sometimes referred to as the Inner Harbor Navigation Canal (IHNC) Lock Replacement Project. This will be the second supplemental EIS prepared for this project.

**DATES:** A public scoping meeting is scheduled for Wednesday, February 4, 2015. An open house will be held at 6:00 p.m. followed by the scoping meeting at 6:30 p.m.

**ADDRESSES:** The scoping meeting will be held at Dr. Martin Luther King Jr. Charter School for Science and Technology, 1617 Caffin Avenue, New Orleans, LA.

**FOR FURTHER INFORMATION CONTACT:** Questions about the Project and the supplemental EIS should be addressed to: Mr. Richard Boe or Mr. Mark Lahare, U.S. Army Corps of Engineers, Environmental Compliance Branch, P.O. Box 60267, New Orleans, LA 70160–0267, by email to *Richard.e.boe@usace.army.mil or Mark.h.lahare@usace.army.mil,* or by telephone at (504) 862–1505 or (504) 862–1344.

**SUPPLEMENTARY INFORMATION:**

1. *Project Background and Authorization.* The existing Industrial Canal Lock, hereinafter referred to as the ''existing lock'', located in Orleans Parish, Louisiana, connects the Mississippi River to Lake Pontchartrain, the Gulf Intracoastal Waterway (GIWW), and the remaining authorized six miles of the Mississippi River—Gulf Outlet (MRGO) between the Industrial Canal and the Michoud Slip. The existing lock, located between the St. Claude and Claiborne Avenue (Judge Seeber) Bridges in New Orleans, was commissioned and constructed by non-federal interests in 1923 to allow vessel traffic from the Mississippi River to Lake Pontchartrain and to permit industrial development away from the river. The federal government purchased the existing lock at a later date.

The Project was authorized by an act of Congress entitled ''AN ACT to authorize construction of the Mississippi River-Gulf outlet [sic]'', approved on March 29, 1956, as Chapter 112 of Public Law 455, of the 84th Congress as an amendment to the existing Mississippi River, Baton Rouge to the Gulf of Mexico to provide for the construction of the Mississippi River-Gulf Outlet substantially in accordance with the report and recommendation of the Chief of Engineers in House Document No. 245 of the 82nd Congress, and to authorize the Chief of Engineers, when economically justified by the obsolescence of the existing industrial canal lock or by increased traffic, to replace the existing lock or an additional lock in the vicinity of Meraux, Louisiana, together with suitable connecting channels, said replacement lock and connecting channels to be constructed in accordance with the type, dimensions, and cost estimates approved by the Chief of Engineers. The 1956 authorization was later amended by Section 844 of the Water Resources Development Act of 1986, Public Law 99–662, and Section 326 of the Water Resources Development Act of 1996, Public Law 104–303.

The original EIS and project evaluation report for the Project was finalized in March 1998. A Record of Decision was signed on December 18, 1998, selecting a construction method and location for a replacement lock north of the Claiborne Avenue Bridge, replacement of the St. Claude Avenue Bridge, modification of the Claiborne Avenue Bridge, extension of the Mississippi River flood protection levees and floodwalls, a community impact mitigation plan, and a fish and wildlife mitigation plan.

In 2003, the Corps' decision to construct a new lock was challenged in United States District Court, Eastern District of Louisiana (Case No. 2:03–cv–00370). In October 2006, the Court enjoined the Corps from continuing with the Project until additional compliance with the National Environmental Policy Act (NEPA) was completed.

In accordance with the provisions of Section 7013 of the Water Resources Development Act of 2007, Public Law 110–114, that portion of the MRGO from Mile 60 on the southern bank of the Gulf Intracoastal Waterway to the Gulf of Mexico was deauthorized effective upon the June 5, 2008 submittal by the Assistant Secretary of the Army (Civil Works) to Congress of the Report of the Chief of Engineers dated January 29, 2008 recommending partial deauthorization of the MRGO. In July 2009, in accordance with the 2008 MRGO Chief's Report, the Corps completed construction of a rock closure structure on the MRGO at Bayou LaLoutre. Aids to navigation have been removed.

In 2007, the Corps initiated preparation of a Supplemental Environmental Impact Statement (SEIS) for the Project to address changes in the existing conditions after Hurricane Katrina, further analyze anticipated impacts associated with construction of the new lock and determine if any significant changes to the previously-recommended plan were necessary. The final SEIS considered three deep-draft lock alternatives and the no-action alternative (*i.e.,* continued operation and maintenance of the existing lock), two dredging alternatives for the excavation that would be necessary for the construction of a new deep-draft lock, and three disposal alternatives for the dredged sediment. On May 20, 2009, a Record of Decision was signed,

recommending the float-in-place plan for construction of the lock, the hydraulic dredging method for excavation of sediment from the canal, and a dredged material disposal plan that included three locations for disposal of excavated sediments.

In 2010, the Corps' decision to construct a new lock was again challenged in United States District Court, Eastern District of Louisiana in a case that was subsequently consolidated with the 2003 case. On September 9, 2011, the Court found that the 2009 SEIS failed to sufficiently consider the impact of the closure of the MRGO to deep-draft traffic and the effect of that closure on the depth of the new lock and potentially how that depth may affect dredging and disposal alternatives for the Project.

2. *Proposed Action.* The purpose of the General Reevaluation Report and SEIS is to determine if construction of a more efficient navigational lock to replace the existing lock is economically justified and environmentally acceptable. The need for the Project arises from long navigation delays in passage through the Industrial Canal due to an increase in volume of vessel traffic and the small size and inefficiencies of the current lock. This supplemental EIS will evaluate (and/or reevaluate, as appropriate) existing conditions, alternative lock designs, and provide environmental analysis of anticipated project impacts associated with lock construction, dredging and disposal alternatives. The analyses associated with the handling of dredged material generated during project construction, the engineering design of confined disposal areas, and several other aspects of the Project, evaluated in the original 1998 EIS and the 2009 SEIS, will also be updated as appropriate.

3. *Alternatives.* An evaluation of alternatives, including a no action alternative will be included. In this supplemental EIS, the no action alternative will be the continued operation and maintenance of the existing lock. Other alternatives will be determined through scoping, but are anticipated to include shallow-draft versus deep-draft lock alternatives. Previous evaluations of alternative dredging methods, dredged material handling and disposal alternatives, and construction of the lock by a cast-in-place method versus a float-in construction method evaluated in the 1998 EIS and 2009 SEIS will also be updated and/or re-evaluated as appropriate.

4. *Scoping.* The Council on Environmental Quality regulations at 40 CFR 1501.7 require an early and open process for determining the scope of an EIS and for identifying significant issues related to the proposed action. The public will be involved in the scoping and evaluation process through advertisements, notices, and other means. Federal, state and local agencies, and other interested groups will also be involved. Meetings to address discrete issues or parts or functions of the Project may be held. All parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scope of this supplemental EIS.

A. The Corps will provide additional notification of the public scoping meeting time and location through newspaper advertisements and other means (see **DATES**). Following a short presentation, verbal and written comments on the scope of this supplemental EIS will be accepted. A transcript of verbal comments will be generated to ensure accuracy.

B. *Issues.* Issues identified for the Project include, but are not limited to the level of existing and forecasted vessel traffic through the existing lock, changes in socio-economics (*i.e.,* property values, population, land use, public/community facilities and services) since the 2009 SEIS, evaluation of direct and indirect social and cultural impacts of the Project on certain Congressionally identified affected communities and the appropriate and practicable mitigation measures to address those impacts, lock construction methods (*i.e.,* cast-in-place versus float-in), lock depth, and re-evaluation of reasonable dredging and disposal alternatives and associated impacts. This list is preliminary and is intended to facilitate public comment on the scope of the SEIS. Concurrent with the NEPA process, the Corps will ensure that compliance will be achieved and/or maintained with all applicable environmental laws, regulations, and executive orders governing issues such as Federally-listed threatened and endangered species, essential fish habitats, health and safety, general environmental concerns, wetlands and other aquatic resources, historic properties, fish and wildlife values, flood hazards, navigation, recreation, water quality, and environmental justice. In making its decision, the Corps will consider, in general, the needs and welfare of the community, the effect of the closure of the MRGO on existing conditions and the alternatives under evaluation, and other issues identified through scoping, public involvement, stakeholder views, and interagency coordination. The Corps expects to better define the issues of concern and define the methods that will be used to evaluate those issues through the scoping process.

C. *Environmental Review and Consultation.* The proposed action will involve an evaluation for compliance with all applicable guidelines pursuant to section 404(b) of the Clean Water Act. This review will involve a detailed reevaluation of all practicable alternatives to the handling and disposal of the dredged material generated from the Project. The Corps will provide extensive information on the resources to be impacted, mitigation measures, and alternatives. Although the Corps does not plan to invite any Federal agencies to be cooperating agencies, we expect to receive input and critical information from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and other Federal, state, and local agencies.

5. *Public Scoping Meeting Special Accommodations.* The public scoping meeting place is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Lahare, (504) 862–1344 (voice), or email at *Mark.h.lahare@usace.army.mil,* at least 5 business days prior to the meeting date.

6. *Estimated Date of Availability.* It is estimated that this draft supplemental EIS will be available to the public in June 2016. At least one public hearing will be held at that time, during which the public will be provided the opportunity to comment on the draft supplemental EIS before it becomes final.

Dated: January 20, 2015.

**Richard L. Hansen,**

*Colonel, U.S. Army, District Commander.*

[FR Doc. 2015–01674 Filed 1–28–15; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF ENERGY

### Commission To Review the Effectiveness of the National Energy Laboratories

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Commission to Review the Effectiveness of the National Energy Laboratories (Commission). The Commission was created pursuant section 319 of the Consolidated Appropriations Act, 2014, Public Law 113–76, and in accordance with the

provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. This notice is provided in accordance with the Act.

**DATES:** Tuesday, February 24, 2015 10:00 a.m.–3:30 p.m.

**ADDRESSES:** Hilton at Mark Center, Birch Conference Room, 5000 Seminary Road, Alexandria, VA 22311.

**FOR FURTHER INFORMATION CONTACT:** Karen Gibson, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–3787; email at: *crenel@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Commission was established to provide advice to the Secretary on the Department's national laboratories. The Commission will review the DOE national laboratories for alignment with the Department's strategic priorities, clear and balanced missions, unique capabilities to meet current energy and national security challenges, appropriate size to meet the Department's energy and national security missions, and support of other Federal agencies. The Commission will also look for opportunities to more effectively and efficiently use the capabilities of the national laboratories and review the use of laboratory directed research and development (LDRD) to meet the Department's science, energy, and national security goals.

*Purpose of the Meeting:* This meeting is the sixth meeting of the Commission.

*Tentative Agenda:* The meeting will start at 10:00 a.m. on February 24. The tentative meeting agenda includes discussion on the Commission's Upcoming Interim Report and DOE Laboratory Operations and Efficiencies. Key presenters will address and discuss these topics with comments from the public. The meeting will conclude at 3:30 p.m. The agenda along with possible schedule adjustments will be posted when finalized and in advance of the meeting on the Lab Commission Web site (*http://energy.gov/labcommission/commission-review-effectiveness-national-energy-laboratories*).

*Public Participation:* The meeting is open to the public. Individuals who would like to attend must RSVP to Karen Gibson no later than 5:00 p.m. on Friday, February 20, 2015 at email: *crenel@hq.doe.gov.* Please provide your name, organization, and contact information. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 10:00 a.m. on February 24.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Karen Gibson, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, or to email at: *crenel@hq.doe.gov.*

*Minutes:* The minutes of the meeting will be available on the Commission Web site at: *http://energy.gov/labcommission.*

Issued in Washington, DC, on January 23, 2015.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2015–01679 Filed 1–28–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–2909–000.
*Applicants:* Atlantic Path 15, LLC.
*Description:* eTariff filing per 35.19a(b): EL11–29–004 and ER12–1224–001 to be effective N/A.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5065.
*Comments Due:* 5 p.m. ET 2/12/15.

*Docket Numbers:* ER14–2658–002.
*Applicants:* NV Energy, Inc.
*Description:* Compliance filing per 35: OATT Order No. 792 Compliance Filing—Revision to Attachment O to be effective 8/4/2014.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5127.
*Comments Due:* 5 p.m. ET 2/12/15.

*Docket Numbers:* ER15–745–000.
*Applicants:* AM Commodities Corporation.
*Description:* Amendment to December 29, 2014 AM Commodities Corporation tariff filing.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5134.
*Comments Due:* 5 p.m. ET 2/2/15.

*Docket Numbers:* ER15–890–000.
*Applicants:* Twin Cities Power, LLC.
*Description:* Tariff Withdrawal per 35.15: Notice of Cancellation to be effective 3/23/2015.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5076.
*Comments Due:* 5 p.m. ET 2/12/15.

*Docket Numbers:* ER15–891–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4078; Queue No. Z1–113 to be effective 12/23/2014.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5077.
*Comments Due:* 5 p.m. ET 2/12/15.

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: January 22, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–01650 Filed 1–28–15; 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:* EC15–62–000.
*Applicants:* Roth Rock Wind Farm, LLC, Roth Rock North Wind Farm, LLC.
*Description:* Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, and Expedited Consideration of Roth Rock Wind Farm, LLC and Roth Rock North Wind Farm, LLC.
*Filed Date:* 1/21/15.
*Accession Number:* 20150121–5255.
*Comments Due:* 5 p.m. ET 2/11/15.

*Docket Numbers:* EC15–63–000.
*Applicants:* TPW Petersburg, LLC.
*Description:* Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, and Expedited Consideration of TPW Petersburg, LLC.
*Filed Date:* 1/21/15.
*Accession Number:* 20150121–5259.
*Comments Due:* 5 p.m. ET 2/11/15.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–1881–000; ER11–1882–000; ER11–1883–000; ER11–1885–000; ER11–1886–000; ER11–1887–000; ER11–1889–000; ER11–1890–000; ER11–1892–000; ER11–1893–000; ER11–1894–000.
*Applicants:* Burley Butte Wind Park, LLC, Golden Valley Wind Park, LLC, Milner Dam Wind Park, LLC, Oregon Trail Wind Park, LLC, Pilgrim Stage Station Wind Park, LLC, Thousand Springs Wind Park, LLC, Tuana Gulch Wind Park, LLC, Camp Reed Wind Park, LLC, Payne's Ferry Wind Park, LLC, Salmon Falls Wind Park, LLC, Yahoo Creek Wind Park, LLC.
*Description:* Notice of Non-Material Change in Status of Burley Butte Wind Park, LLC, et. al.
*Filed Date:* 1/21/15.
*Accession Number:* 20150121–5262.
*Comments Due:* 5 p.m. ET 2/11/15.

*Docket Numbers:* ER13–2477–006; ER10–1946–009; ER11–3859–011; ER13–2476–006; ER11–3861–010; ER11–3864–012; ER13–2475–006; ER11–3866–011; ER12–192–009; ER11–3867–011; ER11–3857–011; ER11–4266–010; ER10–3310–007; ER10–3286–007; ER10–3299–006; ER13–1485–003; ER10–3253–003; ER14–1777–002; ER10–3237–003; ER87–592–001; ER10–3240–003; ER10–3230–003; ER10–3231–002; ER87–203–001; ER10–3232–001; ER10–3233–002; ER10–3239–003.
*Applicants:* Brayton Point Energy, LLC, Broad River Energy LLC, Dighton Power, LLC, Elwood Energy, LLC, Empire Generating Co, LLC, EquiPower Resources Management, LLC, Kincaid Generation, L.L.C., Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Richland-Stryker Generation LLC, New Harquahala Generating Company, LLC, Millennium Power Partners, L.P., New Athens Generating Company, LLC, Wheelabrator Baltimore, L.P., Wheelabrator Bridgeport, L.P., Wheelabrator Falls Inc., Wheelabrator Frackville Energy Company Inc., Wheelabrator Millbury Inc., Wheelabrator North Andover Inc., Wheelabrator Portsmouth Inc., Wheelabrator Ridge Energy Inc., Wheelabrator Saugus Inc., Wheelabrator Shasta Energy Company Inc., Wheelabrator South Broward Inc., Wheelabrator Westchester L.P.
*Description:* Notice of Change in Status of the ECP MBR Sellers under ER13–2477, et. al.
*Filed Date:* 1/20/15.
*Accession Number:* 20150120–5652.
*Comments Due:* 5 p.m. ET 2/10/15.

*Docket Numbers:* ER14–1933–002.
*Applicants:* Headwaters Wind Farm LLC.
*Description:* Notice of Non-Material Change in Status of Headwaters Wind Farm LLC.
*Filed Date:* 1/21/15.
*Accession Number:* 20150121–5224.
*Comments Due:* 5 p.m. ET 2/11/15.

*Docket Numbers:* ER15–502–000.
*Applicants:* Bayou Cove Peaking Power, LLC.
*Description:* Supplement to November 26, 2014 Bayou Cove Peaking Power, LLC tariff filing.
*Filed Date:* 1/21/15.
*Accession Number:* 20150121–5253.
*Comments Due:* 5 p.m. ET 2/11/15.

*Docket Numbers:* ER15–888–000.
*Applicants:* Tampa Electric Company.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Amendment of Cost-Based Power Sales Tariff—App B to be effective 3/24/2015.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5053.
*Comments Due:* 5 p.m. ET 2/12/15.

*Docket Numbers:* ER15–889–000.
*Applicants:* Wabash Valley Power Association, Inc.
*Description:* Tariff Withdrawal per 35.15: Wabash Valley Power Association, Inc.—Submission of Notice of Cancellation to be effective 12/31/2014.
*Filed Date:* 1/22/15.
*Accession Number:* 20150122–5061.
*Comments Due:* 5 p.m. ET 2/12/15.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES15–7–000.
*Applicants:* Southwestern Electric Power Company.
*Description:* Supplement to December 18, 2014 Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southwestern Electric Power Company.
*Filed Date:* 1/20/15.
*Accession Number:* 20150120–5630.
*Comments Due:* 5 p.m. ET 1/30/15.

*Docket Numbers:* ES15–8–000.
*Applicants:* MidAmerican Energy Company.
*Description:* Errata to January 13, 2015 Application of MidAmerican Energy Company pursuant to Section 204 of the Federal Power Act.
*Filed Date:* 1/14/15.
*Accession Number:* 20150114–5214.
*Comments Due:* 5 p.m. ET 2/4/15.

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: January 22, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–01649 Filed 1–28–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9920–22–OEI]**

### Agency Information Collection Activities OMB Responses

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

**FOR FURTHER INFORMATION CONTACT:** Courtney Kerwin (202) 566–1669, or email at *kerwin.courtney@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

**SUPPLEMENTARY INFORMATION:**

**OMB Responses to Agency Clearance Requests**

*OMB Approvals*

EPA ICR Number 1363.23; Toxic Chemical Release Reporting; 40 CFR part 372; was approved with change on 11/24/2014; OMB Number 2025–0009; expires on 11/30/2017.

EPA ICR Number 1655.09; Regulation of Fuels and Fuel Additives: Detergent Gasoline (Renewal); 40 CFR part 80 subpart G; was approved without change on 11/17/2014; OMB Number 2060–0275; expires on 11/30/2017.

EPA ICR Number 2434.23; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (Renewal); was approved without change on 11/06/2014; OMB Number 2010–0042; expires on 11/30/2017.

EPA ICR Number 0220.12; Clean Water Act Section 404 State-Assumed Programs (Renewal); 40 CFR part 233; 33 CFR part 325; was approved without change on 11/03/2014; OMB Number 2040–0168; expires on 11/30/2017.

*Comment Filed*

EPA ICR Number 2449.01; Water Quality Standards Regulatory Clarifications (Proposed Rule); 40 CFR part 131; OMB filed comment on 11/14/2014.

**Courtney Kerwin,**

*Acting Director, Collections Strategies Division.*

[FR Doc. 2015–01653 Filed 1–28–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2013–0721; FRL 9922–18–OEI ]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Partial Update of the TSCA Sec. 8(b) Inventory Data Base, Production and Site Reports (Chemical Data Reporting)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''Partial Update of the TSCA Sec. 8(b) Inventory Data Base, Production and Site Reports (Chemical Data Reporting)'' (EPA ICR No. 1884.08, OMB Control No. 2070–0162) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed revision of the ICR, which is currently approved through January 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 29442) on May 22, 2014, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before March 2, 2015.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OPPT–2013–0721, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by email to *oppt.ncic@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Colby Lintner, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Mail code: 7408–M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–554–1404; fax number: 202–564–8251; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Supporting documents that explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *http://www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* The Toxic Substances Control Act (TSCA) requires EPA to compile and keep current a complete list of chemical substances manufactured or processed in the United States. EPA updates this inventory of chemicals every four years by requiring manufacturers, processors and importers to provide production volume, plant site information and site-limited status information. This information allows EPA to identify what chemicals are or are not currently in commerce and to take appropriate regulatory action as necessary. EPA also uses the information for screening chemicals for risks to human health or the environment, for priority-setting efforts, and for exposure estimates. This ICR addresses the collection of inventory-related information. Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

*Form Numbers:* EPA Form 7740–8.

*Respondents/affected entities:* Entities potentially affected by this action include companies that manufacture, process or import chemical substances, mixtures or categories.

*Respondent's obligation to respond:* Mandatory; see 40 CFR part 711.

*Estimated number of respondents:* 4,991 (total).

*Frequency of response:* Once every four years.

*Total estimated burden:* 789,203 hours per year. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $52,059,120 per year, includes $0 annualized capital or operation and maintenance costs.

*Changes in the Estimates:* There is a net increase of 315,080 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects a number of factors, which are detailed in the supporting statement. This change involves both program changes and adjustments.

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2015–01600 Filed 1–28–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9922–22–Region 10]**

### Issuance of an NPDES General Permit for Oil and Gas Geotechnical Surveys and Related Activities in Federal Waters of the Beaufort and Chukchi Seas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of final NPDES general permit.

**SUMMARY:** The Director, Office of Water and Watersheds, EPA Region 10, is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permit for Oil and Gas Geotechnical Surveys and Related Activities in Federal Waters of the Beaufort and Chukchi Seas (Geotechnical General Permit; Permit No. AKG–28–4300).

The Geotechnical General Permit authorizes twelve types of discharges from facilities engaged in oil and gas geotechnical surveys to evaluate the subsurface characteristics of the seafloor and related activities in federal waters of the Beaufort and Chukchi Seas. Geotechnical borings are collected to assess the structural properties of subsurface soil conditions for potential placement of oil and gas installations, which may include production and drilling platforms, ice islands, anchor structures for floating exploration drilling vessels, and potential buried pipeline corridors. Geotechnical surveys result in a disturbance of the seafloor and produce discharges consisting of soil, rock and cuttings materials, in addition to facility-specific waste streams authorized under this General Permit. Geotechnical related activities also result in a disturbance of the seafloor and produce similar discharges. These activities may include feasibility testing of equipment that disturbs the seafloor, and testing and evaluation of trenching technologies. The Geotechnical General Permit contains effluent limitations and requirements that ensure the discharges will not cause an unreasonable degradation of the marine environment, as required by Section 403(c) of the Clean Water Act (*i.e.* Ocean Discharge Criteria Evaluation). 33 U.S.C. 1342(c).

**DATES:** The issuance date of the Geotechnical NPDES General Permit is the date of publication of this notice. The Geotechnical General Permit shall become effective on March 2, 2015. Operators must submit a Notice of Intent (NOI) to discharge at least 90 days prior to initiation of discharges.

**ADDRESSES:** Copies of the Geotechnical General Permit, the Response to Comments Document, and the Ocean Discharge Criteria Evaluation may be found on the EPA Region 10 Web site at: *http://yosemite.epa.gov/r10/water.nsf/npdes+permits/arctic-gp.* Copies of the documents are available upon request.

*Mail:* Written requests for copies of the documents may be submitted to Audrey Washington, EPA Region 10, Office of Water and Watersheds, 1200 6th Avenue, Suite 900, OWW–191, Seattle, WA 98101–3140.

*Email:* Electronic requests may be sent to: *Washington.Audrey@epa.gov.*

*Telephone:* Requests by telephone may be made to Audrey Washington at (206) 553–0523. See **SUPPLEMENTARY INFORMATION** for other document viewing locations.

**FOR FURTHER INFORMATION CONTACT:** Erin Seyfried, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10, Mail Stop OWW–191, 1200 6th Avenue, Suite 900, Seattle, WA 98101–3140, (206) 553–1448, *seyfried.erin@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On November 22, 2013, EPA issued a draft Geotechnical General Permit for public review, and established a comment deadline of January 27, 2014 (78 FR 70042). Notice of the draft General Permit was also published in the Anchorage Daily News, the Arctic Sounder, and Petroleum News. Public meetings and hearings were held in communities on the North Slope and in Anchorage the week of January 6, 2014. In response to requests for an extension of the deadline from the Alaska Eskimo Whaling Commission and the Inupiat Community of the Arctic Slope, EPA extended the comment period for an additional 23 days, from January 27, 2014 to February 19, 2014 (79 FR 4344).

Based on comments received during public review of the draft Geotechnical General Permit, EPA determined that certain permit provisions warranted further consideration and notified interested parties of this determination on March 21, 2014. To further that process, EPA met with several commenters to clarify certain technical issues and obtain additional information. The public comments and subsequent information resulted in EPA revising several permit provisions, which were described in the Fact Sheet accompanying the re-proposal.

On August 15, 2014, EPA re-proposed the Geotechnical General Permit for public review, and established a comment deadline of September 15, 2014 (79 FR 48147). In response to requests for an extension of the deadline from the Alaska Eskimo Whaling Commission, EPA extended the comment period for an additional 15 days, from September 15, 2014 to September 30, 2014 (79 FR 56577).

Certain provisions in the General Permit have been revised in response to comments and information received from tribal, state and local governments, the Alaska Eskimo Whaling Commission, environmental advocacy groups, industry representatives, and individual citizens. All comments, along with EPA's responses, are summarized in the Response to Comments document.

*Document Viewing Locations.* The final Geotechnical General Permit, Response to Comments Document and Ocean Discharge Criteria Evaluation may also be viewed at the following locations:

(1) EPA Region 10 Library, Park Place Building, 1200 6th Avenue, Suite 900, Seattle, WA 98101; (206) 553–1289.

(2) EPA Region 10, Alaska Operations Office, 222 W 7th Avenue, #19, Room 537, Anchorage, AK 99513; (907) 271–5083.

(3) Z.J. Loussac Public Library, 3600 Denali Street, Anchorage, AK 99503; (907) 343–2975.

(4) North Slope Borough School District Library/Media Center, Pouch 169, 829 Aivak Street, Barrow, AK 99723; (907) 852–5311.

EPA's administrative record for the Geotechnical General Permit is available for review at the EPA Region 10 Office, Park Place Building, 1200 6th Avenue, Suite 900, Seattle, WA 98101, between 9:00 a.m. and 4:00 p.m., Monday through Friday. Contact Erin Seyfried at *seyfried.erin@epa.gov* or (206) 553–1448.

*Oil Spill Requirements.* Section 311 of the Act, 33 U.S.C. 1321, prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges authorized under the Geotechnical General Permit are excluded from the provisions of CWA Section 311, 33 U.S.C. 1321. However, the Geotechnical General Permit will not preclude the institution of legal action, or relieve the permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil and hazardous materials, which are covered by Section 311.

*Endangered Species Act.* Section 7 of the Endangered Species Act, 16 U.S.C. 1531–1544, requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species, or designated critical habitat. EPA analyzed the discharges proposed to be authorized by the Geotechnical General Permit, and their potential to adversely affect any of the threatened or endangered species or designated critical habitat areas in the vicinity of the discharges in a Biological Evaluation dated December 2013. EPA completed a supplemental analysis evaluating the effects of interrelated and

interdependent actions on the Pacific walrus on February 11, 2014. On January 31 and March 19, 2014, EPA received letters of concurrence from the USFWS and NMFS, respectively, agreeing with EPA's determinations of effects. On March 13, 2014, in response to EPA's request for a conference on the Pacific walrus, the USFWS confirmed that the proposed permit action would not jeopardize the continued existence of this species.

*Essential Fish Habitat.* The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with NMFS when a proposed permit action has the potential to adversely affect Essential Fish Habitat (EFH). EPA's EFH assessment is included as Appendix A to the BE. The EFH assessment concluded that the discharges authorized by the Geotechnical General Permit will not adversely affect EFH.

*Coastal Zone Management Act.* As of July 1, 2011, there is no longer a Coastal Zone Management Act (CZMA) program in Alaska. Consequently, federal agencies are no longer required to provide the State of Alaska with CZMA consistency determinations.

*Executive Order 12866.* The Office of Management and Budget exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

*Paperwork Reduction Act.* EPA has reviewed the requirements imposed on regulated facilities in the Geotechnical General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

*Regulatory Flexibility Act.* Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* a federal agency must prepare an initial regulatory flexibility analysis ''for any proposed rule'' for which the agency ''is required by section 553 of the Administrative Procedure Act (APA), or any other law, to publish general notice of proposed rulemaking.'' The RFA exempts from this requirement any rule that the issuing agency certifies ''will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' EPA has concluded that NPDES general permits are permits, not rulemakings, under the APA and thus not subject to APA rulemaking requirements or the RFA.

*Unfunded Mandates Reform Act.* Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state, and local governments and the private sector. However, the Geotechnical General Permit is not a ''rule'' subject to the RFA, and are therefore not subject to the UMRA.

*Appeal of Permit.* Any interested person may appeal the Geotechnical General Permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the General Permit issuance date. Affected persons may not challenge the conditions of the General Permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the general permit in court or apply for an individual NPDES permit.

**Authority:** This action is taken under the authority of Section 402 of the Clean Water Act as amended, 33 U.S.C. 1342. I hereby provide public notice of the final Geotechnical General Permit in accordance with 40 CFR 124.15(b).

Dated: January 21, 2015.

**Daniel D. Opalski,**

*Director, Office of Water and Watersheds, Region 10.*

[FR Doc. 2015–01704 Filed 1–28–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–R10–OW–2014–0505; FRL–9922–23–Region–10]**

### Notice of Status Update on the Proposed Determination for the Pebble Deposit Area, Southwest Alaska

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of status update.

**SUMMARY:** On July 21, 2014, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** a Notice of Proposed Determination, under Section 404(c) of the Clean Water Act, to restrict the use of certain waters in the South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek watersheds in Southwest Alaska as disposal sites for dredged or fill material associated with mining the Pebble deposit, a copper-, gold-, and molybdenum-bearing ore body. On September 19, 2014, EPA published in the **Federal Register** a notice extending the time period to either withdraw the Proposed Determination or to prepare the Recommended Determination until no later than February 4, 2015. As part of ongoing litigation brought by the Pebble Limited Partnership, on November 25, 2014, a Federal District Court Judge issued a preliminary injunction that requires EPA to stop all work connected to the 404(c) proceeding, including reviewing and considering public comments. EPA is complying with the court's order and as such is not taking any steps to withdraw the Proposed Determination or to prepare a Recommended Determination while the preliminary injunction is in place.

Dated: January 21, 2015.

**Dennis J. McLerran,**

*Regional Administrator, EPA Region 10.*

[FR Doc. 2015–01701 Filed 1–28–15; 8:45 am]

**BILLING CODE 6560–50–P**

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### Agency Information Collection Activities: Extension Without Change of an Existing Collection; Comments Request

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Commission announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year extension without change of the existing recordkeeping requirements under 29 CFR part 1602 *et seq.,* Recordkeeping and Reporting Requirements under Title VII, the ADA, and GINA. The Commission is seeking public comments on the proposed extension.

**DATES:** Written comments must be received on or before March 30, 2015.

**ADDRESSES:** Comments should be sent to Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the fax receiver is (202) 663–4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTY). (These are not toll-free numbers.) Instead of sending written comments to EEOC, you may submit comments and attachments electronically at *http://www.regulations.gov,* which is the

Federal eRulemaking Portal. Follow the instructions online for submitting comments. All comments received through this portal will be posted without change, including any personal information you provide. Copies of comments submitted by the public to EEOC directly or through the Federal eRulemaking Portal will be available for review, by advance appointment only, at the Commission's library between the hours of 9:00 a.m. and 5 p.m. Eastern Time or can be reviewed at *http://www.regulations.gov*. To schedule an appointment to inspect the comments at EEOC's library, contact the library staff at (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll-free numbers.)

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or Erin N. Norris, Senior Attorney, (202) 663–4876, Office of Legal Counsel, 131 M Street NE., Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 (Title VII), Title I of the Americans with Disabilities Act (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibit discrimination on the basis of race, color, religion, sex, national origin, disability, or genetic information. Section 709(c) of Title VII, section 107(a) of the ADA, and section 207 of GINA authorize the EEOC to issue recordkeeping and reporting regulations that are deemed reasonable, necessary or appropriate. EEOC has promulgated recordkeeping regulations under those authorities that are contained in 29 CFR part 1602 *et seq.* Those regulations do not require the creation of any particular records but generally require employers to preserve any personnel and employment records they make or keep for a period of one year. The EEOC seeks extension of the recordkeeping requirement in these regulations without change.

**Overview of This Information Collection**

*Collection title:* Recordkeeping under Title VII, the ADA, and GINA.

*OMB Control number:* 3046–0040.

*Description of affected public:* Employers with 15 or more employees are subject to Title VII, the ADA, and GINA.

*Number of responses:* 914,843.

*Reporting hours:* Not applicable.

*Number of forms:* None.

*Federal cost:* None.

*Abstract:* Section 709(c) of Title VII, 42 U.S.C. 2000e–8(c), section 107(a) of the ADA, 42 U.S.C. 12117(a), and section 207 of GINA, 42 U.S.C. 2000ff–6 require the Commission to establish regulations pursuant to which employers subject to those Acts shall make and preserve certain records to assist the EEOC in assuring compliance with the Acts' nondiscrimination in employment requirements. This is a recordkeeping requirement. Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of section 706(b) and 709(e) of Title VII which are also incorporated by reference into the ADA at section 107(a) and GINA at section 207.

*Burden statement:* The estimated number of respondents is 914,843 employers. An employer subject to the recordkeeping requirement in 29 CFR part 1602 must retain all personnel or employment records made or kept by that employer for one year, and must retain any records relevant to charges filed under Title VII, the ADA, or GINA until final disposition of those matters, which may be longer than one year. This recordkeeping requirement does not require reports or the creation of new documents, but merely requires retention of documents that an employer has already made or kept in the normal course of its business operations. Thus, existing employers bear no burden under this analysis, because their systems for retaining personnel and employment records are already in place. Newly formed firms may incur a small burden when setting up their data collection systems to ensure compliance with EEOC's recordkeeping requirements. We assume some effort and time must be expended by employers to familiarize themselves with the Title VII, ADA, and GINA recordkeeping requirements and inform staff about those requirements. We estimate that 30 minutes would be needed for this one-time familiarization process. Using 2011 data from the Small Business Administration, we estimate that there are 82,516 firms that would incur this start-up burden. Assuming a 30 minute burden per firm, the total annual hour burden is 41,258 hours.

Pursuant to the Paperwork Reduction Act of 1995, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Commission'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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

For the Commission.

Dated: January 23, 2015.

**Jenny R. Yang,**

*Chair.*

[FR Doc. 2015–01624 Filed 1–28–15; 8:45 am]

**BILLING CODE 6570–01–P**

## EXPORT-IMPORT BANK OF THE U.S.

**[Public Notice 2014–3011]**

### 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 11–04, Co-Financing with Foreign Export Credit Agency.

**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 form will enable Ex-Im Bank to identify the specific details of the proposed co-financing transaction between a U.S. exporter, Ex-Im Bank, and a foreign export credit agency; the information collected includes vital facts such as the amount of U.S.-made content in the export, the amount of financing requested from Ex-Im Bank, and the proposed financing amount from the foreign export credit agency. These details are necessary for approving this unique transaction structure and coordinating our support

with that of the foreign export credit agency to ultimately complete the transaction and support U.S. exports—and U.S. jobs. The form can be viewed at: *http://www.exim.gov/pub/pending/eib11-04.pdf.*

**DATES:** Comments should be received on or before March 2, 2015, 2014 to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on *http://www.regulations.gov (EIB:11–04)* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038 Attn: OMB 3048–0037.

**SUPPLEMENTARY INFORMATION:**

*Titles and Form Number:* EIB11–04, Co-Financing with Foreign Export Credit Agency.

*OMB Number:* 3048–0037.

*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:* 60.

*Estimated Time per Respondent:* 15 minutes.

*Annual Burden Hours:* 15 hours.

*Frequency of Reporting or Use:* As needed.

*Government Expenses:*

*Reviewing Time per Year:* 15 hours.

*Average Wages per Hour:* $42.50.

*Average Cost per Year:* $637.50 (time*wages).

*Benefits and Overhead:* 20%.

*Total Government Cost:* $765.

**Toya Woods,**

*Records Management Division, Office of the Information Officer.*

[FR Doc. 2015–01688 Filed 1–28–15; 8:45 am]

**BILLING CODE 6690–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### FCC To Hold Open Commission Meeting Thursday, January 29, 2015

January 22, 2015.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 29, 2015. The meeting is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC With respect *only* to item no. 1 listed below, the Commission is waiving the sunshine period prohibition contained in § 1.1203 of the Commission's rules, 47 CFR 1.1203, until 11:59 p.m. on Friday, January 23, 2015. Thus, presentations with respect to item #1 will be permitted until that time.

| Item No. | Bureau | Subject |
|---|---|---|
| 1 | PUBLIC SAFETY AND HOMELAND SECURITY. | TITLE: Wireless E911 Location Accuracy Requirements (PS Docket No. 07–114).<br>SUMMARY: The Commission will consider a Report and Order to ensure that accurate caller location information is automatically provided to public safety officials for all wireless calls to 911, including for indoor calls, to meet consumer and public safety needs and expectations, and to take advantage of new technological developments. |
| 2 | WIRELINE COMPETITION | TITLE: Inquiry Concerning the Development of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act (GN Docket No. 14–126).<br>SUMMARY: The Commission will consider a 2015 Broadband Progress Report examining whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion; and a Notice of Inquiry asking what immediate action the Commission should take to accelerate the deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market. |
| 3 | WIRELINE COMPETITION | TITLE: Inquiry Concerning the Development of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act (GN Docket Nos. 12–228 and 14–126).<br>SUMMARY: The Commission will consider an Order announcing the conclusion of the Ninth Notice of Inquiry. |
| 4 | CONSUMER & GOVERNMENTAL AFFAIRS. | PRESENTATION: The Commission will hear a presentation on the new Consumer Help Center that provides an easier-to-use, more consumer-friendly portal for filing and monitoring informal consumer complaints, as well as accessing educational materials. |
| 5 | ENFORCEMENT BUREAU | TITLE: Enforcement Bureau Action<br>SUMMARY: The Commission will consider whether to take an enforcement action. |

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Meribeth McCarrick, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–01608 Filed 1–28–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) IV will hold its seventh and final meeting. At the meeting, each of the Working Groups will present an update on topics such as wireless emergency alerts, emergency alert and warning systems, cybersecurity best practices, legacy best practices, and submarine cable landing sites.

**DATES:** March 18, 2015.

**ADDRESSES:** Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jeffery Goldthorp, Designated Federal Officer, (202) 418–1096 (voice) or *jeffery.goldthorp@fcc.gov* (email); or Lauren Kravetz, Deputy Designated Federal Officer, (202) 418–7944 (voice) or *lauren.kravetz@fcc.gov* (email).

**SUPPLEMENTARY INFORMATION:** The meeting will be held on March 18, 2015, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street SW., Washington, DC 20554.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the FCC regarding best practices and actions the FCC can take to ensure the security, reliability, and interoperability of communications systems. On March 19, 2013, the FCC, pursuant to the Federal Advisory Committee Act, renewed the charter for the CSRIC for a period of two years through March 18, 2015. Each of the ten Working Groups of this most recently-chartered CSRIC is described in more detail at *http://www.fcc.gov/encyclopedia/communications-security-reliability-and-interoperability-council-iv.*

The meeting on March 18, 2015, will be the seventh and final meeting of the CSRIC under the current charter. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Jeffery Goldthorp, CSRIC Designated Federal Officer, by email to *jeffery.goldthorp@fcc.gov* or U.S. Postal Service Mail to Jeffery Goldthorp, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW., Room 7–A325, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2015–01667 Filed 1–28–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[CG Docket No. 14–157; DA 14–1871]**

### Termination of Dormant Proceedings

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Consumer and Governmental Affairs Bureau (CGB), terminates, as dormant, certain docketed Commission proceedings. The Commission believes that termination of these proceedings furthers the Commission's organizational goals of increasing the efficiency of its decision-making, modernizing the agency's processes in the digital age, and enhancing the openness and transparency of Commission proceedings for practitioners and the public.

**DATES:** Effective January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Gayle Radley Teicher, Consumer and Governmental Affairs Bureau at (202) 418–1515 or by email at *gayle.teicher@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Order, *Termination of Certain Proceedings as Dormant,* document DA 14–1871, adopted on December 22, 2014, and released on December 22, 2014 in CG Docket No. 14–157.

The full text of document DA 14–1871 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document DA 14–1871 can also be downloaded in Word or Portable Document Format (PDF) at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db1222/DA-14-1871A1.pdf.* The spreadsheet associated with document DA 14–1871 listing the proceedings proposed for termination for dormancy is available in Word or Portable Document Format at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db1222/DA-14-1871A2.pdf.*

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 (202) 418–0432 (TTY).

#### Final Paperwork Reduction Act of 1995 Analysis

Document DA 14–1871 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).

#### Synopsis

1. In document DA 14–1871, the Consumer and Governmental Affairs Bureau (CGB) terminates, as dormant, the proceedings listed on the Attachment hereto. CGB believes that termination of these proceedings furthers the Commission's organizational goals of increasing the

efficiency of its decision-making, modernizing the agency's processes in the digital age, and enhancing the openness and transparency of Commission proceedings for practitioners and the public. In addition, on the basis of further evaluation, CGB leaves open three proceedings included in the *Fourth Dormant Proceedings Termination Public Notice, published at 79 FR 59769, October 3, 2014,* namely *Promoting Interoperability in the 700 MHz Commercial Spectrum,* WT Docket No. 12–69, *AT&T and Cellco Partnership D/B/A Verizon Wireless Seek FCC Consent to Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement,* WT Docket No. 09–104, and *Atlantic Tele-Network, Inc. and Verizon Wireless seek FCC Consent to Transfer Licenses and Authorizations,* WT Docket No. 09–119.

2. On February 4, 2011, the Commission released a Report and Order that, *inter alia,* amended § 0.141 of the Commission's organizational rules to delegate authority to the Chief, CGB to conduct periodic review of all open dockets with the objective of terminating those that were inactive. The Commission stated that termination of such proceedings also will include the dismissal as moot of any pending petition, motion, or other request for relief in the terminated proceeding that is procedural in nature or otherwise does not address the merits of the proceeding.

3. Following the release of the *Procedure Order,* 76 FR 24383, May 2, 2011, CGB, in consultation with the relevant other bureaus and offices, conducted a review of all open dockets and identified those dockets that could potentially be terminated. As a result of that process, CGB issued the *First Dormant Proceedings Termination Public Notice,* published at 76 FR 35892, June 20, 2011, listing the open dockets under consideration for termination, and providing interested parties the opportunity to file comments on these proposed terminations. Following these procedures, by Order released November 1, 2011, CGB terminated, as dormant the docketed proceedings listing in the attachment thereto. *See* 76 FR 70902, November 16, 2011. On February 15, 2012, CGB released the *Second Dormant Proceedings Termination Public Notice,* published at 77 FR 13322, March 6, 2012, listing open dockets under consideration for termination. On September 27, 2012, CGB released the *Second Dormant Proceedings Termination Order,* published at 77 FR 60934, October 5, 2012, in which it terminated as dormant the proceedings listed in the attachment thereto, located at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1545A1.pdf.* On June 30, 2014, CGB released the *Third Dormant Proceedings Termination Public Notice,* published at 79 FR 42320, July 21, 2014. On September 15, 2014, CGB released the *Third Dormant Proceedings Termination Order,* published at 79 FR 58344, September 29, 2014, in which it terminated as dormant the proceedings listed in the attachment thereto, located at *http://www.fcc.gov/article/da-14-1329a2.*

4. On September 18, 2014, CGB released the *Fourth Dormant Proceedings Termination Public Notice,* published at 79 FR 59769, October 2, 2014. In response to the *Fourth Dormant Proceedings Termination Public Notice,* CGB received two comments requesting that certain proceedings noted in the Public Notice remain open.

5. Based on CGB's review of the record received in response to the *Fourth Dormant Proceedings Termination Public Notice,* it terminates the proceedings listed in document DA 14–1871 and leaves open three proceedings that had been listed in Attachment A to *the Fourth Dormant Proceedings Termination Public Notice. See https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1354A2.pdf.* After review of the comments and CGB's further evaluation, it has determined that WTB Dockets No. 12–69, 09–104 and 09–119 will remain open and will not be terminated at this time. For the reasons set out below, CGB declines the request of the Children's Media Policy Coalition that MB Docket No. 04–261 remain open.

6. *The Children's Media Policy Coalition (MB Docket No. 04–261*). The Children's Media Policy Coalition asks that MB Docket No. 04–261 (*Violent Television Programming and Its Impact on Children, Report)* remain open ''in order to allow for more discussion on ways ratings systems could be used and applied in today's media environment.'' CGB does not find that closing MB Docket No. 04–261 will deter the discussion of television ratings systems. In this connection, CGB notes that another open proceeding has taken up a full review of this issue. MB Docket No. 04–261 was initiated to address a request from members of Congress to undertake an inquiry on television violence; further, that task was completed by the issuance of a Report in 2007. Since 2009, the docket has been inactive. Thus, CGB declines the Children's Media Policy Coalition's request and will terminate MB Docket No. 04–261. The Children's Media Policy Coalition also seeks clarification that termination of MB Docket No. 09–194 does not affect MM Docket No. 00–167. In response to that request, CGB hereby confirms that the status of MM Docket No. 00–167 is not affected by document DA 14–1871.

7. *Competitive Carriers Association (WT Docket No. 12–69*). On October 28, 2014, the Competitive Carriers Association (CCA) filed a letter in this proceeding requesting that WT Docket No. 12–69 (*Promoting Interoperability in the 700 MHz Commercial Spectrum*) be removed from the list of dormant proceedings designated for termination. CCA states that the Report and Order in this proceeding approved the implementation of a voluntary industry solution to establish interoperable LTE service in the Lower 700 MHz band. As a part of this voluntary industry solution, the Commission adopted license conditions for AT&T to hold the Lower 700 MHz B and C Block licenses, which includes the requirements that (1) AT&T deploy the Multi-Frequency Band Indicator software feature and transition to Band Class 12 capable devices; and (2) AT&T comply with reporting requirements by filing reports in WT Docket No. 12–69 that provide information on AT&T's progress in meeting these commitments. In light of the ongoing reporting of AT&T's progress in this docket, CGB agrees with CCA that this docket should not be closed. Accordingly, CGB will not terminate this proceeding at this time and it will remain open.

8. *AT&T and Cellco Partnership D/B/A Verizon Wireless Seek FCC Consent to Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement (WT Docket No. 09–104*). Upon further review, CGB concludes that this docket was erroneously included on the list of dockets slated for closure attached to document DA 14–1354. There is currently pending a petition for reconsideration of the Commission's order in this docket, and this petition for reconsideration will be addressed in the near future. Accordingly, this docket will remain open.

9. *Atlantic Tele-Network, Inc. and Verizon Wireless seek FCC Consent to Transfer Licenses and Authorizations (WT Docket No. 09–119*). Upon further review, CGB concludes that this docket was erroneously included on the list of dockets slated for closure attached to document DA14–1354. There is currently pending two applications for review of an order issued by the Wireless Telecommunications Bureau.

These applications for review will be addressed in the future. Accordingly, this docket will remain open.

10. Upon publication of document DA 14–1871 in the **Federal Register**, these proceedings will be terminated in the Electronic Comment Filing System (ECFS). The record in the terminated proceedings will remain part of the Commission's official records, and the various pleadings, orders, and other documents in these dockets will continue to be accessible to the public, post-termination.

**Regulatory Flexibility Act**

11. The Commission's action does not require notice and comment and is not subject to the Regulatory Flexibility Act of 1980, as amended. *See* 5 U.S.C. 601(2), 603(a). The Commission nonetheless notes that it anticipates that the rules adopted will not have a significant economic impact on a substantial number of small entities. As described above, the Commission primarily changes its own internal procedures and organizations and does not impose substantive new responsibilities on regulated entities. There is no reason to believe termination of certain dormant proceedings would impose significant costs on parties to Commission proceedings. To the contrary, the Commission takes the actions herein with the expectation that overall they will make dealings with the Commission quicker, easier, and less costly for entities of all size.

**Congressional Review Act**

The Commission will not send a copy of document DA 14–1871 pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the Commission is not adopting, amending, revising, or deleting any rules.

**Ordering Clauses**

Pursuant to the authority contained in sections 4(i), and 4(j) of the Communications Act, 47 U.S.C. 154(i) and (j), and § 0.141 of the Commission's rules, that the proceedings set forth in document DA 14–1871 are *terminated.*

Federal Communications Commission.

**Kris Anne Monteith,**

*Acting Chief, Consumer and Governmental Affairs Bureau.*

[FR Doc. 2015–01702 Filed 1–28–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Sunshine Act Notice

January 26, 2015.

**TIME AND DATE:** 2:00 p.m., Thursday, January 29, 2015.

**PLACE:** The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** It was determined by a unanimous vote of the Commissioners that the Commission consider and act upon the following in closed session: *Brody Mining, LLC* v. *Secretary of Labor,* Docket Nos. WEVA 2014–82–R, et al. (Issues include whether to grant or deny the Secretary of Labor's Emergency Motion for Stay of ALJ's Order Dismissing Pattern-of-Violations Notice.) This is the earliest practicable time that notice of the closed meeting could be provided.

**CONTACT PERSON FOR MORE INFO:** Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

**Sarah L. Stewart,**

*Deputy General Counsel.*

[FR Doc. 2015–01726 Filed 1–27–15; 11:15 am]

**BILLING CODE 6735–01–P**

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Sunshine Act Meeting

January 27, 2015.

**TIME AND DATE:** 11:00 a.m., Thursday, February 5, 2015.

**PLACE:** The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in open session: *Mill Branch Coal Corp.* v. *Secretary of Labor,* Docket Nos. VA 2012–435–R *et al.* (Issues include whether the Administrative Law Judge erred in upholding an imminent danger order.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**CONTACT PERSON FOR MORE INFO:** Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

**Sarah L. Stewart,**

*Deputy General Counsel.*

[FR Doc. 2015–01808 Filed 1–27–15; 4:15 pm]

**BILLING CODE 6735–01–P**

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Sunshine Act Meeting

January 27, 2015.

**TIME AND DATE:** 10:00 a.m., Thursday, February 5, 2015.

**PLACE:** The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Jim Walter Resources, Inc.,* Docket No. SE 2011–407–R; and *Secretary of Labor* v. *Jim Walter Resources, Inc.,* Docket No. SE 2012–681–R (Issues include whether the Administrative Law Judges erred in upholding certain imminent danger orders.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**CONTACT PERSON FOR MORE INFO:** Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

**Sarah L. Stewart,**

*Deputy General Counsel.*

[FR Doc. 2015–01805 Filed 1–27–15; 4:15 pm]

**BILLING CODE 6735–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Meeting of the Advisory Committee on Blood and Tissue Safety and Availability

**AGENCY:** Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

**ACTION:** Notice.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Advisory Committee on Blood and

Tissue Safety and Availability (ACBTSA) will hold a meeting. The meeting will be open to the public.

**DATES:** The meeting will take place Tuesday April 7, 2105, from 8:00 a.m.–4:00 p.m. and Wednesday April 8, 2015, from 8:00 a.m.–3:30 p.m.

**ADDRESSES:** NIH Conference Room, 5635 Fishers Lane, Rockville, MD 20892.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Berger, Designated Federal Officer for the ACBTSA, Senior Advisor for Blood and Tissue Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, 1101 Wootton Parkway, Suite 250, Rockville, MD 20852. Phone: (240) 453–8803; Fax (240) 453–8456; Email *ACBTSA@hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The ACBTSA provides advice to the Secretary through the Assistant Secretary for Health. The Committee advises on a range of policy issues to include: (1) Identification of public health issues through surveillance of blood and tissue safety issues with national biovigilance data tools; (2) identification of public health issues that affect availability of blood, blood products, and tissues; (3) broad public health, ethical and legal issues related to the safety of blood, blood products, and tissues; (4) the impact of various economic factors (*e.g.,* product cost and supply) on safety and availability of blood, blood products, and tissues; (5) risk communications related to blood transfusion and tissue transplantation; and (6) identification of infectious disease transmission issues for blood, organs, blood stem cells and tissues. The Committee has met regularly since its establishment in 1997.

The ACBTSA has made previous recommendations on the need to improve tissue tracking and traceability. These recommendations focused on tracking adverse events, creating a unique identifier for each donor, and improving patient outcomes. Past recommendations made by the ACBTSA may be viewed at *www.hhs.gov/bloodsafety.*

The focus of the meeting will be to address current issues in tracking and traceability of tissue recovered from deceased donors. The discussion will focus on pertinent federal and state regulations, other mechanisms that impact tissue tracking and traceability, and current gaps in this area. Presenters will represent a wide range of government and non-government stakeholders, including federal agencies, accreditation organizations, tissue and eye banks, healthcare facilities, and medical practitioners.

The public will have an opportunity to present their views to the Committee during a public comment session scheduled for April 8, 2015. Comments will be limited to five minutes per speaker and must be pertinent to the discussion. Pre-registration is required for participation in the public comment session. Any member of the public who would like to participate in this session is encouraged to contact the Designated Federal Officer at his/her earliest convenience to register for time (limited to 5 minutes) ; registration must be completed prior to close of business on April 1, 2015. If it is not possible to provide 30 copies of the material to be distributed at the meeting, then individuals are requested to provide a minimum of one (1) copy of the document(s) to be distributed prior to the close of business on April 1, 2015. It is also requested that any member of the public who wishes to provide comments to the Committee utilizing electronic data projection submit the necessary material to the Designated Federal Officer prior to the close of business on April 1, 2015.

Dated: January 22, 2015.

**James J. Berger,**

*Senior Advisor for Blood and Tissue Safety Policy.*

[FR Doc. 2015–01680 Filed 1–28–15; 8:45 am]

**BILLING CODE 4150–41–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Nominations to the Advisory Committee on Blood and Tissue Safety and Availability

**AGENCY:** Office of the Secretary, Office of the Assistant Secretary for Health, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Office of Assistant Secretary for Health (OASH) is seeking nominations of qualified individuals to be considered for appointment as members of the Advisory Committee on Blood and Tissue Safety and Availability (ACBTSA). ACBTSA is a Federal advisory committee within the Department of Health and Human Services. Management support for the activities of this Committee is the responsibility of the OASH. The qualified individuals will be nominated to the Secretary of Health and Human Services for consideration of appointment as members of the ACBTSA. Members of the Committee, including the Chair, are appointed by the Secretary. Members are invited to serve on the Committee for up to four-year terms.

**DATES:** All nominations must be received no later than 4:00 p.m. EDT on March 2, 2015, at the address listed below.

**ADDRESSES:** All nominations should be mailed or delivered to Mr. James Berger, Senior Advisor for Blood and Tissue Policy; Office of Assistant Secretary for Health; Department of Health and Human Services; 1101 Wootton Parkway, Suite 250; Rockville, MD 20852. Telephone: (240) 453–8803; Fax (240) 453–8456; Email *ACBTSA@hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. James Berger, Senior Advisor for Blood and Tissue Policy. Contact information for Mr. Berger is provided above.

A copy of the Committee charter and roster of the current membership can be obtained by contacting Mr. Berger or by accessing the ACBTSA Web site at *http://www.hhs.gov/bloodsafety. http://www.hhs.gov/bloodsafety.*

**SUPPLEMENTARY INFORMATION:** The ACBTSA shall provide advice to the Secretary through the Assistant Secretary for Health. The Committee shall advise on a range of policy issues to include: (1) Identification of public health issues through surveillance of blood and tissue safety issues with national biovigilance data tools; (2) identification of public health issues that affect availability of blood, blood products, and tissues; (3) broad public health, ethical and legal issues related to the safety of blood, blood products, and tissues; (4) the impact of various economic factors (*e.g.,* product cost and supply) on safety and availability of blood, blood products, and tissues; (5) risk communications related to blood transfusion and tissue transplantation; and (6) identification of infectious disease transmission issues for blood, organs, blood stem cells and tissues.

The Committee consists of 23 voting members. The Committee composition includes 14 public members, including the Chair, and nine (9) individuals designated to serve as official representative members. The public members are selected from state and local organizations, patient advocacy groups, provider organizations, academic researchers, ethicists, physicians, surgeons, scientists, risk communication experts, consumer advocates, and from among communities of persons who are frequent recipients of blood or blood products or who have received tissues or organs. The nine individuals who are appointed as official representatives are

selected to serve the interests of the blood, blood products, tissue and organ professional organizations or business sectors. The representative members are selected from the following groups: The AABB (formerly the American Association of Blood Banks); American Association of Tissue Banks; Eye Bank Association of America; Association of Organ Procurement Organizations; and one of either the American National Red Cross or America's Blood Centers on a rotating basis. The Committee composition can include additional representation from either the plasma protein fraction community or a trade organization; a manufacturer of blood, plasma, or other tissue/organ test kits; a manufacturer of blood, plasma or other tissue/organ equipment; a major hospital organization; or a major hospital accreditation organization. Where more than one company produces a specified product or process, representatives from those companies shall rotate on the same schedule as public members.

All ACBTSA members are authorized to receive the prescribed per diem allowance and reimbursement for travel expenses that are incurred to attend meetings and conduct Committee-related business, in accordance with Standard Government Travel Regulations. Individuals who are appointed to serve as public members are authorized also to receive a stipend for attending Committee meetings and to carry out other Committee-related business. Individuals who are appointed to serve as representative members for a particular interest group or industry are not authorized to receive a stipend for the performance of these duties.

This announcement is to solicit nominations of qualified candidates to fill nine public member positions that are scheduled to be vacated on the ACBTSA.

**Nominations**

In accordance with the charter, persons nominated for appointment as members of the ACBTSA should be among authorities knowledgeable in blood banking, tissue banking, transfusion medicine, organ or tissue transplantation, plasma therapies, transfusion and transplantation safety, bioethics, and/or related disciplines. Nominations should be typewritten. The following information should be included in the package of material submitted for each individual being nominated for consideration of appointment: (a) The name, return address, daytime telephone number and affiliation(s) of the individual being nominated, the basis for the individual's nomination, the category for which the individual is being nominated, and a statement bearing an original signature of the nominated individual that, if appointed, he or she is willing to serve as a member of the Committee; (b) the name, return address, and daytime telephone number at which the nominator may be contacted. Organizational nominators must identify a principal contact person in addition to the contact; and (c) a copy of a current curriculum vitae or resume for the nominated individual.

Individuals can nominate themselves for consideration of appointment to the Committee. All nominations must include the required information. Incomplete nominations will not be processed for consideration. The letter from the nominator and certification of the nominated individual must bear original signatures; reproduced copies of these signatures are not acceptable.

The Department is legally required to ensure that the membership of HHS Federal advisory committees is fairly balanced in terms of points of view represented and the functions to be performed by the advisory committee. Every effort is made to ensure that the views of women, all ethnic and racial groups, and people with disabilities are represented on HHS Federal Advisory committees and, therefore, the Department encourages nominations of qualified candidates from these groups. The Department also encourages geographic diversity in the composition of the committee. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

The Standards of Ethical Conduct for Employees of the Executive Branch are applicable to individuals who are appointed as public members of Federal advisory committees. Individuals appointed to serve as public members of Federal advisory committees are classified as special government employees (SGEs). The federal conflict of interest laws are applicable to SGEs. Therefore, individuals appointed to serve as public members of the ACBTSA are subject to an ethics review. The ethics review is conducted to determine if the individual has any interests and/or activities in the private sector that may conflict with performance of their official duties as a member of the Committee. Individuals appointed to serve as public members of the committee will be required to disclose information regarding financial holdings, consultancies, and research grants and/or contracts.

Dated: January 22, 2015.

**James J. Berger,**

*Senior Advisor for Blood and Tissue Policy.*

[FR Doc. 2015–01682 Filed 1–28–15; 8:45 am]

**BILLING CODE 4150–41–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30-Day–15–0931]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

**Proposed Project**

Healthy Homes and Lead Poisoning Prevention Surveillance System (HHLPPSS)(OMB Control No. 0920–0931, Expiration April 30, 2015)—Extension—National Center for Environmental Health (NCEH) and Agency for Toxic Substances and Disease Registry (ATSDR), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The overarching goal of the Healthy Homes and Lead Poisoning Prevention Surveillance System (HHLPPSS) is to support healthy homes surveillance activities at the state and national levels. HHLPSS is not a research study; rather it is a systematic assessment of programmatic activities under the healthy homes cooperative agreement. CDC is requesting a three-year extension of Office of Management and Budget (OMB) approval for up to 40 local and state Healthy Homes Childhood Lead Poisoning Prevention Programs (CLPPP) and the state-based Adult Blood Lead Epidemiology and Surveillance (ABLES) programs. The programs will continue to report information (*e.g.,* presence of lead paint, age of housing, occupation of adults and type of housing) via encrypted files and submit, electronically, to HHLPPB staff at CDC. The electronic files will be kept in accordance with CDC Records Control Schedules.

Over the last three years, 7 states have adopted the HHLPPSS and 13 are in beta-testing. In October 2014, CDC began funding 40 state and local blood lead surveillance programs. Many of these programs and their subcontractors at the local level will come on line with HHLPPSS in the next year.

The objectives for this surveillance system are two-fold. First, the HHLPPSS allows CDC to systematically track how the state and local programs conduct case management and follow-up of residents with housing-related health outcomes. Second, the system allows for identification and collection of information on other housing-related risk factors. Childhood and adult lead poisoning is just one of many adverse health conditions that are related to common housing deficiencies. Multiple hazards in housing (*e.g.,* mold, vermin, radon and the lack of safety devices) continue to adversely affect the health of residents. HHLPPSS offers a coordinated, comprehensive, and systematic public health approach to eliminate multiple housing-related health hazards.

HHLPPSS enables flexibility to evaluate housing where the risk for lead poisoning is high, regardless of whether children less than 6 years of age currently reside there. Thus, HHLPPSS supports CDC efforts for primary prevention of childhood and adult lead poisoning. Over the past several decades there has been a remarkable reduction in environmental sources of lead, improved protection from occupational lead exposure, and an overall decreasing trend in the prevalence of elevated blood lead levels (BLLs) in U.S. adults. As a result, the U.S. national BLL geometric mean among adults was 1.2 µg/dL during 2009–2010. Nonetheless, lead exposures continue to occur at unacceptable levels. Current research continues to find that BLLs previously considered harmless can have harmful effects in adults, such as decreased renal function and increased risk for hypertension and essential tremor at BLLs <10 µg/dL.

There is no cost to respondents other than their time. The total estimated annual burden hours are 640.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| State and Local Health Departments ..... | Healthy Homes and Lead Poisoning Prevention Surveillance Variables (HHLPPSS). | 40 | 4 | 4 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–01652 Filed 1–28–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

**Proposed Projects**

*Title:* Refugee Microenterprise and Refugee Home-Based Child Care Microenterprise Development Programs

*OMB No.:* 0970

*Description:* The Office of Refugee Resettlement (ORR) within the Administration for Children and families (ACF) is responsible for resettling thousands of refugees every year from all over the world. The main goal of the ORR (US) refugee domestic resettlement program is to assist the refugees in becoming self-reliant at the shortest time possible. ORR has many different discretionary grants that it employs to accomplish this goal. Two of the discretionary grants are the Refugee Microenterprise Development (MED) and the Refugee Home-Based Child Care Microenterprise Development (HBCC MED) Programs. The goals of the MED program are to assist refugees in becoming economically self-sufficient, assist refugee serving organizations galvanize resources to strengthen their capacities to expand and continue their microenterprise services at an expanded and sustainable level, and enhance the integration to the mainstream and realize the American Dream. The focus of the HBCC Program is on women that have limited opportunity to get employment at livable wages because of limited transferable skills and lack of knowledge of the English language. Through the program women refugees are provided basic training in child care and development, state and local legal requirements to get a license and to establish a home-based child care service. The ultimate goal of the program is to enable the women refugees establish a home-based child care service in their neighborhood.

ORR works with nonprofit organizations in implementing these projects. Currently, there are 22 projects in the Refugee Microenterprise Development Program and 23 projects in the Refugee Home-Based Child Care Microenterprise Development Program. It is critical to collect data through a semi-annual report in order to determine whether or not the programs are achieving their intended goals, to address concerns, issues, and challenges

the grantees may be experiencing in implementing their projects on a timely manner, and, for writing Annual Report to Congress.

Respondents: Refugee Microenterprise Development Program 22. Refugee Home-Based Child Care Microenterprise Development Program 23

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondents | Average burden hours per respondents | Total burden hours |
|---|---|---|---|---|
| Refugee Microenterprise Development Program | 22 | 8 | 4 | 88 |
| Refugee Home-Based Child Care Microenterprise Development Program | 23 | 7 | 4 | 92 |
| Total Burden | | | | 180 |

*Estimated Total Annual Burden Hours:* 180.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2015–01628 Filed 1–28–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

**Proposed Projects**

*Title:* Office of Refugee Resettlement Individual Development Accounts (ORR IDA) Program.

*OMB No.:* New Collection.

*Description:* The Office of Refugee Resettlement seeks OMB approval to develop three data collection tools for use in the ORR IDA Program.

The ORR IDA Program represents an anti-poverty strategy built on asset accumulation for low-income refugee individuals and families with the goal of promoting refugee economic independence.

IDAs are leveraged or matched, savings accounts. In the ORR Refugee IDA program, IDAs are matched with federal funds that have been allocated as ''match funds'' from at least 65 percent of the annual federal grant award. IDAs are established in insured accounts in qualified financial institutions. The funds are intended for the Asset Goals specified in this announcement. Although the refugee participant maintains control of all funds that the participant deposits in the IDA, including all interest that may accrue on the funds, the participant must sign a Savings Plan Agreement which specifies that the funds in the account will be used only for the participant's qualified Asset Goal(s) or for an emergency withdrawal.

The objectives of this program are to:

1. Establish IDAs for eligible participants;

2. Encourage regular saving habits among refugees;

3. Promote their participation in the financial institutions of this country;

4. Promote refugee acquisition of assets to build individual, family, and community resources;

5. Increase refugee knowledge of financial and monetary topics including developing a household budget;

6. Assist refugees in advancing their education;

7. Increase home ownership among refugees; and

8. Assist refugees in gaining access to capital.

The tools will collect information from grantees that will help ORR determine whether they are meeting the objectives of the program. Data to be collected will only include specialized, and relevant information to the program such as, number of people enrolled, amount in dollar allocated for matching IDA savings, number and value of assets purchased, confirmation of refugee status, and types and quantity of training provided. Tools will be used for semi-annual reports as well as for monitoring to ensure progress towards success, and appropriate use of federal funds.

*Respondents:* Office of Refugee Resettlement Individual Development Accounts Program grantees.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Program Status Report | 22 | 2 | 1 | 44 |
| Community Impact Report | 22 | 2 | 1 | 44 |
| Demographic | 22 | 2 | 1 | 44 |

*Estimated Total Annual Burden Hours:* 132 hours.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2015–01643 Filed 1–28–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–N–0115]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry and Food and Drug Administration Staff—Class II Special Controls Guidance Document: Automated Blood Cell Separator Device Operating by Centrifugal or Filtration Principle

**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 the collection of information concerning class II special controls for an automated blood cell separator device operating by centrifugal or filtration separation principle.

**DATES:** Submit either electronic or written comments on the collection of information by March 30, 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 Springs, 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.

### Guidance for Industry and FDA Staff—Class II Special Controls Guidance Document: Automated Blood Cell Separator Device Operating by Centrifugal or Filtration Separation Principle (OMB Control Number 0910–0594)—Extension

Under the Safe Medical Devices Act of 1990 (Pub. L. 101–629), FDA may

establish special controls, including performance standards, postmarket surveillance, patient registries, guidelines, and other appropriate actions it believes necessary to provide reasonable assurance of the safety and effectiveness of the device. The special control guidance serves to support the reclassification from class III to class II of the automated blood cell separator device operating on a centrifugal separation principle intended for the routine collection of blood and blood components as well as the special control for the automated blood cell separator device operating on a filtration separation principle intended for the routine collection of blood and blood components reclassified as class II (§ 864.9245 (21 CFR 864.9245)).

For currently marketed products not approved under the premarket approval process, the manufacturer should file with FDA, for 3 consecutive years, an annual report on the anniversary date of the device reclassification from class III to class II or on the anniversary date of the 510(k) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360) clearance. Any subsequent change to the device requiring the submission of a premarket notification in accordance with section 510(k) of the FD&C Act should be included in the annual report. Also, a manufacturer of a device determined to be substantially equivalent to the centrifugal or filtration-based automated cell separator device intended for the routine collection of blood and blood components should comply with the same general and special controls.

The annual report should include, at a minimum, a summary of anticipated and unanticipated adverse events that have occurred and that are not required to be reported by manufacturers under Medical Device Reporting (MDR) (part 803 (21 CFR part 803)). The reporting of adverse device events summarized in an annual report will alert FDA to trends or clusters of events that might be a safety issue otherwise unreported under the MDR regulation.

Reclassification of this device from class III to class II for the intended use of routine collection of blood and blood components relieves manufacturers of the burden of complying with the premarket approval requirements of section 515 of the FD&C Act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by reducing the burden. Although the special control guidance recommends that manufacturers of these devices file with FDA an annual report for 3 consecutive years, this would be less burdensome than the current postapproval requirements under part 814, subpart E (21 CFR part 814, subpart E), including the submission of periodic reports under § 814.84.

Collecting or transfusing facilities and manufacturers have certain responsibilities under Federal regulations. For example, collecting or transfusing facilities are required to maintain records of any reports of complaints of adverse reactions (21 CFR 606.170), while the manufacturer is responsible for conducting an investigation of each event that is reasonably known to the manufacturer and evaluating the cause of the event (§ 803.50(b)). In addition, manufacturers of medical devices are required to submit to FDA individual adverse event reports of death, serious injury, and malfunctions (§ 803.50).

In the special control guidance document, FDA recommends that manufacturers include in their three annual reports a summary of adverse reactions maintained by the collecting or transfusing facility, or similar reports of adverse events collected, in addition to those required under the MDR regulation. The MedWatch medical device reporting code instructions (*http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm106737.htm*) contains a comprehensive list of adverse events associated with device use, including most of those events that we recommend summarizing in the annual report.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Reporting activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Annual Report | 4 | 1 | 4 | 5 | 20 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on FDA records, there are approximately four manufacturers of automated blood cell separator devices. The estimated average burden per response is based on the time that the manufacturers will spend preparing and submitting the annual report.

Other burden hours required for § 864.9245 are reported and approved under OMB control number 0910–0120 (premarket notification submission 501(k), 21 CFR part 807, subpart E), and OMB control number 0910–0437 (MDR, part 803).

Dated: January 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–01626 Filed 1–28–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–1048]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Device Labeling Regulations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by March 2, 2015.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0485. Also include the FDA 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:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Medical Device Labeling Regulations—21 CFR 800, 801, and 809 (OMB Control Number 0910–0485)—Extension**

Section 502 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 352), among other things, establishes requirements for the label or labeling of a medical device so that it is not misbranded and subject to a regulatory action. Certain provisions under section 502 require manufacturers, importers, and distributors of medical devices to disclose information about themselves or the devices on the labels or labeling for the devices.

Section 502(b) of the FD&C Act requires that for packaged devices, the label must bear the name and place of business of the manufacturer, packer, or distributor as well as an accurate statement of the quantity of the contents. Section 502(f) of the FD&C Act requires that the labeling for a device must contain adequate directions for use. FDA may, however, grant an exemption if the Agency determines that the adequate directions for use labeling requirements are not necessary for the particular case as it relates to protection of the public health.

FDA regulations under parts 800, 801, and 809 (21 CFR parts 800, 801, and 809) require disclosure of specific information by manufacturers, importers, and distributors of medical devices about themselves or the devices, on the label or labeling for the devices, to health professionals and consumers. FDA issued these regulations under the authority of sections 201, 301, 502, and 701 of the FD&C Act (21 U.S.C. 321, 331, 352, and 371). Most of the regulations under parts 800, 801, and 809 are derived from requirements of section 502 of the FD&C Act, which provides, in part, that a device shall be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the device, is false or misleading in any particular way, or fails to contain adequate directions for use.

*Recordkeeping Burden*

Section 801.150(a)(2) establishes recordkeeping requirements for manufacturers of devices to retain a copy of the agreement containing the specifications for the processing, labeling, or repacking of the device for 2 years after the shipment or delivery of the device. Section 801.150(a)(2) also requires that the subject respondents make copies of this agreement available for inspection at any reasonable hour to any officer or employee of the Department of Health and Human Services (HHS) who requests them.

Section 801.410(e) requires copies of invoices, shipping documents, and records of sale or distribution of all impact resistant lenses, including finished eyeglasses and sunglasses, be maintained for 3 years by the retailer and made available upon request by any officer or employee of FDA or by any other officer or employee acting on behalf of the Secretary of HHS.

Section 801.410(f) requires that the results of impact tests and description of the test method and apparatus be retained for a period of 3 years.

Section 801.421(d) establishes requirements for hearing aid dispensers to retain copies of all physician statements or any waivers of medical evaluation for 3 years after dispensing the hearing aid.

Section 801.430(f) requires manufacturers of menstrual tampons to devise and follow an ongoing sampling plan for measuring the absorbency of menstrual tampons. In addition, manufacturers must use the method and testing parameters described in § 801.430(f).

Section 801.435(g) requires latex condom manufacturers to document and provide, upon request, an appropriate justification for the application of the testing data from one product on any variation of that product to support expiration dating in the user labeling.

*Third-Party Disclosure Burden*

Sections 800.10(a)(3) and 800.12(c) require that the label for contact lens cleaning solutions bear a prominent statement alerting consumers of the tamper-resistant feature. Further, § 800.12 requires that packaged contact lens cleaning solutions contain a tamper-resistant feature to prevent malicious adulteration.

Section 800.10(b)(2) requires that the labeling for liquid ophthalmic preparations packed in multiple-dose containers provide information on the duration of use and the necessary warning information to afford adequate protection from contamination during use.

Section 801.1 requires that the label for a device in package form contain the name and place of business of the manufacturer, packer, or distributor.

Section 801.5 requires that labeling for a device include information on intended use as defined under § 801.4 and provide adequate directions to assure safe use by the lay consumers.

Section 801.61 requires that the principal display panel of an over-the-counter (OTC) device in package form must bear a statement of the identity of the device. The statement of identity of the device must include the common name of the device followed by an accurate statement of the principal intended actions of the device.

Section 801.62 requires that the label for an OTC device in package form must bear a statement of declaration of the net quantity of contents. The label must express the net quantity in terms of weight, measure, numerical count, or a combination of numerical count and weight, measure, or size.

Section 801.109 establishes labeling requirements for prescription devices, in which the label for the device must describe the application or use of the device and contain a cautionary statement restricting the device for sale by, or on the order of, an appropriate professional.

For prescription by a licensed practitioner, § 801.110 establishes labeling requirements for a prescription device delivered to the ultimate purchaser or user. The device must be accompanied by labeling bearing the name and address of the licensed practitioner, directions for use, and cautionary statements, if any, provided by the order.

Section 801.150(e) requires a written agreement between firms involved when a nonsterile device is assembled or packaged with labeling that identifies the final finished device as sterile, for which the device is ultimately introduced into interstate commerce to an establishment or contract manufacturer to be sterilized. When a written agreement complies with the requirements under § 801.150(e), FDA takes no regulatory action against the device as being misbranded or adulterated. In addition, § 801.150(e) requires that each pallet, carton, or other designated unit be conspicuously marked to show its nonsterile nature when introduced into interstate commerce and while being held prior to sterilization.

Section 801.405(b)(1) provides for labeling requirements for articles, including repair kits, re-liners, pads, and cushions, intended for use in temporary repairs and refitting of dentures for lay persons. Section 801.405(b)(1) also requires that the labeling contain the word ''emergency'' preceding and modifying each

indication-for-use statement for denture repair kits, and the word ''temporary'' preceding and modifying each indication-for-use statement for re-liners, pads, and cushions.

Section 801.405(c) provides for labeling requirements that contain essentially the same information described under § 801.405(b)(1). The information is intended to enable a lay person to understand the limitations of using OTC denture repair kits and denture re-liners, pads, and cushions.

Section 801.420(c)(1) requires that manufacturers or distributors of hearing aids develop a user instructional brochure to be provided by the dispenser of the hearing aid to prospective users. The brochure must contain detailed information on the use and maintenance of the hearing aid.

Section 801.420(c)(4) establishes requirements that the user instructional brochure or separate labeling provide for technical data elements useful for selecting, fitting, and checking the performance of a hearing aid. In addition, § 801.420(c)(4) provides for testing requirements to determine that the required data elements must be conducted in accordance with the American National Standards Institute's (ANSI) ''Specification of Hearing Aid Characteristics,'' ANSI S3.22–1996 (ASA 70–1996), (Revision of ANSI S3.22–1987), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

Section 801.421(b) establishes requirements for the hearing aid dispenser to provide prospective users with a copy of the user instructional brochure along with an opportunity to review comments, either orally or by the predominant method of communication used during the sale.

Section 801.421(c) establishes requirements for the hearing aid dispenser to provide a copy of the user instructional brochure to the prospective purchaser of any hearing aid upon request or, if the brochure is unavailable, provide the name and address of the manufacturer or distributor from which it may be obtained.

Section 801.430(d) establishes labeling requirements for menstrual tampons to provide information on signs, risk factors, and ways to reduce the risk of Toxic Shock Syndrome (TSS).

Section 801.430(e)(2) requires menstrual tampon package labels to provide information on the absorbency term based on testing required under § 801.430(f) and an explanation of selecting absorbencies that reduce the risk of contracting TSS.

Section 801.435(b), (c), and (h) establishes requirements for condom labeling to bear an expiration date that is supported by testing that demonstrates the integrity of three random lots of the product.

Section 809.10(a) and (b) establishes requirements that a label for an in vitro diagnostic (IVD) device and the accompanying labeling (package insert) must contain information identifying its intended use, instructions for use, lot or control number, and source.

Section 809.10(d)(1) provides that the labeling requirements for general purpose laboratory reagents may be exempt from the requirements of § 809.10(a) and (b) if the labeling contains information identifying its intended use, instructions for use, lot or control number, and source.

Section 809.10(e) provides that the labeling for ''Analytic Specific Reagents'' (ASRs) must provide information identifying the quantity or proportion of each reagent ingredient, instructions for use, lot or control number, and source.

Section 809.10(f) provides that the labeling for OTC test sample collection systems for drugs of abuse must include information on the intended use, specimen collection instructions, identification system, and information about use of the test results. In addition, § 809.10(f) requires that this information be in language appropriate for the intended users.

Section 809.30(d) requires that advertising and promotional materials for ASRs include the identity and purity of the ASR and the identity of the analyte.

Section 1040.20(d) (21 CFR 1040.20) provides that manufacturers of sunlamp products and ultraviolet lamps are subject to the labeling regulations under part 801.

The burden estimates are based on FDA's current registration and listing data and shipment information.

In the **Federal Register** of August 01, 2014 (79 FR 44782), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| Activity/21 CFR Section | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| Processing, labeling, or repacking agreement—801.150(a)(2) | 4,870 | 739 | 3,598,930 | 0.50 | 1,799,465 |
| Impact resistant lenses; invoices, shipping documents, and records of sale or distribution—801.410(e) and (f) | 1,136 | 924,100 | 27,723,000 | 0.0008 | 22,178 |
| Hearing aid records—801.421(d) | 10,000 | 160 | 1,600,000 | 0.25 | 400,000 |
| Menstrual tampons, sampling plan for measuring absorbency—801.430(f) | 22 | 8 | 176 | 80 | 14,080 |
| Latex condoms; justification for the application of testing data to the variation of the tested product—801.435(g) | 63 | 6 | 378 | 1 | 378 |
| Total | | | | | 2,236,101 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

| Activity/21 CFR section | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| Contact lens cleaning solution labeling—800.10(a)(3) and 800.12(c) | 17 | 8 | 136 | 1 | 136 |
| Liquid ophthalmic preparation labeling—800.10(b)(2) | 17 | 8 | 136 | 1 | 136 |
| Manufacturer, packer, or distributor information—801.1 | 13,780 | 7 | 96,460 | 1 | 96,460 |
| Adequate directions for use—801.5 | 6,657 | 6 | 39,942 | 22.35 | 892,704 |
| Statement of identity—801.61 | 6,657 | 6 | 39,942 | 1 | 39,942 |
| Declaration of net quantity of contents—801.62 | 6,657 | 6 | 39,942 | 1 | 39,942 |
| Prescription device labeling—801.109 | 7,558 | 6 | 45,348 | 17.77 | 805,834 |
| Retail exemption for prescription devices—801.110 | 30,000 | 667 | 20,010,000 | 0.25 | 5,002,500 |
| Processing, labeling, or repacking; non-sterile devices—801.150(e) | 377 | 34 | 12,818 | 4 | 51,272 |
| Labeling of articles intended for lay use in the repairing and/or refitting of dentures—801.405(b)(1) | 31 | 1 | 31 | 4 | 124 |
| Dentures; information regarding temporary and emergency use—801.405(c) | 31 | 1 | 31 | 4 | 124 |
| Labeling requirements for hearing aids—801.420(c)(1) | 86 | 12 | 1,032 | 40 | 41,280 |
| Technical data for hearing aids—801.420(c)(4) | 86 | 12 | 1,032 | 80 | 82,560 |
| Hearing aids, opportunity to review user instructional brochure—801.421(b) | 10,000 | 160 | 1,600,000 | 0.30 | 480,000 |
| Hearing aids, availability of user instructional brochure—801.421(c) | 10,000 | 5 | 50,000 | 0.17 | 8,500 |
| User labeling for menstrual tampons—801.430(d) | 22 | 8 | 176 | 2 | 352 |
| Menstrual tampons, ranges of absorbency—801.430(e)(2) | 22 | 8 | 176 | 2 | 352 |
| User labeling for latex condoms—801.435(b), (c), and (h) | 63 | 6 | 378 | 100 | 37,800 |
| Labeling for IVDs—809.10(a) and (b) | 1,700 | 6 | 10,200 | 80 | 816,000 |
| Labeling for general purpose laboratory reagents—809.10(d)(1) | 300 | 2 | 600 | 40 | 24,000 |
| Labeling for analyte specific reagents—809.10(e) | 300 | 25 | 7,500 | 1 | 7,500 |
| Labeling for OTC test sample collection systems for drugs of abuse testing—809.10(f) | 20 | 1 | 20 | 100 | 2,000 |
| Advertising and promotional materials for ASRs—809.30(d) | 300 | 25 | 7,500 | 1 | 7,500 |
| Labeling of sunlamp products—1040.20(d) | 30 | 1 | 30 | 10 | 300 |
| Total | | | | | 8,437,318 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–01668 Filed 1–28–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2011–N–0509]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Appeals of Science-Based Decisions Above the Division Level at the Center for Veterinary Medicine

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by March 2, 2015.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0566. Also include the FDA 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:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Appeals of Science-Based Decisions Above the Division Level at CVM—21 CFR 10.75 (OMB Control Number 0910–0566—Revision)

Respondents: Respondents to this collection of information are applicants that wish to submit a request for review of a scientific dispute.

The Center for Veterinary Medicine's (CVM's) guidance for industry #79 entitled ''Dispute Resolution Procedures for Science-Based Decisions on Products Regulated by the Center for Veterinary Medicine,'' describes the process by which CVM formally resolves disputes relating to scientific controversies. A scientific controversy involves issues concerning a specific product regulated by CVM related to matters of technical expertise and requires specialized education, training, or experience to be understood and resolved. Further, the

guidance details information on how the Agency intends to interpret and apply provisions of the existing regulations regarding internal Agency review of decisions. In addition, the guidance outlines the established procedures for persons who are sponsors, applicants or manufacturers, for animal drugs or other products regulated by CVM, that wish to submit a request for review of a scientific dispute. When a sponsor, applicant, or manufacturer has a scientific disagreement with a written decision by CVM, they may submit a request for a review of that decision by following the established Agency channels of supervision for review.

In the **Federal Register** of November 6, 2014 (79 FR 65976), FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was received but it did not respond to any of the four collection of information topics solicited in the notice and therefore is not discussed in this document.

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 |
|---|---|---|---|---|---|
| 10.75 | 2 | 4 | 8 | 10 | 80 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

CVM encourages applicants to begin the resolution of science-based disputes with discussions with the review team/group, including the Team Leader or Division Director. The Center prefers that differences of opinion regarding science or science-based policy be resolved between the review team/group and the applicant. If the matter is not resolved by this preferred method, then CVM recommends that the applicant follow the procedure in guidance for industry #79. Of the two respondents who were advised on the procedure during the past 3 years, one has not followed up to initiate it and the other is working with the review team/group to resolve the issue(s). Therefore, this estimated annual reporting burden is based on CVM's previous experience in handling formal appeals for scientific disputes.

Dated: January 23, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–01669 Filed 1–28–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–1069]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Blood Establishment Registration and Product Listing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by March 2, 2015.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0052. Also include the FDA 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:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Blood Establishment Registration and Product Listing, Form FDA 2830—21 CFR Part 607 (OMB Control Number 0910–0052)—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), any person owning or operating an establishment that manufactures, prepares, propagates, compounds, or processes a drug or device must register his or her name, place of business, and all such establishments with the Secretary of Health and Human Services on or before December 31 of each year. He or she must also submit, among other information, a listing of all drug or device products manufactured, prepared, propagated, compounded, or processed by him or her for commercial distribution. In part 607 (21 CFR part 607), FDA has issued regulations implementing these requirements for manufacturers of human blood and blood products.

Section 607.20(a), in brief, requires owners or operators of certain establishments that engage in the manufacture of blood products to register and to submit a list of every blood product in commercial distribution.

Section 607.21, in brief, requires the owners or operators of establishments entering into the manufacturing of blood products to register within 5 days after beginning such operation and to submit a list of every blood product in commercial distribution at the time. If the owner or operator of the establishment has not previously entered into such operation for which a license is required, registration must follow within 5 days after the submission of a biologics license application. In addition, owners or operators of all establishments so engaged must register annually between November 15 and December 31 and update their blood product listing every June and December.

Section 607.22 requires the use of Form FDA 2830, Blood Establishment Registration and Product Listing, for initial registration, for subsequent annual registration, and for blood product listing information.

Section 607.25 sets forth the information required for establishment registration and blood product listing.

Section 607.26, in brief, requires certain changes to be submitted on FDA Form 2830 as an amendment to

establishment registration within 5 days of such changes.

Section 607.30(a), in brief, sets forth the information required from owners or operators of establishments when updating their blood product listing information every June and December, or at the discretion of the registrant at the time the change occurs.

Section 607.31 requires that additional blood product listing information be provided upon FDA request.

Section 607.40, in brief, requires certain foreign blood product establishments to comply with the establishment registration and blood product listing information requirements discussed earlier in this document and to provide the name and address of the establishment and the name of the individual responsible for submitting the establishment registration and blood product listing information, as well as the name, address, and phone number of its U.S. agent.

Among other uses, this information assists FDA in its inspections of facilities and is essential to the overall regulatory scheme designed to ensure the safety of the Nation's blood supply. Form FDA 2830 is used to collect this information.

Respondents to this collection of information are human blood and plasma donor centers, blood banks, certain transfusion services, other blood product manufacturers, and independent laboratories that engage in quality control and testing for registered blood product establishments.

In the **Federal Register** of August 11, 2014 (79 FR 46838), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received no comments.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section | Form FDA 2830 | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|---|
| 607.20(a), 607.21, 607.22, 607.25, and 607.40. | Initial Registration | 68 | 1 | 68 | 1 | 68 |
| 607.21, 607.22, 607.25, 607.26, 607.31, and 607.40. | Re-registration | 2,615 | 1 | 2,615 | 0.5 (30 minutes) | 1,308 |
| 607.21, 607.25, 607.30(a), 607.31, and 607.40. | Product Updating List. | 166 | 1 | 166 | 0.25 (15 minutes) | 42 |
| Total | | | | | | 1,418 |

[1] There are no capital costs of operating and maintenance costs associated with this collection of information

FDA estimates the burden of this collection of information based upon information obtained from FDA's Center for Biologics Evaluation and Research's database and FDA experience with the blood establishment registration and product listing requirements.

Dated: January 26, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–01670 Filed 1–28–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Gastroenterology Regulatory Endpoints and the Advancement of Therapeutics; Public Workshop

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public workshop.

**SUMMARY:** The Food and Drug Administration's (FDA) Center for Drug Evaluation and Research, in cosponsorship with the American College of Gastroenterology, the American Gastroenterological Association, the Crohn's and Colitis Foundation of America, Inc., the North American Society for Pediatric Gastroenterology, Hepatology, and Nutrition, the North American Society for the Study of Celiac Disease, and the Pediatric Inflammatory Bowel Disease Foundation, is announcing a 2-day public workshop entitled ''Gastroenterology Regulatory Endpoints and the Advancement of Therapeutics (GREAT III).'' The purpose of this workshop is to provide a forum to consider issues related to selection of endpoints and clinical outcome measures appropriate for drug development in the following disease areas: Inflammatory bowel diseases and celiac disease.

**DATES:** The public workshop will be held on March 30 and 31, 2015, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

**FOR FURTHER INFORMATION CONTACT:** Kelly Richards, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Rm. 5237, Silver Spring, MD 20993–0002, 240–402–4276, FAX: 301–796–9904, email: *GREAT@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** This workshop will address endpoints for registration trials in inflammatory bowel diseases and celiac disease. Stakeholders, including industry sponsors, academia, patients and FDA, will address challenging issues related to selection of endpoints and assessment methodologies in clinical trials intended to support approval of products for treatment of inflammatory bowel diseases and celiac disease. The first day of the workshop will discuss the assessment of efficacy in Crohn's disease trials, including the use of patient-reported outcome measures and endoscopic evaluation, as well as the role of registries and patient participation in inflammatory bowel disease drug development programs. The second day of the workshop will discuss the appropriate target population for pharmacological therapy in celiac disease, and the definition and measurement of a treatment benefit in celiac disease registration trials, including the role and timing of

assessment of histological and serological endpoints.

**I. Participation in the Public Workshop**

There is no fee to attend the public workshop, but attendees must register in advance. Space is limited and registration will be on a first-come, first-served basis. Persons interested in attending this workshop must register online at *http://www.great3.org* before March 1, 2015. For those without Internet access, please contact Kelly Richards (see **FOR FURTHER INFORMATION CONTACT**) to register. Onsite registration will not be available.

If you need special accommodations due to a disability, please contact Kelly Richards (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

**II. Transcripts**

Transcripts of the workshop will be available for review at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and on the Internet at *http://www.regulations.gov* approximately 30 days after the workshop. A transcript will also be available in either hard copy or on CD–ROM after submission of a Freedom of Information request. Send written requests to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Fax requests to 301–827–9267.

Dated: January 22, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–01625 Filed 1–28–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIH)

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 21, 2014, volume #79, page 69500 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

*Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

*Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Mikia P. Currie, Program Analyst, Office of Policy for Extramural Research Administration, 6705 Rockledge Drive, Suite 350, Bethesda, Maryland 20892, or call a non-toll-free number 301–435–0941 or Email your request, including your address to *curriem@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

*Proposed Collection:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIH), 0925–0648, Expiration Date 1/31/2015, EXTENSION, National Institutes of Health (NIH), Office of the Director (OD).

*Need and Use of Information Collection:* There are no changes being requested for this submission. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This generic will provide information about the NIH Institutes and Centers customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information but it will not yield data that can be generalized to the overall population.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated burden hours are 49,358.

**Estimated Annualized Burden Hours**

ESTIMATED ANNUAL REPORTING BURDEN

| Type of collection | Number of espondents | Annual frequency per esponse | Hours per response | Total annual burden hours |
|---|---|---|---|---|
| Customer Satisfaction Surveys | 1,000 | 1 | 30/60 | 500 |
| In-Depth Interviews (IDIs) or Small Discussion Groups | 1,000 | 1 | 90/60 | 1,500 |
| Focus Groups | 1,000 | 1 | 90/60 | 1,500 |
| Usability and Pilot Testing | 150,000 | 1 | 5/60 | 12,525 |
| Conference/Training—Pre and Post Surveys | 100,000 | 2 | 10/60 | 33,333 |

Dated: January 22, 2015.

**Lawrence A. Tabak,**

*Principal Deputy Director, National Institutes of Health.*

[FR Doc. 2015–01685 Filed 1–28–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**SUPPLEMENTARY INFORMATION:** Technology descriptions follow.

#### Miniature System for Manipulating Small Animals in High-Throughput Screening Small Molecules

*Description of Technology:* The invention pertains to a miniaturized plating and feeding system based on a 96-well microplate base and is intended to reduce manipulation of organisms as well as amounts of test drug/anesthetic, thereby mitigating waste. The kit comprises a feeder plate, transfer adaptor and receiver plate. The feeder plate is defined by, for example, a plastic 96-well plate with rounded wells. The rounded bottoms can dispense to or permit access to the test organism of liquid food or drug through about 7 holes of approximately 350 microns in diameter. A top portion of the well provides test organisms (*e.g.,* drosophila, daphnia) with sufficient space to enjoy normal life-cycles without confinement stress. The feeder plate includes means for interfacing with complementary components of the transfer and receiver plates through receiving holes and complementary dowels or pins. A transfer adapter allows the interconnection of the feeder plate to the receiver plate. The transfer plate can be configured to be square or rounded for the transfer of organisms from the feeder plate to the receiver plate.

*Potential Commercial Applications*

- Drug Development
- Toxicity Studies
- Drug Design

*Competitive Advantages*

- Small animals
- High Throughput
- Space efficiency
- Resource economy

*Development Stage*

- Early stage
- Prototype

*Inventors:* Maria De Los Angeles Jaime and Brian Oliver (NIDDK).

*Intellectual Property:* HHS Reference No. E–034–2015/0—US Provisional Application No. 62/080,181 filed November 14, 2015.

*Licensing Contact:* Michael Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

*Collaborative Research Opportunity:* The National Institute of Diabetes and Digestive and Kidney Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize High-Throughput Small Animal Manipulation for Drug Design. For collaboration opportunities, please contact Marguerite J. Miller at *millermarg@niddk.nih.gov.*

#### LRKK2 Inhibitors: Novel Treatment for Intestinal Bowel Disorders

*Description of Technology:* Use of Leucine Rich Repeat Kinase 2 (LRRK2) inhibitors for the treatment of Intestinal Bowel Disorders (IBD) is disclosed. IBD is a broad term that describes conditions with chronic or recurring immune response and inflammation of the gastrointestinal tract. Crohn's disease and ulcerative colitis, two common forms of idiopathic IBD, are chronic, relapsing inflammatory disorders of the gastrointestinal tract.

LRRK2 is a kinase encoded by a gene that contains a non-coding polymorphism (SNP). LRRK2 has been associated with and is a risk factor for inflammatory bowel disease. NIH inventors have shown that human cells expressing this SNP have increased levels of LRRK2 and, correspondingly, mice with increased levels of LRRK2 exhibit more severe Dextran Sulfate colitis. In various studies of the role of LRRK2 in cell signaling, NIH inventors have shown that increased levels of LRRK2 lead to increased pro-inflammatory cytokine secretion. Also, an inhibitor of LRRK2 is shown to abrogate the pro-inflammatory activity of LRRK2 both *in vitro* and *in vivo.*

*Potential Commercial Applications:* Treatment for or prevention of Intestinal Bowel Disorders.

*Competitive Advantages*

- A LRRK2 inhibitor would be a unique form of anti-inflammatory therapy that will complement or compete with an array of cytokines in primary treatment for lBD.
- A LRRK2 inhibitor would provide a much needed alternate mode of therapy.

*Development Stage*

- Early-stage
- In vitro data available
- In vivo data available (animal)

*Inventors:* Warren Strober, Ivan J. Fuss, Tetsuya Takagawa, Atsushi Kitani (all of NIAID).

*Intellectual Property:* HHS Reference No. E–070–2014/0—US Provisional Application No. 61/993,637 filed May 15, 2014.

*Licensing Contact:* Suryanarayana Vepa, Ph.D., J.D.; 301–435–5020; *vepas@mail.nih.gov.*

Dated: January 22, 2015.

**Richard U. Rodriguez,**

*Acting Director, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2015–01610 Filed 1–28–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Cardiovascular and Respiratory Sciences Integrated Review Group; Clinical and Integrative Cardiovascular Sciences Study Section.

*Date:* February 19–20, 2015.

*Time:* 8:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301)435–1195, *Chengy5@csr.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group; Cancer Immunopathology and Immunotherapy Study Section.

*Date:* February 23–24, 2015.

*Time:* 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites DC Convention Center, 900 10th St. NW., Washington, DC 20001.

*Contact Person:* Denise R Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* February 24, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Bahiru Gametchu, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1225, *gametchb@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR–12–186: Macroeconomic Aspects of Population Aging.

*Date:* February 24, 2015.

*Time:* 1:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

*Date:* February 26–27, 2015.

*Time:* 7:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Best Western Tuscan Inn, 425 North Point Street, San Francisco, CA 94133.

*Contact Person:* Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

*Date:* February 26–27, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.

*Contact Person:* Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov.*

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Integrative Physiology of Obesity and Diabetes Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Reed A. Graves, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov.*

*Name of Committee:* Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Musculoskeletal Rehabilitation Sciences Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

*Contact Person:* Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov.*

*Name of Committee:* Oncology 1—Basic Translational Integrated Review Group, Cancer Genetics Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Washington Marriott at Metro Center, 775 12th St. NW., Washington, DC 20005.

*Contact Person:* Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurogenesis and Cell Fate Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn San Francisco Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.

*Contact Person:* Joanne T. Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroscience and Neurodegeneration Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

*Contact Person:* Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group; Virology—B Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

*Contact Person:* John C. Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.

*Date:* February 26–27, 2015.

*Time:* 8:30 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance M Street Hotel, 1143 New Hampshire Avenue NW.,Washington, DC 20037.

*Contact Person:* Michael M. Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 23, 2015.

**Anna Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–01612 Filed 1–28–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Drug Development.

*Date:* February 24, 2015.

*Time:* 12:30 p.m. to 3:30 p.m..

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Alexander Parsadanian, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

*Name of Committee:* National Institute on Aging Special Emphasis Panel, 2015 Beeson Review.

*Date:* February 27, 2015.

*Time:* 8:00 a.m. to 4:00 p.m..

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Bethesda,8210 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Alexander Parsadanian, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 23, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–01611 Filed 1–28–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5630–N–06]**

### Rental Assistance Demonstration (RAD)—Updated Application Review and Commitments To Enter Into Housing Assistance Payment Contracts (CHAPs) Issuance Process for First Component RAD Transactions

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** As a result of increased authority granted to HUD in the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235, approved December 16, 2014) (FY 2015 Appropriations Act) to convert public housing and moderate rehabilitation (Mod Rehab) program assistance under the first component of RAD for a total of 185,000 units, HUD will review all applications on the waitlist and begin issuing CHAPs in accordance with this notice to maximize the effectiveness of the proposed conversion of assistance. HUD welcomes comment on the update of the review process provided in this notice.

**DATES:** *Comment Due Date:* March 2, 2015.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit comments, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. Eastern Time weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Janet Golrick, Acting Director of the Office of Recapitalization, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–7000; telephone number 202–708–0001 (this is not a toll-free number). Hearing- and speech-impaired persons may access these numbers through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

#### I. Background and Explanation

The Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112–55, approved November 18, 2011) limited the conversion of 60,000 public housing and Mod Rehab units under the first component of RAD.[1] The applications for RAD conversions under the first component exceeded this unit cap and an applicant waiting list started in approximately

[1] The first component of RAD allows projects funded under the public housing and Mod Rehab programs to convert to long-term Section 8 rental assistance contracts with their current subsidy levels under the RAD demonstration program.

October 2013. HUD published this waiting list on the RAD Web site, *www.hud.gov/rad.*[2]

The FY 2015 Appropriations Act increased the RAD first component authorization to 185,000 units. For all applications that fall below the 185,000 unit cap, HUD will provide CHAPs to all eligible applicants whose applications meet the eligibility and selection criteria set forth in PIH Notice 2012–32, Rev. 1 (2012 RAD Notice).[3] HUD understands that some applicants may need to amend or update information in their applications because of the delay incurred in awaiting further authorization. To the extent that an application is complete and meets the eligibility and selection criteria set forth in the 2012 RAD Notice, HUD will issue a CHAP for that application. To the extent that review of an application requires additional or updated information, that application will be held until the needed information is provided.

HUD understands that some applicants have been waiting in excess of one year on the waiting list and may be approaching financing deadlines. HUD will review applications as expeditiously as possible and reserves the right to proceed with its review of applications in the manner it deems most expedient. HUD may consider deal-specific factors including program financing requirements in determining the order with which it processes applications. Applications that require a CHAP by a certain deadline in order to secure project financing may be reviewed prior to other applications in order to maximize resources and support the successful conversion of all transactions. Following CHAP issuance, HUD will assign a Transaction Manager to the transaction who will be able to address any questions or concerns regarding the conversion process.

## II. Opportunity for Public Comment

HUD welcomes comment on the update of the review process provided in this notice.

[2] RAD Wait List for RAD's first component as of November 20, 2014: *http://portal.hud.gov/hudportal/documents/huddoc?id=PendingRADApps_103114.pdf*

[3] See link to 2012 RAD Notice: *http://portal.hud.gov/hudportal/documents/huddoc?id=pih2012-32rev1.pdf.*

Date: January 22, 2015.

**Jemine A. Bryon,**

*Acting Assistant Secretary for Public and Indian Housing.*

**Biniam T. Gebre,**

*Acting Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2015–01640 Filed 1–28–15; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCA942000 L5700 0000 BX0000 14X L5017AR]**

### Filing of Plats of Survey: California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of lands described below are scheduled to be officially filed in the Bureau of Land Management California State Office, Sacramento, California.

**DATES:** March 2, 2015.

**ADDRESSES:** A copy of the plats may be obtained from the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, upon required payment.

**FOR FURTHER INFORMATION CONTACT:** Chief, Branch of Geographic Services, Bureau of Land Management, California State Office, 2800 Cottage Way, W–1623, Sacramento, California 95825, (916) 978–4310. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** A person or party who wishes to protest a survey must file a notice that they wish to protest with the Chief, Branch of Geographic Services. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Chief, Branch of Geographic Services within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

**Humboldt Meridian, California**

T. 14 N., R. 1 E., dependent resurvey, accepted August 12, 2014.

T. 2 S., R. 2 W., dependent resurvey, survey and metes-and-bounds survey, accepted October 2, 2014.

**Mount Diablo Meridian, California**

Townships 26 and 27 S., Ranges 25 and 26 E., dependent resurvey, and metes-and-bounds survey, accepted September 17, 2014.

T. 4 N., R. 24 E., dependent resurvey, subdivision of sections, and metes-and-bounds survey, accepted October 8, 2014.

T. 16 S., R. 26 E., dependent resurvey, subdivision, and metes-and-bounds survey, accepted October 14, 2014.

T. 17 N., R. 8 E., dependent resurvey, accepted October 31, 2014.

T. 11 S., R. 29 E., dependent resurvey and metes-and-bounds survey, accepted December 18, 2014.

T. 3 S., R. 32 E., dependent resurvey and subdivision of section 6, accepted December 31, 2014.

**San Bernardino Meridian, California**

T. 7 S., R. 15 E., supplemental plat of the SW 1/4 of the NW 1/4 of section 33, accepted June 11, 2014.

T. 10 N., R. 24 W., dependent resurvey and subdivision, accepted June 17, 2014.

T. 7 N., R. 24 E., corrective dependent resurvey and dependent resurvey, accepted June 30, 2014.

T. 14 S., R. 2 E., dependent resurvey, accepted August 4, 2014.

T. 1 N., R. 2 W., dependent resurvey, subdivision of sections, and metes-and-bounds survey, accepted September 2, 2014.

T. 17 S., R. 2 E., dependent resurvey, subdivision of sections 9 and 10, retracement, and informative traverse, accepted October 20, 2014.

T. 11 S., R. 2 E., dependent resurvey and subdivision of sections, accepted December 18, 2014.

**Authority:** 43 U.S.C., Chapter 3.

Dated: January 14, 2015.

**Timothy A. Quincy,**

*Acting Chief Cadastral Surveyor, California.*

[FR Doc. 2015–01673 Filed 1–28–15; 8:45 am]

**BILLING CODE 4310–40–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–SER–CONG–17094; PPSECONGS0/PPMPSPD1Z.YM00000]**

### Establishment of a New Fee Area at Congaree National Park

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Congaree National Park in South Carolina plans to collect expanded amenity recreation fees at the Longleaf Campground and Bluff Campground beginning in early 2015. Revenue will be used to cover the cost of collections at the campground and for deferred maintenance in the park.

**DATES:** We will begin collecting fees on July 28, 2015.

**FOR FURTHER INFORMATION CONTACT:** Lauren Gurniewicz, Chief of Interpretation, Congaree National Park, 100 National Park Road, Hopkins, SC 29061; telephone (803) 647–3969; or by email at *lauren_gurniewicz@nps.gov.*

**SUPPLEMENTARY INFORMATION:** This notice is to comply with Section 804 of the Federal Lands Recration Enhancement Act of 2004 (Pub.L. 108–447). The act requires agencies to give the public 6 months advance notice of the establishment of a new recreation fee area.

Rates at Longleaf Campground will be $10 per night for an individual tent only site with no hook-ups; $20 per night for a group tent only site with no hook-ups. Rates at Bluff Campground will be $5 per night for an individual tent only site with no hook-ups. These fees were determined through a comparability study of similar sites in the area at Federal, state, and private recreation areas and will only be charged at the Longleaf and Bluff campgrounds. In accordance with NPS public involvement guidelines, the park engaged numerous individuals, organizations, and local, state, and Federal government representatives while planning for the implementation of this fee.

Dated: November 21, 2014.

**Lena McDowall,**

*Associate Director, Business Services.*

[FR Doc. 2015–01678 Filed 1–28–15; 8:45 am]

**BILLING CODE 4310–JD–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[BOEM–2014–0085; MMAA104000]**

### Outer Continental Shelf (OCS), 2017–2022 Oil and Gas Leasing Program

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact Statement (EIS) and Notice of Scoping.

**SUMMARY:** Consistent with the regulations implementing the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*), BOEM is announcing its intent to prepare an EIS to inform the decisions that will be taken during the preparation and implementation of the 2017–2022 Oil and Gas Leasing Program (2017–2022 Program). Section 18 of the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1344) requires the development of an OCS oil and gas leasing program every five years. The 2017–2022 Program must address the size, timing and location of the lease sales to be held under it. Section 18 also requires a multi-step process of consultation and analysis that must be completed before the Secretary of the Interior may approve a new Program. BOEM initiated the 2017–2022 Program process by issuing a request for information and comments (RFI) in June 2014. The remaining process required by section 18 of the OCS Lands Act includes development of a Draft Proposed Program (DPP), a Proposed Program, a Proposed Final Program (PFP), and Secretarial approval of the 2017–2022 Program.

The EIS is developed in concert with the 2017–2022 Program documents. The EIS will analyze the potential direct, indirect, and cumulative impacts of possible OCS oil and gas activities that could result from lease sales contemplated under the 2017–2022 Program. The scope of the EIS will be based on the DPP after consideration of public input received during the scoping period for the EIS. The DPP includes potential lease sales in the Gulf of Mexico (Western, Central, and a small portion of the Eastern Gulf of Mexico Planning Areas not subject to Congressional moratorium), Atlantic (Mid and South Atlantic Planning Areas), and Alaska (Cook Inlet, Chukchi, and Beaufort Planning Areas) (for details, see the DPP at *http://www.boem.gov/Five-Year-Program/*).

This notice starts the formal scoping process for the EIS under 40 CFR 1501.7 of the Council on Environmental Quality (CEQ) regulations and solicits input from the public regarding alternatives to the proposed action, impacting factors, environmental resources and issues of concern in the DPP area, and possible mitigating measures that should be evaluated in the EIS. The purpose of scoping is to determine the appropriate content for a focused and balanced programmatic environmental analysis by (a) ensuring significant issues are identified early and properly studied during development of the Programmatic EIS; (b) identifying alternatives, mitigation measures, and analytic tools; and (c) identifying insignificant issues and narrowing the scope of the EIS.

**SUPPLEMENTARY INFORMATION:** This NOI informs the public about the start of the EIS preparation process and continues information gathering to be done through formal scoping. This NOI is published early in the environmental review process in furtherance of the goals of NEPA. The comments received during public scoping will help frame and inform the content of the EIS. Alternatives may be developed based on scoping comments. In addition to the No Action alternative required by CEQ regulations (*i.e.,* not adopting a new oil and gas leasing program), other alternatives will be considered in the EIS.

On June 16, 2014, BOEM published a RFI concerning the preparation of the 2017–2022 Program. Based on the input received in response to the RFI, BOEM is releasing the DPP concurrently with this NOI. The Draft EIS will be released in about one year from the date of the NOI to coincide with the release of the Proposed Program. Stakeholders are encouraged to go to *www.boemoceaninfo.com* for additional information about the EIS and the 2017–2022 Program.

*Scoping Process:* BOEM is aware of many of the key issues, concerns, and potential conflicts to be considered in the EIS for the 2017–2022 Program. Some of these concerns were reflected in responses to the RFI. Additional national and regional issues and concerns may be identified and addressed as a result of input received during the scoping period initiated by this NOI. Therefore, BOEM invites the public to submit comments during the EIS scoping process to assist BOEM in drafting the EIS. We recommend that you provide scientific information, technical data, or anecdotal evidence, etc., to support your comments. Specifically, BOEM seeks focused input, including input in geospatial format as we intend to use geospatial information

as much as possible in the EIS analyses. BOEM requests that to the extent possible, geospatial information be provided in .kml, .kmz, or other ESRI-compatible geographic information system format, or through a clearly-drawn image on a map with coordinates. To support this spatially focused scoping process, BOEM invites the public to access our interactive EIS geospatial portal (*https://www.csawebmap.com/boemoceaninfo/*), a Web site that allows the user to view maps, visualize available data, and identify specific areas of concern. You can then submit any resulting product through *www.regulations.gov* as an attachment to your comments. We ask that you provide a rationale for any alternatives and demarcate any recommended inclusions, exclusions, or deferrals as clearly as possible. The more specific your comments and information are (*e.g.* geographic areas, timing, known scientific information, etc.), the more they will assist BOEM to frame the scope of the EIS.

BOEM will also be providing information and the opportunity for public comment at scoping meetings in locations near the BOEM planning areas included in the DPP. BOEM's scoping meetings will be held using an open house format in larger cities, including Anchorage, AK, and a facilitated group format in all other Alaska locations. The open house format allows members of the public to come to a meeting any time during meeting hours at their convenience to view information, discuss the Programmatic EIS and scoping process with BOEM staff, and provide scoping input. In the facilitated group format, each attendee in a group will have opportunity to express input while a BOEM facilitator moderates and helps to focus input. The following scoping meetings are planned for the Programmatic EIS.

- Washington, DC
  - February 9, 2015; Embassy Suites Washington DC Convention Center, 900 10th Street NW., Washington, DC; 2:00–7:00 p.m.; valet parking at no charge to meeting attendees
- Alaska
  - February 9, 2015; Westmark Hotel and Conference Center, 813 Noble Street, Fairbanks, Alaska; 7:00–10:00 p.m.
  - February 11, 2015, Ninilchik School, 15735 Sterling Highway, Ninilchik, Alaska; 7:00–10:00 p.m.
  - February 12, 2015, Kenai Peninsula Borough Assembly Chambers, 144 North Binkley Street, Soldotna, Alaska; 7:00–10:00 p.m.
  - February 16, 2015; Kisik Community Center, 2230 2nd Avenue, Nuiqsut, Alaska; 7:00–10:00 p.m.
  - February 17, 2015; Inupiat Heritage Center, 5421 North Star Street, Barrow, Alaska; 7:00–10:00 p.m.
  - February 18, 2015; Kaktovik Community Center, 2051 Barter Avenue, Kaktovik, Alaska; 7:00–10:00 p.m.
  - February 19, 2015; R. James Community Center, Wainwright, Alaska; 7:00–10:00 p.m.
  - February 23, 2015; Northwest Arctic Borough Assembly Chambers, 163 Lagoon Street, Kotzebue, Alaska; 7:00–10:00 p.m.
  - February 24, 2015; Kali School, 1029 Qasigiakik Street, Point Lay, Alaska; 7:00–10:00 p.m.
  - February 25, 2015; City Qalgi Center, City of Point Hope, Alaska; 7:00–10:00 p.m.
  - March 2, 2015; Anchorage Marriott Downtown, 820 West 7th Avenue, Anchorage, Alaska; 3:00–7:00 p.m.
- Atlantic
  - February 11, 2015; Sheraton Norfolk Waterside, 777 Waterside Drive, Norfolk, Virginia; 3:00–7:00 p.m.; validated participant parking at hotel
  - February 17, 2015; Blockade Runner, 275 Waynick Boulevard, Wilmington, North Carolina; 3:00–7:00 p.m.; free parking
  - February 19, 2015; Hyatt Regency Jacksonville Riverfront, 225 East Coastline Drive, Jacksonville, Florida; 3:00–7:00 p.m.; validated participant parking at hotel
  - March 9, 2015; Loews Annapolis, 126 West Street, Annapolis, Maryland; 3:00–7:00 p.m.; validated participant parking at hotel
  - March 11, 2015; Wyndham Garden Mount Pleasant/Charleston 1330 Stuart Engals Boulevard, Mount Pleasant, SC; 3:00–7:00 p.m.; free parking
- Gulf of Mexico
  - February 23, 2015; Houston Marriott West Loop Hotel, 1750 W. Loop South Freeway, Houston, Texas; 3:00–7:00 p.m.; $5 parking at hotel
  - February 25, 2015; University of New Orleans, Lindy C. Boggs International Conference Center, 2045 Lakeshore Drive, Suite 248, New Orleans, Louisiana; 3:00–7:00 p.m.; free parking
  - February 26, 2015; Mobile Marriott Hotel, 3101 Airport Boulevard, Mobile, Alabama; 3:00–7:00 p.m.; free parking

*Cooperating Agencies:* BOEM invites other Federal agencies and state, tribal, and local governments to consider becoming cooperating agencies in the preparation of the EIS. Pursuant to CEQ regulations and guidelines, qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies and governments should consider their authority and capacity to assume the responsibilities of a cooperating agency and remember that an agency's role as a cooperating agency in the environmental analysis neither enlarges nor diminishes their authority in the NEPA process. BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and expected detail of cooperating agencies' contributions, and availability of predecisional information. BOEM anticipates this summary will form the basis for a Cooperating Agency Agreement between BOEM and any cooperating agency. Agencies should also consider the ''Factors for Determining Cooperating Agency Status'' in CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies: *Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act.* This document is available on the Web site, *www.boemoceaninfo.com.* BOEM, as lead agency, does not plan to provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public input stages of the NEPA process. For further information about cooperating agencies, please contact Mr. Geoffrey L. Wikel at (703) 787–1283.

*Public Comment:* All interested parties, including Federal, state, tribal, and local governments, and others, may submit written comments on the scope of the EIS, significant issues that should be addressed, alternatives that should be considered, potential mitigation measures, and the types of oil and gas activities of interest (for example, gas in shallow water) in OCS Planning Areas included in the DPP.

Written scoping comments may be submitted in one of the following ways:

1. Mailed in an envelope labeled ''Scoping Comments for the 2017–2022 Proposed Oil and Gas Leasing Program Programmatic EIS'' and mailed (or hand delivered) to Mr. Geoffrey L. Wikel, Acting Chief, Division of Environmental Assessment, Office of Environmental Program (HM 3107), Bureau of Ocean Energy Management, 381 Elden St. Herndon, VA 20170–4817, telephone

(703) 787–1283. Written scoping comments may also be hand delivered at a scoping meeting to the BOEM official in charge.

2. Through the *Regulations.gov* web portal: Navigate to *http://www.regulations.gov* and under the Search tab, in the space provided, type in Docket ID: BOEM–2014–0085 to submit comments and to view other comments already submitted. Information on using *www.regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the links under the box entitled ''Are you new to this site?''

3. The Programmatic EIS Web site, *www.boemoceaninfo.com*, contains program related information, other links, and a geospatial portal you can use to make maps that can then be attached to comments submitted via *www.regulations.gov* or by mail. Scientific papers, data, and maps can accompany comments as attachments.

Comments that provide scientific information, geospatial or other data, or anecdotal evidence, etc., to support your input are most useful.

It is BOEM practice to make comments, including names and addresses of respondents available for public review. BOEM does not consider anonymous comments. Please include your name and address as part of your submittal. Individual respondents may request that BOEM withhold their names and/or addresses from the public record, but BOEM cannot guarantee that it will be able to do so. If you wish your name and/or address to be withheld, you must state your preference prominently at the beginning of your comment. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

**DATES:** Comments should be submitted by March 30, 2015 to the address specified above.

**FOR FURTHER INFORMATION CONTACT:** For information on the 2017–2022 EIS, the submission of comments, or BOEM's policies associated with this notice, please contact Mr. Geoffrey L. Wikel, Acting Chief, Division of Environmental Assessment, Office of Environmental Program, Bureau of Ocean Energy Management (HM 3107), 381 Elden Street, Herndon, VA 20170–4817, telephone (703) 787–1283.

**Authority:** This NOI to prepare the 2017–2022 EIS is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of NEPA.

Dated: January 7, 2015.

**Abigail Ross Hopper,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2015–01756 Filed 1–28–15; 8:45 am]

**BILLING CODE 4310–MR–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[Docket No. BOEM–2014–0096; MAA104000]**

### Notice of Availability (NOA) of and Request for Comments on the Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2017–2022 (DPP)

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** BOEM is announcing the availability of and requests comments on the Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2017–2022 (DPP). This draft proposal is for the 2017–2022 OCS Oil and Gas Leasing Program that will succeed the current 2012–2017 Program. The DPP provides the basis for gathering information and conducting analyses to inform the Secretary of the Interior (Secretary) on which areas to include for further leasing consideration in the 2017–2022 Program.

Section 18 of the OCS Lands Act (43 U.S.C. 1344) specifies a multi-step process of consultation and analysis that must be completed before the Secretary may approve a new Five-Year Program. The required steps following this notice include the development of a Proposed Program (PP), Proposed Final Program (PFP), and Secretarial approval. In conjunction with this notice, BOEM is publishing a Notice of Intent (NOI) to prepare a Programmatic Environmental Impact Statement (PEIS) for the 2017–2022 Program, pursuant to the National Environmental Policy Act (NEPA).

**DATES:** Please submit comments and information to BOEM no later than March 30, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kelly Hammerle, Five-Year Program Manager, at (703) 787–1613.

*Public Comment Procedure*

BOEM will accept comments in one of two formats: Federal internet commenting system or regular mail. BOEM's preference is to receive comments via the internet commenting system. Comments should be submitted using only one of these formats, and include full names and addresses of the individual submitting the comment(s). Comments submitted by other means may not be considered. BOEM will not consider anonymous comments. BOEM will make available for public inspection all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses, subject to the limitations described in this Notice with respect to personal information and proprietary/privileged/confidential information.

BOEM's practice is to make comments, including the names and addresses of individuals, available for public review. An individual commenter may ask that BOEM withhold from the public record his or her name, home address, or both, and BOEM will honor such a request to the extent allowable by law. If individuals submit comments and desire withholding of such information, they must so state prominently at the beginning of their submission.

In order to ensure security and confidentiality of proprietary information to the maximum extent possible, BOEM requests that proprietary information only be sent by mail. In addition to prominently stating that proprietary information is contained in a comment at the beginning of the submission, comments should be sent in a plain outer envelope with an inner envelope stating that proprietary information is contained within.

*Commenting via Internet*

Internet comments should be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov*. BOEM requests that commenters follow these instructions to submit their comments via this Web site:

(1) In the search tab on the main page, search for BOEM–2014–0096.

(2) Locate the document, then click the ''Submit a Comment'' link either on the Search Results page or the Document Details page. This will display the Web comment form.

(3) Enter the submitter information and type the comment on the Web form. Attach any additional files (up to 10MB). (Please do not provide proprietary or confidential comments via the Internet.)

(4) After typing the comment, click the ''Preview Comment'' link to review. Once satisfied with the comment, click the ''Submit'' button to send the comment.

Information on using regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

*Commenting via Regular Mail*

Mail comments and information on the 2017–2022 Program to Ms. Kelly Hammerle, Five-Year Program Manager, BOEM (HM–3120), 381 Elden Street, Herndon, Virginia 20170. As stated above, if commenters submit any privileged or proprietary information to be treated as confidential, in addition to prominently stating proprietary information is contained in a comment at the beginning of the submission, comments should be sent in a plain outer envelope with an inner envelope stating that proprietary information is contained within. BOEM will post all comments on regulations.gov for public viewing, subject to the limitations described in this Notice with respect to personal information and proprietary/privileged/confidential information.

**SUPPLEMENTARY INFORMATION:** BOEM requests comments from states, local governments, Federal agencies, Native groups, tribes, the oil and gas industry, environmental and other public interest organizations, non-energy industries, all other interested parties, and the public to assist in the continued preparation of the 2017–2022 Program and PEIS. The DPP and supplemental information may be viewed on and downloaded from the BOEM Web site at *www.BOEM.gov/Five-Year-Program-2017-2022.* Additionally, BOEM has created a Web site for the development of the PEIS, which can be found at *www.boemoceaninfo.com.*

**Background**

Section 18 of the OCS Lands Act requires the Secretary to prepare and maintain a schedule of proposed OCS oil and gas lease sales determined to ''best meet national energy needs for the 5-year period following its approval or reapproval.'' This DPP is the first of three proposed leasing schedules for OCS lease sales under the 2017–2022 Program. The areas identified in the DPP were chosen after careful consideration of the factors specified in Section 18 of the OCS Lands Act and the comments received in response to the Request for Information and Comments (RFI) published in the **Federal Register** on June 16, 2014 (79 FR 34349). Inclusion of areas in the DPP lease sale schedule provides a basis for gathering information and conducting analyses to inform policy makers on whether to include these areas for further leasing consideration in the 2017–2022 Program. Only those areas and options that the Secretary decides are appropriate to include in the DPP will be further analyzed for the PP and the associated Draft PEIS. Before the new Program is approved and implemented, BOEM will accept and consider comments on the DPP and issue for public review a PP, accompanied by a Draft PEIS. After the opportunity for public comment on those documents, BOEM will conduct additional analyses and subsequently issue a PFP decision document, accompanied by a Final PEIS. The PFP and Final PEIS will be submitted to the President and Congress at least 60 days prior to Secretarial approval of the 2017–2022 Program.

**Summary of the Draft Proposed Program**

The lease sale options chosen in the DPP consist of 14 potential lease sales in eight OCS planning areas: Ten sales in the three Gulf of Mexico (GOM) planning areas for the areas not subject to Congressional moratorium; one sale each in the Chukchi Sea, Beaufort Sea, and Cook Inlet Planning Areas, offshore Alaska; and one sale in a portion of the combined Mid-Atlantic and South Atlantic Planning Areas (see Table 1).

This DPP reflects a continuation of the leasing strategy set forth in the current 2012–2017 Program, with additional proposed flexibility in the Gulf of Mexico. The schedule is tailored so the dual goals of promoting prompt development of the Nation's oil and gas resources with the necessary protections for the marine, coastal, and human environments can be best achieved for each specific OCS region. This region-specific strategy is reflected in the DPP's approach to offshore areas across the Nation's OCS, including the current knowledge of resource potential, accommodation of regional interests and concerns, and the need for a balanced approach to our use of natural resources. The options in the DPP involve sales in offshore areas that have the highest oil and gas resource values, highest industry interest, or are off the coasts of states that expressed interest in learning more about the potential for energy exploration off their coasts, while recognizing potential environmental impacts, concerns, and competing uses of ocean and coastal areas.

TABLE 1—2017–2022 DRAFT PROPOSED PROGRAM LEASE SALE SCHEDULE

| | Year | Planning area | Sale number |
|---|---|---|---|
| 1. | 2017 | Gulf of Mexico Region | 249 |
| 2. | 2018 | Gulf of Mexico Region | 250 |
| 3. | 2018 | Gulf of Mexico Region | 251 |
| 4. | 2019 | Gulf of Mexico Region | 252 |
| 5. | 2019 | Gulf of Mexico Region | 253 |
| 6. | 2020 | Gulf of Mexico Region | 254 |
| 7. | 2020 | Beaufort Sea | 255 |
| 8. | 2020 | Gulf of Mexico Region | 256 |
| 9. | 2021 | Gulf of Mexico Region | 257 |
| 10. | 2021 | Cook Inlet | 258 |
| 11. | 2021 | Gulf of Mexico Region | 259 |
| 12. | 2021 | Mid-Atlantic and South Atlantic | 260 |
| 13. | 2022 | Gulf of Mexico Region | 261 |
| 14. | 2022 | Chukchi Sea | 262 |

**Gulf of Mexico Region**

The DPP's Gulf of Mexico options identified for further detailed analysis in the PP and Draft PEIS include ten region-wide sales: one sale each in 2017 and 2022; and two sales each in 2018, 2019, 2020, and 2021; offering all available unleased acreage not subject to Congressional moratorium in the combined Western, Central, and Eastern Gulf of Mexico Planning Areas in each sale. See Figure 1. BOEM is proposing this change from the traditional separate planning area-wide sales to a region-

wide approach to balance agency workload and provide greater flexibility to industry, including the ability to respond to the significant recent energy reforms in Mexico that have the potential to meaningfully change how exploration and development decisions are made in the GOM.

**Alaska Region**

In Alaska, the DPP continues to take a balanced approach to development by utilizing the targeted leasing strategy set forth in the current Program by identifying one sale each in the Beaufort Sea (2020), Cook Inlet (2021), and Chukchi Sea (2022) Planning Areas (see Figure 2). Potential sales in the three Alaska program areas are scheduled late in the five-year period to provide additional opportunity to evaluate and obtain information regarding environmental issues, subsistence use needs, infrastructure capabilities, and results from any exploration activity associated with existing leases.

A potential Beaufort Sea sale is scheduled in 2020 in a program area that excludes the Barrow and Kaktovik whaling deferral areas that were excluded in the current Program as well as the 2007–2012 Program. The DPP schedules a potential Chukchi Sea sale in 2022 that excludes the 25-mile coastal buffer and subsistence deferral areas that were also excluded in the current Program. A potential Cook Inlet sale is scheduled for 2021 in a program area that includes only the northern portion of the Cook Inlet OCS Planning Area. This option balances the protection of endangered species, as identified in 2013 in the 2013 Cook Inlet Lease Sale 244 Area Identification, with the availability for leasing of the areas with significant resource potential and industry interest.

On December 16, 2014, the President withdrew, for a time period without a specific expiration, the North Aleutian Basin Planning Area from further consideration of leasing of oil and gas for the purposes of exploration, development, and production. There also will be no further leasing consideration in the other 11 Alaska OCS planning areas with either negligible resources or negligible resource development value. See Figure 2.

**Atlantic Region**

In the Atlantic Region, the DPP schedules one lease sale in a portion of the Mid-Atlantic and South Atlantic Planning Areas in 2021. The DPP proposes one sale late in the Program at least 50 miles offshore the coasts of Virginia, North Carolina, South Carolina, and Georgia in the Mid-Atlantic and South Atlantic Planning Areas. This option allows for consideration of a targeted area with significant resource potential, while limiting potential impacts to the environment and other uses of the ocean. Scheduling the potential sale late in the Program allows time for additional analyses, including the collection of additional seismic and environmental information. See Figure 1.

**Pacific Region**

No lease sale options have been identified in the Pacific Region for additional analysis. The exclusion of the Pacific Region is consistent with the long-standing interests of Pacific coast states, as framed in the 2006 West Coast Governors Agreement on Ocean Health. This agreement expressed the governors' opposition to oil and gas development off their coasts, and these states have continued to voice concerns, including in formal comments on the RFI.

**Assurance of Fair Market Value**

Section 18 of the OCS Lands Act requires receipt of fair market value from OCS oil and gas leases. BOEM plans to continue to use the two-phase post-sale bid evaluation process that it has used since 1983 to meet the fair market value requirement. However, BOEM is considering a change to the post-sale bid evaluation process [see **Federal Register** Notice, October 17, 2014, (79 FR 62461)]. Further, the DPP provides that BOEM may set minimum bid levels, rental rates, and royalty rates by individual lease sale based on its assessment of market and resource conditions closer to the date of the sale.

**Information Requested for the Draft Proposed Program**

We request comments on the size, timing, and location of leasing. Respondents who submitted information in response to the June 16, 2014, **Federal Register** Notice, which requested comments on preparing the Five Year Program, may wish to refer to that previously submitted information, as appropriate, rather than repeat it in their comments on the DPP. We also invite comments and suggestions on how to proceed with the Section 18 analysis in the Proposed Program.

**Next Steps in the Process**

BOEM currently plans to issue the Proposed Program and Draft PEIS in 2016, followed by a public comment period.

Dated: January 7, 2015.

**Abigail Ross Hopper,**

*Director, Bureau of Ocean Energy Management.*

Figure 1: 2017–2022 Lower 48 Draft Proposed Program Areas

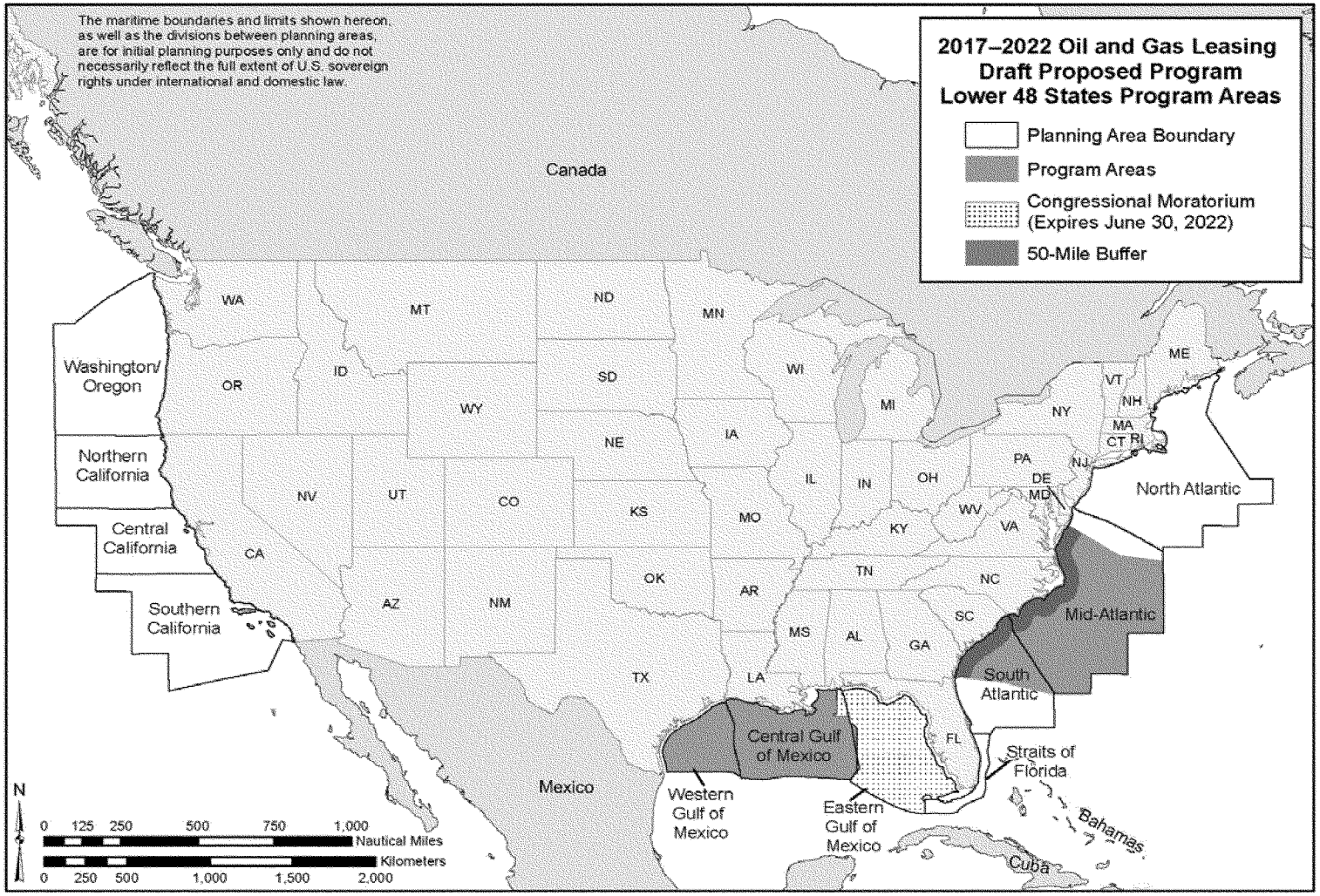
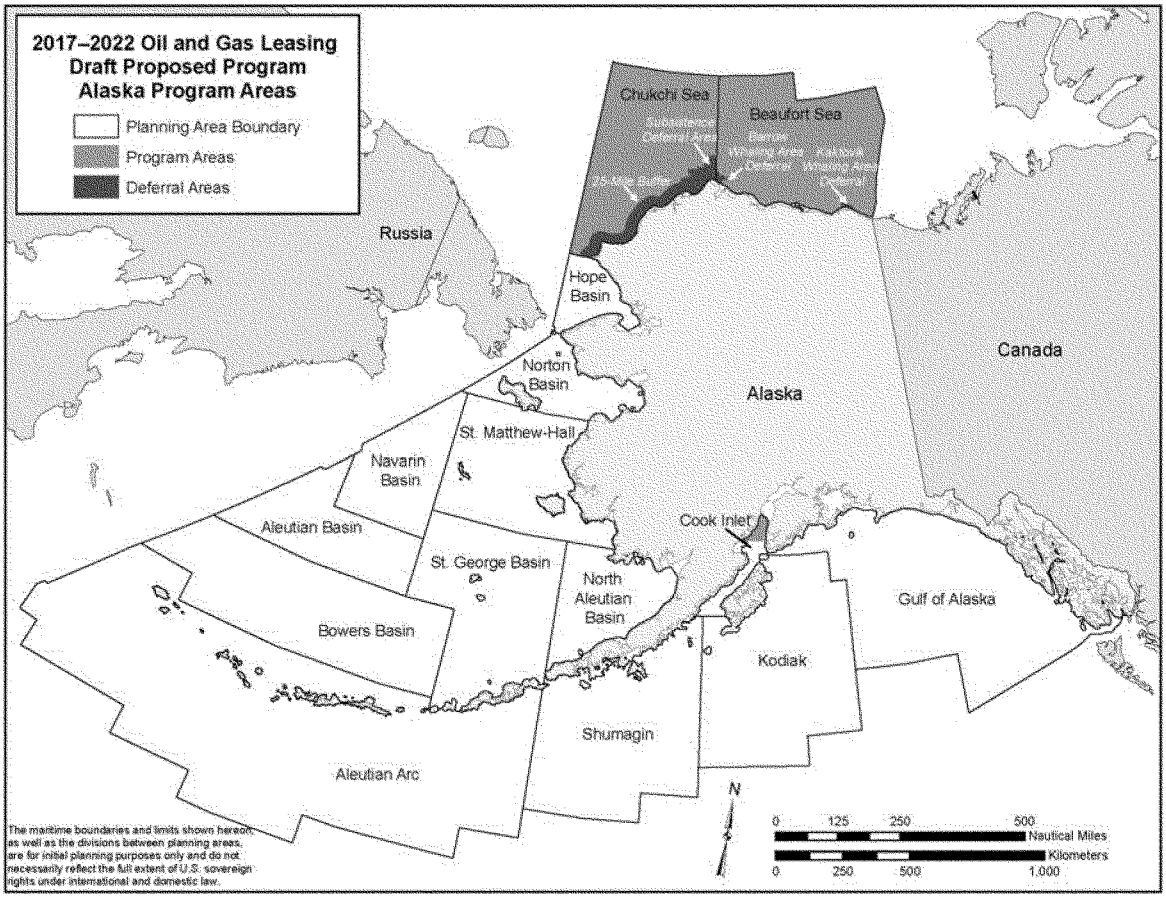


Figure 2: 2017–2022 Alaska Draft Proposed Program Areas




[FR Doc. 2015–01757 Filed 1–28–15; 8:45 am]
BILLING CODE 4310–MR–P

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Audio Processing Hardware and Software and Products Containing Same, DN 3053;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS,*[1] and 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 United States International Trade Commission (USITC) at *USITC.*[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS.*[3] 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 has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Andrea Electronics Corp. on January 23, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (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 audio processing hardware and software and products containing same. The complaint names as respondents Acer Inc. of Taiwan; Acer America Corp. of San Jose, CA; ASUSTeK Computer Inc. of Taiwan; ASUS Computer International of Fremont, CA; Dell Inc. of Round Rock, TX; Hewlett Packard Co. of Palo Alto, CA; Lenovo Group Ltd. of China; Lenovo Holding Co., Inc. of Morrisville, NC; Lenovo (United States) Inc. of Morrisville, NC;

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

Toshiba Corp. of Japan; Toshiba America, Inc. of New York, NY; Toshiba America Information Systems, Inc. of Irvine, CA and Realtek Semiconductor Corp. of Taiwan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3053'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures* [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS* [5].

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: January 26, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–01675 Filed 1–28–15; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0260]**

## Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2015 Police Public Contact Survey (PPCS)

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** 60-day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 60 days until March 30, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lynn Langton, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Lynn.Langton@usdoj.gov;* telephone: 202–353–5699).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement of the Police Public Contact Survey, with changes, to a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2015 Police Public Contact Survey

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is PPCS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The PPCS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The PPCS is one component of the BJS effort to fulfill the mandate set forth by the Violent Crime Control and Law Enforcement Act of 1994 to collect, evaluate, and publish data on the use of excessive force by law enforcement personnel. The goal of the collection is to report national statistics that provide a better understanding of the types, frequency, and outcomes of contacts between the police and the public, public perceptions of police behavior during the contact, and the conditions under which police force may be threatened or used. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 91,663. About 80% of respondents (73,330) will have no police contact and will complete the short interview with an average burden of three minutes. Among the 20% of respondents (18,333) who experienced police contact, the time to ask the detailed questions regarding the nature of the contact is estimated to take an average of 10 minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimate is based on data from prior administrations of the PPCS.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 6,722 total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: January 26, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–01654 Filed 1–28–15; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

### Community Oriented Policing Services; Public Meetings With Members of the Research Community, Subject-Matter Experts and the Public To Discuss Topics Relating to Policing

**AGENCY:** Community Oriented Policing Services, Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** On December 18, 2014, President Barack Obama signed Executive Order 13684 titled ''Establishment of the President's Task Force on 21st Century Policing'' establishing the President's Task Force on 21st Century Policing (''Task Force''). The Task Force seeks to identify best practices and make recommendations to the President on how policing practices can promote effective crime reduction while building public trust and examine, among other issues, how to foster strong, collaborative relationships between local law enforcement and the communities they protect. The Task Force will be holding public meetings to address the topics of Community Policing & Crime Reduction and Training & Education. The meeting agendas are as follows:

Call to Order
Invited witness testimony on Community Policing & Crime Reduction (February 13)
Invited witness testimony on Training & Education (February 14)
Break
Discussion

**DATES:** The meeting dates are: February 13–14, 2015 9:00 a.m. to 5:00 p.m. Mountain Standard Time, Phoenix, AZ.

**ADDRESSES:** The meeting location is the Executive Conference Center, Lecture Hall, Phoenix Convention Center, 100 N. 3rd Street, Phoenix, AZ 85004 (Second Level, Room 2001). In order to be considered by the Task Force in advance of the meeting, comments relating to the topic areas of Community Policing & Crime Reduction and Training & Education should be emailed in Adobe Acrobat format to *Comment@taskforceonpolicing.us* by Friday, February 6, 2015. Written comments should be no more than five pages in length and no smaller than 12 point font. Citations should be put in an ''endnote'' format and do not count towards the page limit. Recommendations should be clearly identified in the text of the testimony. The public may also submit comments via U.S. Mail to: President's Task Force on Policing in the 21st Century, Office of Community Oriented Policing Services, U.S. Department of Justice, 145 N Street NE., 11th Floor, Washington, DC 20530.

**FOR FURTHER INFORMATION CONTACT:** Director, Ronald L. Davis, 202–514–4229 or *PolicingTaskForce@usdoj.gov.*

Address all comments concerning this notice to *PolicingTaskForce@usdoj.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public with limited seating. Time will be allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

*Accommodations requests:* To request accommodation of a disability, please contact Jessica Drake at 202–457–7771, at least 10 days prior to the meeting, to give the Department of Justice as much time as possible to process your request.

**Electronic Access and Filing Addresses**

The Task Force is interested in receiving written comments including proposed recommendations from individuals, groups, advocacy organizations, and professional communities. Additional information on how to provide your comments will be posted to *www.cops.usdoj.gov/policingtaskforce.*

*Availability of Meeting Materials:* The agenda and other materials in support of the meeting will be available on the Task Force Web site at *www.cops.usdoj.gov/policingtaskforce* in advance of the meeting.

**Charlotte C. Grzebien,**

*General Counsel, Office of Community Oriented Policing Services.*

[FR Doc. 2015–01711 Filed 1–28–15; 8:45 a.m.]

**BILLING CODE 4410–AT–P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP (OVC) Docket No. 1684]**

### Meeting of the National Coordination Committee on the AI/AN SANE–SART Initiative

**AGENCY:** Office for Victims of Crime, Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner (SANE)—Sexual Assault Response Team (SART) Initiative (''National Coordination Committee'' or ''Committee'') will meet to carry out its mission to provide advice to assist the Office for Victims of Crime (OVC) to promote culturally

relevant, victim-centered responses to sexual violence within AI/AN communities.

*Dates and Locations:* The meeting will be held via webinar on Wednesday, February 18, 2015. The webinar is open to the public for participation. There will be a designated time for the public to speak, and the public can observe and submit comments in writing to Shannon May, the Designated Federal Official. Webinar space is limited. To register for the webinar, please provide your full contact information to Shannon May (contact information below).

**FOR FURTHER INFORMATION CONTACT:** Shannon May, Designated Federal Officer (DFO) for the National Coordination Committee, Federal Bureau of Investigation, Office for Victim Assistance, 935 Pennsylvania Ave. NW., Room 3329, Washington, DC 20535; Phone: (202) 323–9468 [note: this is not a toll-free number]; Email: *shannon.may@ic.fbi.gov.*

**SUPPLEMENTARY INFORMATION:** The National Coordination Committee on the American Indian/Alaskan Native (AI/AN) Sexual Assault Nurse Examiner (SANE)- Sexual Assault Response Team (SART) Initiative (''National Coordination Committee'' or ''Committee'') was established by the Attorney General to provide valuable advice to OVC to encourage the coordination of federal, tribal, state, and local efforts to assist victims of sexual violence within AI/AN communities, and to promote culturally relevant, victim-centered responses to sexual violence within those communities.

*Webinar Agenda:* The agenda will include: (a) A traditional welcome and introductions; (b) remarks from the Director of OVC; (c) an update on the submission of the Committee's Recommendations Report to the Attorney General; (d) a discussion about the ongoing role of the Committee; (e) comments by members of the public; and (f) a traditional closing.

**Shannon May,**

*Project Manager—Victims of Crime, National Coordinator, AI/AN SANE–SART Initiative, Designated Federal Official—National Coordination Committee, Federal Bureau of Investigation, Office for Victim Assistance.*

[FR Doc. 2015–01671 Filed 1–28–15; 8:45 am]

**BILLING CODE 4410–18–P**

## OFFICE OF MANAGEMENT AND BUDGET

### Discount Rates for Cost-Effectiveness Analysis of Federal Programs

**AGENCY:** Office of Management and Budget.

**ACTION:** Revisions to Appendix C of OMB Circular A–94.

**SUMMARY:** The Office of Management and Budget revised Circular A–94 in 1992. The revised Circular specified certain discount rates to be updated annually when the interest rate and inflation assumptions used to prepare the Budget of the United States Government were changed. These discount rates are found in Appendix C of the revised Circular. The updated discount rates are shown below. The discount rates in Appendix C are to be used for cost-effectiveness analysis, including lease-purchase analysis, as specified in the revised Circular. They do not apply to regulatory analysis.

**DATES:** The revised discount rates will be in effect through December 2015.

**FOR FURTHER INFORMATION CONTACT:** Gideon Lukens, Office of Economic Policy, Office of Management and Budget, (202) 395–3316.

**Aviva Aron-Dine,**

*Associate Director for Economic Policy, Office of Management and Budget.*

### Attachment

**APPENDIX C**

(Revised December 2014)

**DISCOUNT RATES FOR COST-EFFECTIVENESS, LEASE PURCHASE, AND RELATED ANALYSES**

*Effective Dates.* This appendix is updated annually. This version of the appendix is valid for calendar year 2015. A copy of the updated appendix can be obtained in electronic form through the OMB home page at *http://www.whitehouse.gov/omb/circulars_a094/a94_appx-c/.* The text of the Circular is found at *http://www.whitehouse.gov/omb/circulars_a094/,* and a table of past years' rates is located at *http://www.whitehouse.gov/sites/default/files/omb/assets/a94/dischist.pdf.* Updates of the appendix are also available upon request from OMB's Office of Economic Policy (202–395–3316).

*Nominal Discount Rates.* A forecast of nominal or market interest rates for calendar year 2015 based on the economic assumptions for the 2016 Budget is presented below. These nominal rates are to be used for discounting nominal flows, which are often encountered in lease-purchase analysis.

NOMINAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[In percent]

| 3-Year | 5-Year | 7-Year | 10-Year | 20-Year | 30-Year |
|---|---|---|---|---|---|
| 1.7 | 2.2 | 2.5 | 2.8 | 3.1 | 3.4 |

*Real Discount Rates.* A forecast of real interest rates from which the inflation premium has been removed and based on the economic assumptions from the 2016 Budget is presented below. These real rates are to be used for discounting constant-dollar flows, as is often required in cost-effectiveness analysis.

REAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[In percent]

| 3-Year | 5-Year | 7-Year | 10-Year | 20-Year | 30-Year |
|---|---|---|---|---|---|
| 0.1 | 0.4 | 0.7 | 0.9 | 1.2 | 1.4 |

Analyses of programs with terms different from those presented above may use a linear interpolation. For example, a four-year project can be evaluated with a rate equal to the average of the three-year and five-year rates. Programs with durations longer than 30 years may use the 30-year interest rate.

[FR Doc. 2015–01616 Filed 1–28–15; 8:45 am]

**BILLING CODE 3110–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 52–017; NRC–2008–0149]**

### Virginia Electric and Power Company D/B/A Dominion Virginia Power, North Anna Power Station, Unit 3

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Intent to prepare a supplemental environmental impact statement; withdrawal.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is withdrawing the intent to prepare a supplemental environmental impact statement (SEIS) published in the **Federal Register** on February 7, 2011. The purpose of the SEIS the NRC had intended to prepare was to address any impacts that would have resulted from a change in the reactor technology referenced in the North Anna Power Station (NAPS) Unit 3 Combined License (COL) application. The intent to prepare a SEIS is being withdrawn because of the applicant's decision to return to the original reactor design, as referenced and evaluated in an earlier SEIS for the NAPS.

**DATES:** The effective date of the withdrawal of the intent to prepare a supplemental environmental impact statement is January 29, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2008–0149 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–2008–0149. 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 in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *Project Web Site:* In addition, project documents can be accessed online at the North Anna Unit 3 COL specific Web page at *http://www.nrc.gov/reactors/new-reactors/col/north-anna.html*.

• *Other:* The following libraries have agreed to maintain documents related to the North Anna Unit 3 Combined License Review for public inspection: Jefferson-Madison Regional Library in Mineral, Virginia; Salem Church Library in Fredericksburg, Virginia; Pamunke Regional Library in Hanover, Virginia; C. Melvin Snow Memorial Library in Spotsylvania, Virginia; and Orange County Library in Orange, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Tamsen Dozier, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2272, email: *Tamsen.Dozier@nrc.gov*.

**SUPPLEMENTARY INFORMATION:** The decision to prepare a SEIS was based on Dominion's decision to change the referenced reactor technology from the Economic Simplified Boiling Water Reactor (ESBWR) design, to the U.S. Advanced Pressurized Water Reactor (US–APWR). This change in reactor technology by Dominion occurred after the NRC staff completed its environmental review of the COL application, which is documented in NUREG–1917, ''Supplemental Environmental Impact Statement for the Combined License for North Anna Power Station, Unit 3'' (COL SEIS). On February 7, 2011 (76 FR 6638), the NRC published a notice of intent to prepare a supplemental EIS and conduct scoping in conjunction with its review of a revised application submitted by Virginia Electric Power Company d/b/a Dominion Virginia Power (Dominion) for a COL to build and operate a new reactor at its NAPS site located in Louisa County, Virginia. The purpose of the February 2011 notice was to inform the public that the NRC staff intended to prepare a supplement to the COL SEIS pertaining to the change in the reactor design. In the proposed SEIS for the US–APWR technology, the staff intended to identify any significant changes to the previous evaluation of environmental impacts that could arise from the applicant's switch to this reactor design.

By letter dated April 25, 2013 (ADAMS Accession No. ML13120A016), Dominion notified the NRC that it planned to revert to the ESBWR technology for its North Anna COL application. As the purpose for preparing the US–APWR SEIS no longer exists, this notice is to inform the public that the staff will not be preparing a SEIS to evaluate the change in impacts that could occur from a different reactor design.

Dominion completed revisions to its COL application, including the necessary revisions to its environmental report (ER), to once again reference the ESBWR and submitted the revised application to the NRC by letter dated December 18, 2013. The revised ER is available in ADAMS under Accession No. ML14007A643. The ESBWR was certified by the NRC on September 16, 2014. The final rule for the design certification was published on October 15, 2014 (79 FR 61943).

Dated at Rockville, Maryland, this 22nd day of January 2015.

For the Nuclear Regulatory Commission.

**Frank Akstulewicz,**

*Director, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. 2015–01713 Filed 1–28–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0260]**

### Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; reopening of public comment period.

**SUMMARY:** On December 9, 2014, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on, among other proposed actions, a proposed amendment for the Vermont Yankee Nuclear Power Station in a notice entitled, ''Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No

Significant Hazards Considerations.'' According to the notice, comments were required to be filed by January 8, 2015. Due to concerned stakeholders seeking additional time to provide comments, the NRC has decided to reopen the public comment period for the proposed amendment to the Vermont Yankee Nuclear Power Station Renewed Facility Operating License.

**DATES:** The comment period for the proposed amendment to the Vermont Yankee Nuclear Power Station Renewed Facility Operating License published on December 9, 2014 (79 FR 73106), has been reopened. Comments on this proposed action should be filed no later than February 9, 2015. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. This notice does not change the comment period for any of the other proposed actions included in the December 9, 2014, **Federal Register** notice.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0260. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** James Kim, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4125, email: *James.Kim@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2014–0260 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0260.

• *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.*

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### *B. Submitting Comments*

Please include Docket ID NRC–2014–0260 in the subject line of your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Discussion

On December 9, 2014 (79 FR 73106), the NRC solicited comments on, among other proposed actions, a proposed amendment for the Vermont Yankee Nuclear Power Station Renewed Facility Operating License. The public comment period closed on January 8, 2015. The NRC has decided to reopen the public comment period only for the Vermont Yankee Nuclear Power Station's proposed amendment to allow more time for members of the public to submit their comments. Comments on this proposed action may be filed no later than February 9, 2015. This notice does not change the comment period for any of the other proposed actions included in the December 9, 2014, **Federal Register** notice.

Dated in Rockville, Maryland, this 22nd day of January 2015.

For the Nuclear Regulatory Commission.

**Douglas A. Broaddus,**

*Chief, Plant Licensing IV–2 and Decommissioning Transition Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2015–01707 Filed 1–28–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0206]**

## Verification and Validation of Selected Fire Models for Nuclear Power Plant Applications

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft NUREG; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft NUREG, NUREG–1824 (EPRI 3002002182), ''Verification and Validation of Selected Fire Models for Nuclear Power Plant Applications, Supplement 1.''

**DATES:** Please submit comments by March 31, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0206. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN, 06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and

Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** David Stroup, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–251–7609, email: *David.Stroup@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2014–0206 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 eRulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0206.
- 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 a document is referenced. Draft NUREG–1824 (EPRI 3002002182), ''Verification and Validation of Selected Fire Models for Nuclear Power Plant Applications, Supplement 1'' is available in ADAMS under Accession No. ML14338A237.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### *B. Submitting Comments*

Please include Docket ID NRC–2014–0206 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Further Information

In 2007, the NRC's Office of Nuclear Regulatory Research and the Electric Power Research Institute (EPRI) under a joint Memorandum of Understanding, together with the National Institute of Standards and Technology, conducted a research project to verify and validate five fire models that have been used for nuclear power plant applications. The results of that effort were documented in a seven-volume report, NUREG–1824 (EPRI 1011999), *Verification & Validation of Selected Fire Models for Nuclear Power Plant Applications.* Technical review of fire models is necessary to ensure that analysts can judge the adequacy of the scientific and technical basis for the models, select models appropriate for a desired use, and understand the levels of confidence that can be placed in the results predicted by the models. The work was performed using state of the art fire dynamics calculation methods/models and the most applicable fire test data. The NUREG–1824 (EPRI 3002002182), *Verification & Validation of Selected Fire Models for Nuclear Power Plant Applications, Supplement 1,* expands on the previous verification and validation effort and evaluates the latest versions of the five fire models including additional test data for validation of the models. As with the previous effort, the results are reported in the form of ranges of accuracies for the fire model predictions and, the project was performed in accordance with the guidelines that the American Society for Testing and Materials (ASTM) set forth in ASTM E 1355–12, *Standard Guide for Evaluating the Predictive Capability of Deterministic Fire Models* (2012).

Dated at Rockville, Maryland, this 15th day of January, 2015.

For the Nuclear Regulatory Commission.

**Mark H. Salley,**

*Chief, Fire Research Branch Division of Risk Analysis, Office of Nuclear Regulatory Research.*

[FR Doc. 2015–01708 Filed 1–28–15; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74128; File No. SR–NYSE–2015–03]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE Integrated Feed Data Feed

January 23, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 21, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE Integrated Feed (''NYSE Integrated Feed'') data feed. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to establish the NYSE Integrated Feed. The NYSE Integrated Feed would provide real-time market data in a unified view of events, in sequence, as they appear on the NYSE matching engines. The NYSE Integrated Feed would include depth of book order data, last sale data, and opening and closing imbalance data. The NYSE Integrated Feed would also include security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. The stock summary message updates every minute and includes NYSE's opening price, high price, low price, closing price, and cumulative volume for the security. The NYSE Integrated Feed would include information currently available from three existing NYSE real-time market data feeds: NYSE OpenBook,[4] which provides a compilation of all limit orders resident in the NYSE limit order book; NYSE Trades,[5] which provides NYSE last sale information on a real-time basis; and NYSE Order Imbalances,[6] which publishes order imbalance information prior to the opening and closing of trading.[7]

The Exchange proposes to offer the NYSE Integrated Feed through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange also would offer the NYSE Integrated Feed through the Exchange's Secure Financial Transaction Infrastructure (''SFTI'') network, through which all other users and member organizations access the Exchange's trading and execution systems and other proprietary market data products.

Offering an integrated product addresses requests received from vendors and subscribers that would like to receive the data described above in an integrated fashion. An integrated data feed would provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the data after receiving it from the Exchange. The Exchange believes that providing vendors and subscribers with the option of a market data product that both integrates existing products and includes additional market data would allow vendors and subscribers to choose the best solution for their specific businesses.

The Exchange will file a separate rule filing to establish the fees for the NYSE Integrated Feed and will announce the date that the NYSE Integrated Feed will be available through an NYSE Market Data Notice.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[8] of the Act, in general, and furthers the objectives of Section 6(b)(5)[9] 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 mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the NYSE Integrated Feed to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and purchasers. The proposed rule change would benefit investors by facilitating their prompt access to the real-time information contained in the NYSE Integrated Feed.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the NYSE Integrated Feed is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[10]

The Exchange further notes that the existence of alternatives to the Exchange's product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE Integrated Feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the product will be available to all of the Exchange's customers and broker-dealers through both the LCN and SFTI.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because other exchanges already offer similar products, the Exchange's proposed NYSE Integrated Feed will enhance competition. The NYSE Integrated Feed will foster competition by providing an alternative to similar products offered by other exchanges, including the NYSE Arca Integrated

[4] *See* Securities Exchange Act Release Nos. 44962 (Oct. 15, 2001), 66 FR 554562 (Oct. 29, 2001) (SR–NYSE–2001–42); 54594 (Oct. 6, 2006), 71 FR 61819 (Oct. 19, 2006) (SR–NYSE–2006–81); 56384 (Aug. 30, 2007), 72 FR 53271 (SR–NYSE–2007–80).

[5] *See* Securities Exchange Act Release Nos. 59290 (Jan. 23, 2009), 74 FR 5707 (Jan. 30, 2009) (SR–NYSE–2009–05); 59606 (Mar. 19, 2009), 74 FR 13293 (Mar. 26, 2009) (SR–NYSE–2009–04).

[6] *See* Securities Exchange Act Release Nos. 59543 (March 9, 2009), 74 FR 11159 (March 16, 2009) (SR–NYSE–2008–132); 60153 (June 19, 2009), 74 FR 30656 (June 26, 2009) (SR–NYSE–2009–49).

[7] Neither this filing nor the later filing establishing fees for the NYSE Integrated Feed will have any effect on the filings for NYSE Openbook, NYSE Trades, or NYSE Order Imbalances.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

[11] 15 U.S.C. 78f(b)(8).

Feed,[12] offered by the Exchange's affiliate, NYSE Arca, Inc. (''NYSE Arca''), Nasdaq TotalView–Itch,[13] offered by The Nasdaq Stock Market, Inc., and BATS Multicast Pitch,[14] offered by BATS Global Markets. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[15]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[18] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

[12] *See* NYSE Arca Integrated Feed, *http://www.nyxdata.com/page/1084* (last visited January 5, 2015)(data feed that provides a unified view of events, in sequence as they appear on the NYSE Arca matching engine, including depth of book, trades, order imbalance data, and security status messages).

[13] *See* Nasdaq TotalView–ITCH, *http://www.nasdaqtrader.com/Trader.aspx?id=Totalview2* (last visited January 5, 2015)(displays the full order book depth for Nasdaq market participants and also disseminates the Net Order Imbalance Indicator (NOII) for the Nasdaq Opening and Closing Crosses and Nasdaq IPO/Halt Cross).

[14] *See* BATS Multicast PITCH, *http://www.batstrading.com/market_data/products/* (last visited January 5, 2015)(real-time depth of book quotations and execution information).

[15] *See* Regulation NMS Adopting Release, *supra,* at 37503.

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] The Exchange has satisfied this requirement.

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)[19] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–03 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–NYSE–2015–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for Web site viewing and printing at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–03 and should be submitted on or before February 19, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–01647 Filed 1–28–15; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74126; File No. SR–ISE–2014–24]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Modify the Opening Process

January 23, 2015.

On November 19, 2014, International Securities Exchange, LLC (''Exchange'') 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 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 proposed rule change was published for comment in the **Federal Register** on December 10, 2014.[3] The Commission has received no comment letters on the proposal.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73736 (December 4, 2014), 79 FR 73354.

[4] 15 U.S.C. 78s(b)(2).

proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is January 24, 2015.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange's proposed rule change.

Accordingly, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act [5] and for the reasons stated above, the Commission designates March 10, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISE–2014–24).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–01645 Filed 1–28–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74129; File No. SR–BX–2014–049]**

## Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving Proposed Rule Change Relating to Directed Market Makers

January 23, 2015.

### I. Introduction

On November 25, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to establish a directed order process for orders submitted to the Exchange. The proposed rule change was published in the **Federal Register** on December 12, 2014.[3] The Commission received one comment letter on the proposal.[4] This order approves the proposed rule change.

### II. Description of the Proposed Rule Change

The Exchange proposes to establish a program that will permit BX Market Makers to act as Directed Market Makers (''DMMs'') in their appointed options classes, provided the BX Market Maker meets certain obligations and quoting requirements as described in more detail below.[5] As proposed, DMMs will be permitted to receive ''Directed Orders,'' which will be defined as orders to buy or sell which have been directed (pursuant to the Exchange's instructions on how to direct an order) to a particular market maker (the DMM with respect to that Directed Order).[6] Limit Orders, Minimum Quantity Orders, Market Orders, Price Improving Orders, All-or-None Orders, Post-Only Orders, Immediate or Cancel, Good-till-Cancelled Day or WAIT orders will be eligible to be designated as Directed Orders.[7] Directed Orders will be available only in certain options.

*DMM Participation Entitlement*

BX proposes to permit a DMM to receive up to a 40% participation entitlement if a Directed Order is directed to that DMM when the Exchange's disseminated price is the NBBO at the time of receipt of the Directed Order, and the DMM is quoting at or improving the Exchange's disseminated price.[8] If the DMM participation entitlement is not awarded at the time of receipt of the Directed Order, the DMM participation entitlement will not apply to the Directed Order and the Directed Order will be handled as though it were not a Directed Order.[9]

BX also proposes to require that DMMs provide continuous two-sided quotations throughout the trading day in all options issues in which the DMM is assigned for 90% of the time the Exchange is open for trading in each issue.[10] Such quotations will be required to meet the legal quote width requirements of BX Rules Chapter VII, Section 6. These obligations will be applied collectively to all series in all of the issues, rather than on an issue-by-issue basis once the market maker has indicated to the Exchange that the market maker will be receiving Directed Orders.[11] However, these obligations will not apply to DMMs with respect to Quarterly Options Series, adjusted option series, or any series with a time to expiration of nine months or greater.[12] Nevertheless, a DMM will remain eligible to receive a participation entitlement in such series if it elects to quote in such series and otherwise satisfies the requirements of BX Chapter VI, Section 10.[13]

*DMM Price/Time and Size Pro-Rata Participation Entitlement*

If the Price/Time algorithm applies for the option and a Directed Order is sent to a DMM, BX proposes that the DMM will receive, the greater of: (1) After Public Customer orders are executed, the contracts the DMM would have received if the allocation was based on time priority; [14] (2) a DMM participation entitlement of 40% of the remaining interest after Public Customer orders are executed;[15] or (3) the Lead Market Maker (''LMM'') participation entitlement, if the DMM is also the LMM.[16]

If the Size Pro-Rata algorithm applies for the option and a Directed Order is sent to a DMM, BX proposes that the DMM will receive the greater of: (1) After Public Customer orders are executed, the DMM's Size Pro-Rata share; (2) a DMM participation entitlement of 40% of the remaining

[5] 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73784 (December 8, 2014), 79 FR 73930 (''Notice'').

[4] *See* Email from Anonymous, to Secretary, Commission, dated January 2, 2015 (''Comment Letter'').

[5] *See* Notice, *supra* note 3 at 73930.

[6] Proposed BX Chapter VI, Section 1(e)(1).

[7] Proposed BX Chapter VI, Section 6(a)(1) and (2).

[8] Proposed BX Chapter VI, Section 10(1)(C)(1)(c) and Section 10(1)(C)(2)(ii).

[9] Proposed BX Chapter VII, Section 15(ii).

[10] Proposed BX Chapter VII, Section 15(iii). Pursuant to BX Ch. VII, Section 6(d), BX market makers must quote 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance.

[11] Proposed BX Chapter VII, Section 15(iii). While the Market Maker's quoting requirement is a daily obligation, the Exchange will determine compliance with these obligations on a monthly basis. BX Regulation may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

If a technical failure or limitation of a system of the Exchange prevents a DMM from maintaining, or prevents a DMM from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the DMM has satisfied the 90% quoting standard with respect to that option issue. *Id.*

[12] Proposed BX Chapter VII, Section 15(iii).

[13] *Id.*

[14] BX Chapter VI, Section 10(1)(C)(1)(c).

[15] BX Chapter VI, Section 10(1)(C)(1)(c). If this calculation results in a non-integer, the Exchange will round up or down to the nearest integer. *Id.* at Section 10(1)(C)(1)(b)(1).

[16] Proposed BX Chapter VI, Section 10(1)(C)(1)(c)(3). BX's current Chapter VI, Section 10(1)(C)(1)(b) provides that an LMM, upon receipt of an order will be afforded a participation entitlement, provided the LMM's bid/offer is at the Exchange's disseminated price. The LMM is not entitled to receive a number of contracts that is greater than the displayed size associated with such LMM. LMM participation entitlements are considered after the opening process.

interest,[17] after Public Customer orders are executed; or (3) the LMM participation entitlement (if the DMM is also the LMM).[18]

If a DMM has multiple quotes at the same price which are at or improve the NBBO when the Directed Order is received, BX proposes that the DMM participation entitlement will apply only to the quote with the highest time priority at the last price executed upon receipt of the Directed Order which is equal to or better than the NBBO.[19] Additional DMM quotes at such price will receive no further allocation of the Directed Order.[20]

The Exchange also proposes to amend the LMM priority rules so that the LMM participation entitlement will not apply to a Directed Order when the (1) DMM's bid/offer is at or improves the NBBO, (2) LMM is at the same price level and (3) LMM is not the DMM at the time the Directed Order is received.[21] If the LMM is also the DMM, the LMM shall receive the DMM participation entitlement applicable to that algorithm if the DMM participation entitlement is greater than the LMM's participation entitlement.[22] Finally, the proposed rule change removes the allocation to the LMM of orders for five contracts or fewer if the order for five contracts or fewer is directed to a DMM who is quoting at the NBBO.[23]

BX also proposes to provide discretion to the Exchange in applying designated Participant priority overlays when the Size Pro-Rata execution algorithm is in effect. Specifically, the current rule provides that the Exchange will apply the following priority overlays when the Size Pro-Rata execution algorithm is in effect: (1) Public customer priority, (2) LMM priority, and (3) market maker priority.[24] Under the proposed rule, Public Customer priority will always be in effect for Size Pro-Rata executions, but the Exchange will have the discretion to determine whether LMM priority, DMM priority and market maker priorities will be in effect for an options class.[25]

[17] If this calculation results in a non-integer, the Exchange will round up or down to the nearest integer. BX Chapter VI, Section 10(1)(C)(2)(ii)(1).

[18] Proposed BX Chapter VI, Section 10(1)(C)(2)(iii)(3).

[19] Proposed BX Chapter VI, Section 10(1)(C)(1)(c) and Section 10(1)(C)(2)(iii).

[20] *Id.*

[21] Proposed BX Chapter VI, Section 10(1)(C)(1)(b)(1) and Section 10(1)(C)(2)(ii)(1).

[22] Proposed BX Chapter VI, Section 10(1)(C)(1)(b)(1)(e) and Section 10(1)(C)(2)(ii)(1)(e).

[23] Proposed BX Chapter VI, Section 10(1)(C)(1)(b)(2) and Section 10(1)(C)(2)(ii)(2).

[24] Proposed BX Chapter VI, Section 10(1)(C)(2).

[25] *Id.*

## III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and comment letter, and finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b) of the Act,[27] in general, and furthers the objectives of Section 6(b)(5) of the Act.[28] Section 6(b)(5) requires, among other things, that the rules of the national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission received one comment letter expressing support for the proposal.[29]

The Commission has previously approved rules of other national securities exchanges that provide for directed order participation entitlements.[30] The Commission has closely scrutinized such exchange rule proposals where the percentage of enhanced participation would rise to a level that could have a material adverse impact on quote competition within a particular exchange.[31]

BX's proposal to permit DMMs to receive a 40% participation entitlement will not increase the overall percentage of an order that is guaranteed to the DMM beyond the currently acceptable threshold.[32] Under the proposal, the remaining portion of each order will be available for allocation based on the competitive bidding of market participants. Therefore, the Commission does not believe that the proposal will negatively impact quote competition on BX.

A DMM on BX will have to be quoting at, or better than, the NBBO at the time a Directed Order is received in order to obtain the guarantee. The Commission believes that it is critical that a DMM must not be permitted to step up and match the NBBO after it receives a directed order in order to receive the participation entitlement. In this regard, BX's proposal prohibits notifying a DMM of an intention to submit a Directed Order so that such DMM could change its quotation to match the NBBO immediately prior to submission of the Directed Order, and then fade its quote. BX submitted a letter to the Commission representing that it will provide the necessary protections against that type of conduct, and will proactively conduct surveillance for, and enforce against, such violations.[33]

BX's proposed rules will require DMMs to quote at a higher level than other market makers who are not DMMs. Market makers on BX are required to quote 60% of the trading day. In order to receive the participation entitlement, DMMs will be required to quote 90% of the trading day. The Commission believes that requiring heightened quoting by a market maker in order to be eligible to receive a participant entitlement is consistent with what other exchanges have required as part of their directed order programs.[34]

The Commission emphasizes that approval of this proposal does not affect a broker-dealer's duty of best execution. A broker-dealer has a legal duty to seek to obtain best execution of customer orders, and any decision to preference a particular DMM must be consistent with this duty.[35] A broker-dealer's duty of

[26] 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).

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See* Comment Letter, *supra* note 4. The comment letter stated ''Good idea!''

[30] *See* Securities Exchange Act Release No. 51759 (May 27, 2005), 70 FR 32860 (June 6, 2005) (SR–Phlx–2004–91) (''Phlx Order''); *see also e.g.,* Securities Exchange Act Release Nos. 47628 (April 3, 2003), 68 FR 17697 (April 10, 2003) (SR–CBOE–00–55) (''CBOE Order''); 52331 (August 24, 2005), 70 FR 51856 (August 31, 2005) (SR–ISE–2004–16) (''ISE Order''); 52506 (September 23, 2005), 70 FR 57340 (September 30, 2005) (SR–CBOE–2005–58); 59472 (February 27, 2009) 74 FR 9843 (March 6, 2009) (SRNYSEALTR–2008–14)(''NYSEALTR Order''); 60469 (August 10, 2009), 74 FR 41478 (August 17, 2009)(SR–NYSEArca–2009–73) (''NYSE Arca Notice''); and 68070 (October 18, 2012), 77 FR 65037 (October 18, 2012) (SR–C2–2012–24) (''C2 Order'').

[31] *See* Phlx Order, *supra* note 30 at 32861.

[32] *Id. See also* CBOE Order, *supra* note 30 at 17708 (*citing* Securities Exchange Act Release No. 45936 (May 15, 2002), 67 FR 36279, 26280 (May 23, 2002); Securities Exchange Act Release No. 42835 (May 26, 2000), 65 FR 35683, 35685–66 (June 5, 2000); Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388, 11398 (March 2, 2000); Securities Exchange Act Release No. 43100 (July 31, 2000), 65 FR 48778, 48787–88 (August 9, 2000)).

[33] *See* Letter from Joseph Cusick, Chief Regulatory Officer, Nasdaq, to David Hsu, Assistant Director, Commission, dated November 25, 2014.

[34] *See* note 30, *supra.*

[35] *See, e.g., Newton* v. *Merrill, Lynch, Pierce, Fenner & Smith, Inc.,* 135 F.3d 266, 269–70, 274 (3d Cir.), cert. denied, 525 U.S. 811 (1998); *Certain Market Making Activities on Nasdaq,* Securities Exchange Act Release No. 40900 (Jan. 11, 1999) (settled case) (citing Sinclair v. SEC, 444 F.2d 399 (2d Cir. 1971); *Arleen Hughes,* 27 SEC 629, 636

Continued

best execution derives from common law agency principles and fiduciary obligations, and is incorporated in SRO rules and, through judicial and Commission decisions, the antifraud provisions of the federal securities laws.[36] The duty of best execution requires broker-dealers to execute customers' trades at the most favorable terms reasonably available under the circumstances, *i.e.,* at the best reasonably available price.[37] The duty of best execution requires broker-dealers to periodically assess the quality of competing markets to assure that order flow is directed to the markets providing the most beneficial terms for their customer orders.[38] Broker-dealers must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices.[39] In doing so, broker-dealers must take into account price improvement opportunities, and whether different markets may be more suitable for different types of orders or particular securities.[40]

For these reasons, the Commission believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act.[41]

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[42] that the proposed rule change (SR–BX–2014–049) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

**Brent J. Fields,**

*Secretary.*

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(1948), *aff'd sub nom. Hughes* v. *SEC,* 174 F.2d 969 (D.C. Cir. 1949)). *See also* Order Execution Obligations, Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290 (Sept. 12, 1996) (''Order Handling Rules Release''); 51808 (June 9, 2005), 70 FR 37496, 37537–8 (June 29, 2005).

[36] Order Handling Rules Release, 61 FR at 48322. *See also Newton,* 135 F.3d at 270. Failure to satisfy the duty of best execution can constitute fraud because a broker-dealer, in agreeing to execute a customer's order, makes an implied representation that it will execute it in a manner that maximizes the customer's economic gain in the transaction. *See Newton,* 135 F.3d at 273 (''[T]he basis for the duty of best execution is the mutual understanding that the client is engaging in the trade—and retaining the services of the broker as his agent—solely for the purpose of maximizing his own economic benefit, and that the broker receives her compensation because she assists the client in reaching that goal.''); *Marc N. Geman,* Securities Exchange Act Release No. 43963 (Feb. 14, 2001) (citing *Newton,* but concluding that respondent fulfilled his duty of best execution). *See also* Payment for Order Flow, Securities Exchange Act Release No. 34902 (Oct. 27, 1994), 59 FR 55006, 55009 (Nov. 2, 1994) (''Payment for Order Flow Final Rules''). If the broker-dealer intends not to act in a manner that maximizes the customer's benefit when he accepts the order and does not disclose this to the customer, the broker-dealer's implied representation is false. *See Newton,* 135 F.3d at 273–274.

[37] *Newton,* 135 F.3d at 270. Newton also noted certain factors relevant to best execution—order size, trading characteristics of the security, speed of execution, clearing costs, and the cost and difficulty of executing an order in a particular market. *Id.* at 270 n. 2 (citing Payment for Order Flow, Securities Exchange Act Release No. 33026 (Oct. 6, 1993), 58 FR 52934, 52937–38 (Oct. 13, 1993) (Proposed Rules)). *See In re E.F. Hutton & Co.* (''Manning''), Securities Exchange Act Release No. 25887 (July 6, 1988). *See also* Payment for Order Flow Final Rules, 59 FR at 55008–55009.

[38] Order Handling Rules Release, 61 FR at 48322–48333 (''In conducting the requisite evaluation of its internal order handling procedures, a broker-dealer must regularly and rigorously examine execution quality likely to be obtained from different markets or market makers trading a security.''). *See also Newton,* 135 F.3d at 271; Market 2000: An Examination of Current Equity Market Developments V–4 (SEC Division of Market Regulation January 1994) (''Without specific instructions from a customer, however, a broker-dealer should periodically assess the quality of competing markets to ensure that its order flow is directed to markets providing the most advantageous terms for the customer's order.''); Payment for Order Flow Final Rules, 59 FR at 55009.

[39] Order Handling Rules, 61 FR at 48323.

[40] Order Handling Rules, 61 FR at 48323. For example, in connection with orders that are to be executed at a market opening price, ''[b]roker-dealers are subject to a best execution duty in executing customer orders at the opening, and should take into account the alternative methods in determining how to obtain best execution for their customer orders.'' Disclosure of Order Execution and Routing Practices, Securities Exchange Act Release No. 43590 (Nov.17, 2000), 65 FR 75414, 75422 (Dec. 1, 2000) (adopting new Exchange Act Rules 11Ac1–5 and 11Ac1–6 and noting that alternative methods offered by some Nasdaq market centers for pre-open orders included the mid-point of the spread or at the bid or offer).

[41] 15 U.S.C. 78f(b)(5).

[42] 15 U.S.C. 78s(b)(2).

[43] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74127; File No. SR–NYSEMKT–2015–06]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE MKT Integrated Feed Data Feed

January 23, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 21, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 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 establish the NYSE MKT Integrated Feed (''NYSE MKT Integrated Feed'') data feed. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to establish the NYSE MKT Integrated Feed. The NYSE MKT Integrated Feed would provide real-time market data in a unified view of events, in sequence, as they appear on the NYSE MKT matching engines. The NYSE MKT Integrated Feed would include depth of book order data, last sale data, and opening and closing imbalance data. The NYSE MKT Integrated Feed would also include security status updates (*e.g.,* trade corrections and trading halts) and stock summary messages. The stock summary message updates every minute and includes NYSE MKT's opening price, high price, low price, closing price, and cumulative volume for the security. The NYSE MKT Integrated Feed would include information currently available from three existing NYSE MKT real-time market data feeds:

NYSE MKT OpenBook,[4] which provides a compilation of all limit orders resident in the NYSE MKT limit order book; NYSE MKT Trades,[5] which provides NYSE MKT last sale information on a real-time basis; and NYSE MKT Order Imbalances,[6] which publishes order imbalance information prior to the opening and closing of trading.[7]

The Exchange proposes to offer the NYSE MKT Integrated Feed through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange also would offer the NYSE MKT Integrated Feed through the Exchange's Secure Financial Transaction Infrastructure (''SFTI'') network, through which all other users and member organizations access the Exchange's trading and execution systems and other proprietary market data products.

Offering an integrated product addresses requests received from vendors and subscribers that would like to receive the data described above in an integrated fashion. An integrated data feed would provide greater efficiencies and reduce errors for vendors and subscribers that currently choose to integrate the data after receiving it from the Exchange. The Exchange believes that providing vendors and subscribers with the option of a market data product that both integrates existing products and includes additional market data would allow vendors and subscribers to choose the best solution for their specific businesses.

The Exchange will file a separate rule filing to establish the fees for the NYSE MKT Integrated Feed and will announce the date that the NYSE MKT Integrated Feed will be available through an NYSE Market Data Notice.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[8] of the Act, in general, and furthers the objectives of Section 6(b)(5)[9] 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 mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the NYSE MKT Integrated Feed to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and purchasers. The proposed rule change would benefit investors by facilitating their prompt access to the real-time information contained in the NYSE MKT Integrated Feed.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the NYSE MKT Integrated Feed is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

> Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[10]

The Exchange further notes that the existence of alternatives to the Exchange's product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, as well as the continued availability of the Exchange's separate data feeds, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant.

The NYSE MKT Integrated Feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the product will be available to all of the Exchange's customers and broker-dealers through both the LCN and SFTI.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because other exchanges already offer similar products, the Exchange's proposed NYSE MKT Integrated Feed will enhance competition. The NYSE MKT Integrated Feed will foster competition by providing an alternative to similar products offered by other exchanges, including the NYSE Arca Integrated Feed,[12] offered by the Exchange's affiliate, NYSE Arca, Inc. (''NYSE Arca''), Nasdaq TotalView-Itch,[13] offered by The Nasdaq Stock Market, Inc., and BATS Multicast Pitch,[14] offered by BATS Global Markets. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[15]

[4] *See* Securities Exchange Act Release No. 60123 (June 17, 2009), 74 FR 30192 (June 24, 2009) (SR–NYSEAmex–2009–28).

[5] *See* Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010)(NYSEAmex–2010–35).

[6] *See* Securities Exchange Act Release Nos. 59743 (April 9, 2009), 74 FR 17699 (April 16, 2009) (SR–NYSEAmex–2009–11); 60151 (June 19, 2009), 74 FR 30653 (June 26, 2009)(SR–NYSEAmex–29).

[7] Neither this filing nor the later filing establishing fees for the NYSE MKT Integrated Feed will have any effect on the filings for NYSE MKT Openbook, NYSE MKT Trades, or NYSE MKT Order Imbalances.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

[11] 15 U.S.C. 78f(b)(8).

[12] *See* NYSE Arca Integrated Feed, *http://www.nyxdata.com/page/1084* (last visited January 5, 2015) (data feed that provides a unified view of events, in sequence as they appear on the NYSE Arca matching engine, including depth of book, trades, order imbalance data, and security status messages).

[13] See Nasdaq TotalView-ITCH, *http://www.nasdaqtrader.com/Trader.aspx?id=Totalview2* (last visited January 5, 2015) (displays the full order book depth for Nasdaq market participants and also disseminates the Net Order Imbalance Indicator (NOII) for the Nasdaq Opening and Closing Crosses and Nasdaq IPO/Halt Cross).

[14] *See* BATS Multicast PITCH, *http://www.batstrading.com/market_data/products/* (last visited January 5, 2015) (real-time depth of book quotations and execution information).

[15] *See* Regulation NMS Adopting Release, *supra,* at 37503.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] 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, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[18] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

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) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–06 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–NYSEMKT–2015–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–06 and should be submitted on or before February 19, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–01646 Filed 1–28–15; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] The Exchange has satisfied this requirement.

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74125; File No. SR–PHLX–2015–05]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to MNX and NDX

January 23, 2015.

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 January 21, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Section II [3] of the Pricing Schedule entitled ''Multiply Listed Options Fees'' to assess an increased Options Surcharge in MNX [4] and NDX.[5]

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on February 2, 2015.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Section II of the Pricing Schedule includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

[4] MNX represents options on the one-tenth value of the Nasdaq 100 Index traded under the symbol MNX (''MNX'').

[5] NDX represents options on the Nasdaq 100 Index traded under the symbol NDX (''NDX'').

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this filing is to amend Section II of the Pricing Schedule entitled ''Multiply Listed Options Fees'' to increase the Options Surcharge for transactions in MNX and NDX from $0.15 to $0.20 per contract for Professionals,[6] Market Makers,[7] Specialists,[8] Broker-Dealers [9] and Firms.[10] As is the case today, Customers [11] will not be assessed an Options Surcharge in MNX an NDX. The Options Surcharge is assessed in addition to the Options Transactions Fees in Section II of the Pricing Schedule. This rule change applies to both electronic and floor transactions.

The Exchange believes that these surcharges will assist the Exchange in remaining competitive in these options by recouping certain fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to increase the Options Surcharge for transactions in MNX and NDX from $0.15 to $0.20 per contract for all non-Customer market participants is reasonable because all non-Customer market participants will continue to be assessed the same surcharge. As is the case today, Customers will not be assessed an Options Surcharge. Also, the Options Surcharge remains competitive with fees at other options exchanges.[14]

The Exchange's proposal to increase the Options Surcharge for transactions in MNX and NDX from $0.15 to $0.20 per contract for all non-Customer market participants is equitable and not unfairly discriminatory because the Exchange will continue to assess all non-Customer market participants a uniform Options Surcharge. Customers are not assessed an Options Surcharge. Customer order flow is unique because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Finally, the Exchange believes that it is equitable and not unfairly discriminatory for non-Customer market participants who trade these products to pay the surcharge fee as the Exchange has entered into a licensing agreement to obtain intellectual property rights to list these products and seeks to recoup a portion of its costs.

*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 because all non-Customer market participants will continue to be assessed a uniform Options Surcharge Fee for transactions in MNX and NDX, in addition to other transaction fees. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange operates in a highly competitive market, comprised of twelve exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed, as described in the proposal, are influenced by these robust market forces and therefore must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[15] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PHLX–2015–05 on the subject line.

[6] The term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[7] A ''market maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[8] The term ''Specialist'' applies to transactions for the account of a Specialist as defined in Exchange Rule 1020(a).

[9] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[10] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation (''OCC'').

[11] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at OCC which is not for the account of a broker or dealer or for the account of a ''Professional'' as that term is defined in Rule 1000(b)(14).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* NYSE MKT LLC's (''NYSE AMEX'') Fee Schedule. NYSE AMEX assesses a Royalty Fee of $0.22 per contract for transactions in MNX and NDX. *See also* NYSE Arca Inc.'s (''NYSE Arca'') Fees and Charges. NYSE Arca, Inc. assesses a Royalty Fee of $0.22 per contract for transactions in MNX and NDX.

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

*Paper Comments*

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–PHLX–2015–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2015–05 and should be submitted on or before February 19, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–01644 Filed 1–28–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14213 and #14214]**

### Mississippi Disaster # MS–00075

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Mississippi dated 01/20/2015.

*Incident:* Severe Weather and Tornadoes.

*Incident Period:* 12/23/2014.

*Effective Date:* 01/20/2015.

*Physical Loan Application Deadline Date:* 03/23/2015.

*Economic Injury (EIDL) Loan Application Deadline Date:* 10/20/2015.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Marion.

Contiguous Counties:

Mississippi, Jefferson Davis, Lamar, Lawrence, Pearl River, Walthall.

Louisiana, Washington.

The Interest Rates are:

| | |
|---|---|
| For Physical Damage: | |
| Homeowners with Credit Available Elsewhere | 3.875 |
| Homeowners without Credit Available Elsewhere | 1.938 |
| Businesses with Credit Available Elsewhere | 6.000 |
| Businesses without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations with Credit Available Elsewhere | 2.625 |
| Non-Profit Organizations without Credit Available Elsewhere | 2.625 |
| For Economic Injury: | |
| Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 14213 C and for economic injury is 14214 0.

The States which received an EIDL Declaration # are Mississippi Louisiana

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: January 20, 2015.

**Maria Contreras-Sweet,**

*Administrator.*

[FR Doc. 2015–01632 Filed 1–28–15; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2014–152]**

### Petition for Exemption; Summary of Petition Received

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

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before February 18, 2015.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2014–1011 using any of the following methods:

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to

[16] 17 CFR 200.30–3(a)(12).

*http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Alphonso Pendergrass (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 23, 2015.

**Lirio Liu,**

*Director, Office of Rulemaking.*

**Petition for Exemption**

*Docket No.:* FAA–2014–1011.

*Petitioner:* Mr. Alex Nikle.

*Section of 14 CFR Affected:* § 61.35(a)(2).

*Description of Relief Sought:* Mr. Alex Nikle petitions the FAA for an exemption from 14 CFR 61.35(a)(2) to allow him to take the airplane category multiengine class airline transport pilot transport knowledge test without the completion of an Air Transport Pilot Certification Training Program (specified in § 61.156), based on previous experience and training as a pilot in the air carrier environment.

[FR Doc. 2015–01637 Filed 1–28–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[Docket FTA–2015–0001]**

### Notice of Establishment of Emergency Relief Docket for Calendar Year 2015

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** By this notice, the Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2015 so that grantees and subgrantees affected by national or regional emergencies may request temporary relief from FTA administrative and statutory requirements.

**FOR FURTHER INFORMATION CONTACT:** Bonnie L. Graves, Assistant Chief Counsel for Legislation and Regulations, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave. SE., Room E56–306, Washington, DC 20590, phone: (202) 366–4011, fax: (202) 366–3809, or email, *Bonnie.Graves@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to title 49 CFR part 601, subpart D, FTA is establishing the Emergency Relief Docket for calendar year 2015. Subsequent to an emergency or major disaster, the docket may be opened at the request of a grantee or subgrantee, or on the Administrator's own initiative.

In the event a grantee or subgrantee believes the Emergency Relief Docket should be opened and it has not been opened, that grantee or subgrantee may submit a petition in duplicate to the Administrator, via U.S. mail, to: Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590; via telephone, at: (202) 366–4011; via fax, at (202) 366–3472, or via email, to *bonnie.graves@dot.gov,* requesting opening of the Docket for that emergency and including the information set forth below.

Section 5324(d) of title 49, U.S.C. provides that a grant awarded under section 5324 or under 49 U.S.C. 5307 or 49 U.S.C. 5311 that is made to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. This language allows FTA to waive statutory, as well as administrative, requirements. Therefore, grantees affected by an emergency or major disaster may request waivers of provisions of chapter 53 of title 49, U.S.C. when a grantee or subgrantee demonstrates the requirement(s) will limit a grantee's or subgrantee's ability to respond to an emergency. Grantees must follow the procedures set forth below when requesting a waiver of statutory or administrative requirements.

All petitions for relief from a provision of chapter 53 of title 49, U.S.C. or FTA administrative requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly available and can be accessed 24 hours a day, seven days a week, via the Internet at *www.regulations.gov.* Petitions may also be submitted by U.S. mail or by hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave. SE., Room W12–140, Washington, DC 20590. Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA–2015–0001. Grantees and subgrantees making submissions to the docket by mail or hand delivery should submit two copies. Grantees and subgrantees are strongly encouraged to contact their FTA regional office and notify FTA of the intent to submit a petition to the docket.

In the event a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

*A petition for relief shall:*

(a) Identify the grantee or subgrantee and its geographic location;

(b) Identify the section of chapter 53 of title 49, U.S.C., or the FTA policy statement, circular, guidance document and/or rule from which the grantee or subgrantee seeks relief;

(c) Specifically address how a requirement in chapter 53 of title 49 U.S.C., or an FTA requirement in a policy statement, circular, agency guidance or rule will limit a grantee's or subgrantee's ability to respond to an emergency or disaster; and

(d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

A petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

A petition for relief from statutory requirements will not be conditionally granted and requires a written decision from the FTA Administrator.

Pursuant to section 604.2(f) of FTA's charter rule (73 FR 2325, Jan. 14, 2008), grantees and subgrantees may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor, or mayor, or in an emergency requiring immediate action prior to a formal declaration, even if a formal

declaration of an emergency is not eventually made by the President, governor or mayor. Therefore, a request for relief is not necessary in order to provide this service. However, if the emergency lasts more than 45 calendar days, the grantee or subgrantee shall follow the procedures set out in this notice.

FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall notify the grantee or subgrantee if it plans to reconsider a decision. FTA decision letters, either granting or denying a petition, shall be posted in the Emergency Relief Docket and shall reference the document number of the petition to which it relates.

**Therese McMillan,**

*Acting Administrator.*

[FR Doc. 2015–01664 Filed 1–28–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. AB 290 (Sub–No. 366X)]**

### Norfolk Southern Railway Company—Abandonment Exemption—in Stark County, Ohio

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon approximately 1.30 miles of railroad line (the Line). The Line extends between mileposts EU 0.70 and EU 2.00 near Massillon, in Stark County, Ohio and traverses United States Postal Service Zip Code 44647.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption may become effective on February 28, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 9, 2015. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 18, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a combined environmental and historic report that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by February 3, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by January 29, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: January 26, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2015–01658 Filed 1–28–15; 8:45 am]

**BILLING CODE 4915–01–P**

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. AB 290 (Sub-No. 374X)]**

### Central of Georgia Railroad Company—Discontinuance of Service Exemption—in Spalding County, Ga

Central of Georgia Railroad Company (CGR), a wholly owned subsidiary of Norfolk Southern Railway Company, filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 4.50 miles of railroad line in Spalding County, Ga. (the Line). The Line extends between milepost C 252.9 and milepost C 257.4 and traverses United States Postal Service Zip Codes 30223 and 30224.

CGR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and if there were any overhead traffic, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending before the Surface

Transportation Board or any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on February 28, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by February 9, 2015.[2] Petitions to reopen must be filed by February 18, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CGR's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV*.

Decided: January 26, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2015–01686 Filed 1–28–15; 8:45 am]

**BILLING CODE 4915–01–P**

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Regulation Project

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments should be received on or before March 30, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this regulation should be directed to Kerry Dennis, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *kerry.dennis@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Consolidated Returns—Limitations on the Use of Certain Losses and Deductions.

*OMB Number:* 1545–1237.

*Regulation Project Number:* TD 8823.

*Abstract:* Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. These regulations amend the current regulations regarding the use of certain losses and deductions by such corporations.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations. Estimated total annual reporting burden: 2,000 hours. Estimated average annual burden hours per respondent: 15 minutes. Estimated number of respondents: 8,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 22, 2015.

**Christie Preston,**

*IRS Reports Clearance Officer.*

[FR Doc. 2015–01683 Filed 1–28–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0734]**

### Proposed Information Collection (Report of General Information) Activity: Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information

needed as evidence to determine a claimant's entitlement to benefits.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before March 30, 2015.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0734'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Titles:*

(a) VA Form 27–0820, Report of General Information.
(b) VA Form 27–0820a, Report of Death of Veteran/Beneficiary.
(c) VA Form 27–0820b, Report of Nursing Home Information.
(d) VA Form 27–0820c, Report of Defense Finance and Accounting Service (DFAS).
(e) VA Form 27–0820d, Report of Lost Check.
(f) VA Form 27–0820e, Report of Incarceration.
(g) VA Form 27–0820f, Report of Contact—Month of Death Check

*OMB Control Number:* 2900–0734.

*Type of Review:* Revision of a currently approved collection.

*Abstract:* The forms will be used by VA personnel to document verbal information obtained telephonically from claimants or their beneficiary. The data collected will be used as part of the evidence needed to determine the claimant's or beneficiary's eligibility for benefits.

*Affected Public:* Federal Government

*Estimated Annual Burden:*

(a) VA Form 27–0820, Report of General Information—19,667
(b) VA Form 27–0820a, Report of Death of Veteran/Beneficiary—6,667
(c) VA Form 27–0820b, Report of Nursing Home Information—2,500
(d) VA Form 27–0820c, Report of Defense Finance and Accounting Service (DFAS)—2,500
(e) VA Form 27–0820d, Report of Lost Check—2,500
(f) VA Form 27–0820e, Report of Incarceration—833
(g) VA Form 27–0820f, Report of Contact—Month of Death Check—833

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* One time

*Estimated Number of Respondents:*

(a) VA Form 27–0820, Report of General Information—236,000)
(b) VA Form 27–0820a, Report of Death of Veteran/Beneficiary—80,000
(c) VA Form 27–0820b, Report of Nursing Home Information—30,000
(d) VA Form 27–0820c, Report of Defense Finance and Accounting Service (DFAS)—30,000
(e) VA Form 27–0820d, Report of Lost Check, VA Form 27–0820e—30,000
(f) VA Form 27–0820e, Report of Incarceration—10,000
(g) VA Form 27–0820f, Report of Contact—Month of Death Check—10,000

Dated: January 23, 2015.

By direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2015–01665 Filed 1–28–15; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Disability Compensation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the meeting of the Advisory Committee on Disability Compensation (Committee), previously scheduled to be held at the U.S. Department of Veterans Affairs, 810 Vermont Avenue NW., Room 720, Washington, DC, on January 26–28, 2015 *has been cancelled.*

For more information, please contact Ms. Nancy Copeland, Designated Federal Officer at (202) 461–9684 or via email at *Nancy.Copeland@va.gov.*

Dated: January 26, 2015.

**Rebecca Schiller,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2015–01694 Filed 1–28–15; 8:45 am]

**BILLING CODE 8320–01–P**


# FEDERAL REGISTER

Vol. 80 Thursday,
No. 19 January 29, 2015

Part II

## Department of Defense

## General Services Administration

## National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**[Docket No. FAR 2014–0051, Sequence No. 8]**

## Federal Acquisition Regulation; Federal Acquisition Circular 2005–80; Introduction

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of final rules.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–80. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov*.

**DATES:** For effective dates see the separate documents, which follow.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–80 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–80

| Item | Subject | FAR case | Analyst |
|---|---|---|---|
| I | Ending Trafficking in Persons | 2013–001 | Davis. |
| II | Management and Oversight of the Acquisition of Services | 2014–008 | Jackson. |
| III | Technical Amendments | | |

**SUPPLEMENTARY INFORMATION:** Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–80 amends the FAR as specified below:

### Item I—Ending Trafficking in Persons (FAR Case 2013–001)

This final rule amends the FAR to implement Executive Order 13627 and Title XVII of the National Defense Authorization Act for Fiscal Year 2013 and promotes the United States policy prohibiting trafficking in persons. Contractors and subcontractors must disclose to employees the key conditions of employment, starting with wages and work location; no recruiting fees are allowed to be charged to employees.

Compliance plans and annual certifications are required for portions of contracts over $500,000 performed outside the United States, except for commercially available off-the-shelf items of supply; plans shall be appropriate to the size and complexity of the contract or subcontract, and the nature and scope of the activities under the contract or subcontract. These plan exceptions will significantly reduce the impact on small entities.

Contracting officers should specify in the contract whether a written employee work document is required, which notifies the employee of certain details about the work and about trafficking in persons. The contracting officer is also required to notify the agency Inspector General, debarring and suspending official, and, if appropriate, law enforcement of credible information regarding violations. The contracting officer is required to put into FAPIIS violations substantiated by the agency Inspector General, after a final agency determination.

### Item II—Management and Oversight of the Acquisition of Services (FAR Case 2014–008)

This final rule amends the FAR to implement a recommendation to strengthen guidance on service acquisitions by incorporating at FAR 37.101 the definitions relating to ''uncompensated overtime'' presently set forth in FAR 52.237–10(a), except that the defined term ''uncompensated overtime rate'' has been changed to ''adjusted hourly rate (including uncompensated overtime).'' Additionally, the definition of the new term ''adjusted hourly rate (including uncompensated overtime)'' clarifies that the proposed hours per week include uncompensated overtime hours over and above the standard 40-hour work week. FAR 52.237–10 is further amended to clarify the application of the adjusted hourly rate, and categorization of proposed hours subject to the adjusted hourly rate. In addition, FAR 52.237–10 has been amended to reflect that all proposed labor hours subject to the adjusted hourly rate shall be identified as either regular or overtime hours, by labor categories. Finally, FAR 37.115–2 has been amended to add a paragraph (d) to clarify that when there is uncompensated overtime, the adjusted hourly rate, rather than the hourly rate shall be applied to all proposed hours, whether regular or overtime hours.

This rule is not expected to have a significant cost or administrative impact on contractors or offerors. This final rule is also not expected to have a significant impact on contracting officers because it only clarifies policy that is already stated in the FAR. These requirements affect only the internal operating procedures of the Government.

### Item III—Technical Amendments

Editorial changes are made at FAR 46.202–4, 52.212–3, and 52.225–18.

Dated: January 22, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Federal Acquisition Circular (FAC) 2005–80 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–80 is effective March 2, 2015.

Dated: January 22, 2015.

**Richard Ginman,**

*Director, Defense Procurement and Acquisition Policy.*

Dated: January 22, 2015.

**Jeffrey A. Koses,**

*Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.*

Dated: January 21, 2015.

**William P. McNally,**

*Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.*

[FR Doc. 2015–01523 Filed 1–28–15; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1, 2, 9, 12, 22, 42, and 52

**[FAC 2005–80; FAR Case 2013–001; Item I; Docket 2013–0001; Sequence No. 1]**

**RIN 9000–AM55**

## Federal Acquisition Regulation; Ending Trafficking in Persons

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to strengthen protections against trafficking in persons in Federal contracts. These changes are intended to implement Executive Order (E.O.) 13627, entitled ''Strengthening Protections Against Trafficking in Persons in Federal Contracts,'' and title XVII of the National Defense Authorization Act for Fiscal Year 2013.

**DATES:** *Effective:* March 2, 2015.

*Applicability:* Contracting officers shall modify, on a bilateral basis, existing indefinite-delivery/indefinite-quantity contracts to include the clause for future orders, if additional orders are anticipated.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–80, FAR Case 2013–001.

**SUPPLEMENTARY INFORMATION:**

## I. Table of Contents



## II. Background

The United States has long had a policy prohibiting Government employees and contractor personnel from engaging in trafficking in persons activities, including severe forms of trafficking in persons. ''Severe forms of trafficking in persons'' is defined in section 103 of the Trafficking Victims Protection Act of 2000 (TVPA) (22 U.S.C. 7102) to include the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery, and sex trafficking.

FAR subpart 22.17 strengthens the efficacy of the policy prohibiting trafficking in persons by codifying trafficking-related prohibitions for Federal contractors and subcontractors. It provides for the use of a clause that requires contractors and subcontractors to notify Government employees of trafficking in persons violations and puts parties on notice that the Government may impose remedies, including termination, for failure to comply with the requirements. Recent studies of trafficking in persons, including findings made by the Commission on Wartime Contracting and agency Inspectors General, as well as testimony provided at congressional hearings, have identified a need for additional steps to prohibit trafficking in Government contracting—including regulatory action.

E.O. 13627, entitled ''Strengthening Protections Against Trafficking in Persons in Federal Contracts,'' issued on September 25, 2012 (77 FR 60029, October 2, 2012), and title XVII, entitled ''Ending Trafficking in Government Contracting,'' of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) create a stronger framework to eliminate trafficking in persons from Government contracts. The E.O. and statute provide new policies applicable to all contracts that prohibit contractors and subcontractors from engaging in prohibited practices such as destroying, concealing, confiscating, or otherwise denying access by an employee to his or her identity or immigration documents; using misleading or fraudulent recruitment practices; charging employees recruitment fees; and providing or arranging housing that fails to meet the host country housing and safety standards. Additionally, the E.O. and statute provide new policies for contracts performed outside the United States that exceed $500,000, including a requirement for a compliance plan and annual certifications.

Contractors and subcontractors are reminded of their responsibilities associated with H–1B, H–2A, and H–2B Programs or Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and should act accordingly. Nothing in this rule shall be construed to permit a contractor or subcontractor from failing to comply with any provision of any other law, including, for example, the requirements of the MSPA, as amended, 29 U.S.C. 1801, *et seq*. and the Immigration and Nationality Act, in particular nonimmigrants entering the country under 8 U.S.C. 1101(a)(15)(H)(i)(b) (''H–1B Program''), 8 U.S.C. 1101(a)(15)(H)(ii)(a) (''H–2A Program''), or 8 U.S.C. 1101(a)(15)(H) (ii)(b) (''H–2B Program''). The requirements of these programs were not incorporated into the FAR because this rule is implementing a specific statute and E.O. which are separate and apart from the immigration laws cited and because all of the responsibilities that employers have under H–1B, H–2A, and H–2B Programs or MSPA are already enumerated in law and separate regulations.

The Federal Acquisition Regulatory Council, on March 5, 2013, sponsored a public meeting and request for comment on the implementation of E.O. 13627 and title XVII of the NDAA for FY 2013. Feedback from that meeting has been

used to help inform the development of regulations and other guidance to implement the E.O. and new statutory provisions and to strengthen existing prohibitions on trafficking in persons.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 59317 on September 26, 2013, to implement E.O. 13627 and title XVII of the NDAA for FY 2013. This final rule amends the FAR to promote the United States policy prohibiting trafficking in persons activities and creates a stronger framework and additional requirements for awareness, compliance, and enforcement—to prevent trafficking in persons in Government contracts. Twenty respondents submitted comments on the proposed rule.

**III. Discussion and Analysis**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

*A. Summary of Significant Changes to the Proposed Rule*

- Revised FAR 9.104–6, Federal Awardee Performance and Integrity Information System (FAPIIS), to notify contractors that any information about a subcontractor is posted to the record of the prime contractor; however, prime contractors will have the opportunity to post in FAPIIS any mitigating factors or information.
- Revised FAR 22.1701, Applicability and 52.222–50, Combating Trafficking in Persons, to clarify the applicability of the subpart.
- Revised FAR 22.1702, Definitions, and FAR 52.222–50, Combating Trafficking in Persons, to add the definitions of ''agent,'' ''subcontract,'' and ''subcontractor.''
- Revised FAR 22.1703, Policy, and FAR 52.222–50, Combating Trafficking in Persons, to—
  - Require contractors to use recruiters that comply with local labor laws of the country in which the recruiting takes place;
  - Require contractors to provide employees with a work document if it is required by law or contract;
  - Clarify the certification and compliance plan requirements, including the posting and submission of the plan;
  - Clarify contractor and subcontractor requirements for disclosing information to the agency Inspector General and cooperating fully in an investigation; and
  - Remove the requirement for contractors to interview employees suspected of being victims or witnesses of trafficking in persons. Clarify the requirement to provide them return transportation.
- Revised FAR 22.1704, Violations and remedies, and FAR 52.222–50 to—
  - Clarify contracting officer actions upon receipt of credible information of a trafficking in persons violation;
  - Provide for an administrative proceeding upon receipt of a report from the agency Inspector General that provides support for the allegations with regard to violation of trafficking in person policies;
  - Clarify in FAR 22.1704 that if the administrative proceeding is conducted by the suspending and debarring official, he or she may use the suspension and debarment procedures in FAR subpart 9.4, and continues to have suspending and debarring authority;
  - Provide that imposition of remedies by the contracting officer shall occur after a final determination that an allegation is substantiated, although the suspending and debarring official has the authority, at any time before or after the final determination as to whether the allegations are substantiated, to use the suspension and debarment procedures in FAR subpart 9.4 to suspend, propose for debarment, or debar the contractor, if appropriate; and
  - Clarify mitigating and aggravating factors that the contracting officer may consider, including whether the contractor has taken appropriate action for violations such as reparation to victims and whether the contractor failed to abate a violation or enforce requirements of its compliance plan (also affects FAR 52.222–50(f)).
- Revised FAR 42.1503(h) to—
  - Require entry of substantiated allegations into FAPIIS; and
  - Clarify that the information to be posted in FAPIIS in accordance with FAR 42.1503(h)(1) will be available to the public.
- Revised FAR 52.222–50 to—
  - Require contractors to notify agents as well as employees about the policy prohibiting trafficking in persons described in FAR 52.222–50(b), and actions that will be taken for violations;
  - Add a State Department Web site link for further information, including examples of awareness programs;
  - Add a requirement for a compliance plan to include making available to all workers the hotline number for the Global Human Trafficking Hotline, and its email address;
  - Clarified the contractor's responsibility to post the compliance plan at the worksite or on its Web site.

*B. Analysis of Public Comments*

Introduction: General Support for the Rule

*Comment:* Half of the respondents expressed explicit support for the proposed rule. For example, one respondent expressed its continued support for the Government's efforts to eradicate trafficking in persons and modern day slavery. Another respondent stated that the proposed amendments to the FAR are ''overall great steps to ensure the protection of potential victims of trafficking.''

*Response:* Noted.

1. Applicability

a. Applicability to Commercial Items and COTS Items

*Comment:* Several respondents commented on the applicability of the rule to commercial items and commercially available off-the-shelf (COTS) items. Respondents also commented on inclusion of FAR 52.222–50 in all solicitations and contracts, and inclusion in FAR 52.212–5 for acquisition of commercial items. One respondent noted that the proposed rule would amend FAR 12.301 to add FAR 52.222–56 in all solicitations prescribed in FAR 22.1705(b), including those for commercial items and COTS items. According to the respondent, this is a blanket application of the certification requirements, particularly to COTS items domestically.

*Response:* The rule does apply to the acquisition of commercial items, including COTS items. However, COTS items are exempt from the requirements for a compliance plan and the certification. Although the clause at 52.222–50 is included in each solicitation and contract, including for the acquisition of COTS items, and flows down to all subcontracts, COTS items are exempt from the compliance plan and certification requirements.

The provision at FAR 52.222–56 is only included in solicitations that may meet the requirement for applicability of the certification requirement, *i.e.,* it is possible that at least $500,000 of the contract may be performed outside the United States and the acquisition is not entirely for COTS items. The provision has been revised in the final rule to clarify that it only imposes a requirement on the apparently successful offeror if any portion of the contract is for purchase of supplies, other than COTS items, to be acquired outside the United States or services to

be performed outside the United States, and that portion of the contract has an estimated value that exceeds $500,000.

The Councils note that E.O. 13627 applies to all contracts except at Sec. 2, paragraph (a)(3) where it expressly specifies that the requirements in section 2(a)(2) of the E.O. (relating to compliance plan and certification) shall not apply to contracts or subcontracts for COTS items. The Councils also note that both title XVII of the NDAA for FY 2013 and 22 U.S. Code Chapter 78—Trafficking Victims Protection, are silent on the applicability of the statute to commercial contracts in general and COTS items in particular.

In accordance with 41 U.S.C. 1906 and 1907, the FAR Council has determined that it is not in the best interest of the Government to exempt contracts for the acquisition of commercial items from the requirements of title XVII of the NDAA for FY 2013, and the Administrator for Federal Procurement Policy has determined that it is not in the best interest of the Government to exempt acquisitions of COTS items from the requirements of title XVII of the NDAA for FY 2013, except for the requirements for certification and a compliance plan.

*Comment:* Several respondents recommended eliminating the COTS item exclusion or ensuring that the exclusion does not apply to commercial services, only to supply items, because this is where the unskilled labor force is most vulnerable.

*Response:* By definition, COTS items do not include services (see FAR 2.101).

*Comment:* One respondent stated that the exemptions for contracts for COTS items could be interpreted to apply to base-support operations, which is a pernicious source of human trafficking in Government contracting.

*Response:* Base-support operations contracts are not primarily COTS items. COTS items are a small sub-set of commercial items and do not include services. Any COTS items on a contract for base-support services will only be exempt from the requirements for a compliance plan and certification.

b. Thresholds and Flowdown Requirement (FAR 52.222–50(i))

*Comment:* Two respondents asked for clarification of the flowdown to subcontracts. The respondents objected to application of the flowdown on very low dollar subcontracts, and recommended application only above the micro-purchase threshold.

One respondent pointed out that the clause must be flowed down at any dollar level, but questioned whether the paragraph (h) requirements for a certification and compliance plan only apply if the portion of the contract performed overseas exceeds $500,000. One respondent recommended that contractors and subcontractors should be required to have a compliance plan and certify if the value of the contract or subcontract exceeds $500,000, even if only a portion is conducted outside the United States.

Some respondents were concerned about flowing down the clause at FAR 52.222–50 to subcontracts at every tier, regardless of dollar value, as being too burdensome.

One respondent objected to the subcontract certification flowdown being set at $500,000, and recommended that the requirement apply to all service contracts that exceed $25,000 and flow down to all subcontracts. The respondent pointed out that there are service subcontracts overseas which are below the $500,000 level, which the respondent recommends be covered. Another respondent noted that contractors would break subcontracts into smaller dollar amounts to avoid the $500,000 threshold. The respondent recommended that the requirement apply to all contracts and subcontracts exceeding $500,000 if any portion is conducted outside the United States.

*Response:* The thresholds are set in the statute and the E.O. The final rule at FAR 52.222–50(h)(1) clarifies that the paragraph (requiring a compliance plan and certification) applies to any portion of the contract that (i) is for supplies, other than COTS items, acquired outside the United States, or services to be performed outside the United States, and (ii) has an estimated value that exceeds $500,000. The flow-down to subcontracts at FAR 52.222–50(i) has a similar clarification. For subcontracts that do not require a compliance plan or certification, the clause expresses how the policy prohibiting trafficking in persons works (*e.g.,* no recruitment fees, no confiscating passports, no material misrepresentations about salary and work location), and requires full cooperation with agency investigations. With these clarifications, the Councils do not consider these anti-trafficking steps to be overly burdensome.

c. Editorial Comments on Applicability

*Comment:* One respondent recommended revising FAR 22.1701 for clarity, deleting the commas after the phrase ''value of the supplies to be acquired'' and after the phrase ''services required to be performed.''

*Response:* The section has been restructured for clarity, and a corresponding change made at FAR 52.222–50(i).

*Comment:* One respondent recommended that FAR 22.1703(d) should read: ''Except for contracts and subcontracts for commercially available off-the-shelf items, where the estimated value of the supplies to be acquired or the services required to be performed under the contract outside the United States exceeds $500,000—'', and then delete the applicability language in FAR 22.1703(d)(1).

*Response:* The final rule has been revised at former paragraph (d)(1) (now paragraph (c)(1)) to clarify its applicability to the apparent successful offeror.

*Comment:* One respondent noted that the phrase ''if applicable'' at FAR 52.222–50(i)(2) is ambiguous and should be clarified to explain whether a contractor should require the subcontractor compliance plan only in support of a CO's request or should the contractor always require submittal of the plan when the plan is ''applicable.''

*Response:* The text at FAR 52.222–50(i)(2) has been clarified, that if any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter.

d. Foreign Military Sales

*Comment:* One respondent asked if foreign military sales would be covered.

*Response:* The FAR does not address foreign military sales. Under the Defense Federal Acquisition Regulation Supplement, the contracting officer is required to conduct foreign military sale acquisitions under the same acquisition and contract management procedures used for other defense acquisitions (see 48 CFR 225.7301(b)).

2. Definition or Clarification of Terms (FAR 22.1702, 22.1703, 52.222–50, and 52.222–56)

a. ''Abuses''

*Comment:* One respondent recommended clarifying the term ''abuses'' as it is used at FAR 22.1703(d)(1)(ii), 52.222–50(h)(5)(ii)(B) and 52.222–56 by adding after ''abuses'' the explanatory phrase ''relating to any of the prohibited activities identified in FAR 52.222–50(b).'' The respondent also noted that the term is used in the E.O. but not further defined and is not used in the statute.

*Response:* The final rule has been revised to incorporate this recommendation. (Note that paragraph FAR 22.1703(d) is now paragraph (c).)

b. ''Agent''

*Comment:* Several respondents recommended defining the term ''agent''. One respondent recommended use of the definition in the clause at FAR 52.203–13, Contractor Code of Business Ethics.

*Response:* The final rule incorporates at FAR 22.1702 and FAR 52.222–50 the definition of ''agent'' used in 52.203–13. The term has not been added to FAR 2.101, because this definition is not necessarily applicable to the term as it is used in multiple locations throughout the FAR, without definition.

c. ''Due Diligence''

*Comment:* Some respondents requested clarification and/or definition of the term ''due diligence'' at FAR 22.1703(d)(3), 52.222–50(h)(5)(ii), 52.222–56.

*Response:* The Councils note that the level of ''due diligence'' required depends on the particular circumstances. This is a business decision, requiring judgment by the contractor.

d. ''Procurement of Commercial Sex Act''

*Comment:* One respondent requested more precise definitions of ''procurement'' and ''sex act.''

*Response:* The term ''commercial sex act'' is defined in FAR 22.1702 and the prohibition of its procurement was not added or affected by the changes in this case but was already in FAR 22.1703(a)(2) and 52.222–50(b)(2) since 2006, based on 22 U.S.C. 7102 and 7104. The Councils do not believe that additional definitions are necessary.

e. ''Subcontract''

*Comment:* One respondent requested a definition of ''subcontract,'' and recommended use of the definition at FAR 44.101.

*Response:* This definition has been incorporated in the final rule, along with the definition of ''subcontractor,'' consistent with the definition of those terms at FAR 3.1001.

3. Policy Prohibitions (FAR 22.1703(a) and 52.222–50(b))

a. Identity or Immigration Documents (FAR 22.1703(a)(4) and 52.222–50(b)(4))

*Comment:* One respondent expressed strong support for the requirements of FAR 22.1703(a)(4), which prohibits contractors from destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity or immigration documents. The respondent noted that this requirement gives the employee greater autonomy while working on the contract, and reduces the worker's vulnerability to possible exploitation.

*Response:* Noted.

*Comment:* One respondent recommended conducting spot checks on and off-site of contractor workplaces in Middle Eastern countries to ensure that contractor employees have both their civilian ID and passports.

*Response:* The final rule requires contractors to cooperate fully in providing reasonable access to their facilities and staff (both inside and outside the United States) to allow contracting agencies and other responsible enforcement agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons. This general auditing and compliance requirement allows an agency to evaluate workplace conditions and suspected trafficking in persons violations within the terms of the contract where it identifies the greatest needs.

*Comment:* One respondent recommended creating a database of owners and managers of companies that have been withholding passports, and prohibiting further Government business with those companies in violation.

*Response:* FAR 22.1704(b) requires contracting officers to notify, in accordance with agency procedures, the agency Inspector General, the agency debarring and suspending official, and if appropriate, law enforcement officials with jurisdiction over the alleged offense, of credible information regarding violations. The section also requires the contracting officer to include in FAPIIS any allegation substantiated by the agency Inspector General in its report, after a final agency determination (see FAR 22.1704(d)). This requirement ensures that violations are catalogued, and that the agency suspending and debarring official is aware of all suspected violations.

b. Recruitment Practices (FAR 22.1703(a)(5) and 52.222–50(b)(5))

i. Basic Information

*Comment:* One respondent commented that the proposed language makes any failure to provide ''basic information'' about ''key'' employment terms a violation of the U.S. Government trafficking in persons policy, which could potentially apply to employment matters with no connection to trafficking in persons.

*Response:* Failure to provide basic information and making material misrepresentations are examples of the overarching violation of using misleading or fraudulent recruiting practices. E.O. 13627 section 2(a)(1)(A)(i) creates a duty to inform prospective employees of basic employment information and provides remedies if that duty is breached. It also provides remedies when employers make material misrepresentations to prospective employees of key terms and conditions. FAR 22.1703(a)(5) mirrors language in E.O. 13627 section 2(a)(1)(A)(i) and 22 U.S.C. 7104(g)(iv)(III).

*Comment:* One respondent sought clarification of the requirement to provide ''basic information'' about the ''hazardous nature of the work'' at FAR 22.1703(a)(5) and 52.222–50(b)(5). Specifically, the respondent requested guidance on the level of detail required.

*Response:* The level of detail sufficient to comply with the rule will vary based upon individual circumstances associated with the work environment.

*Comment:* One respondent suggested that the terms ''misleading or fraudulent'' taken from E.O. 13627 section 2(a)(1)(A)(i) be replaced with the terms ''materially false or fraudulent pretenses'' from 22 U.S.C. 7104(g)(iv)(III). The respondent notes that the terms ''misleading or fraudulent'' are broader than the terms ''materially false or fraudulent pretenses.''

*Response:* The Councils agree that the terms ''misleading or fraudulent'' are broader than the terms ''materially false or fraudulent pretenses,'' with the scope of the former terms encompassing the latter. With the objective of implementing both the E.O. and the statutory provisions, the terms ''misleading or fraudulent'' are retained. Since the terms from the E.O. are broader than the terms used in the statute, use of the terms from the E.O. will encompass situations contemplated by both documents thereby effectively implementing both provisions.

ii. Hire Contractors Directly

*Comment:* One respondent recommended encouraging prime contractors to hire workers directly, including third country nationals, and a preference should be given to bidders who can prove they do so. According to the respondent, this would create an employee-employer relationship creating greater responsibility.

*Response:* The Federal Government cannot require prime contractors to hire workers directly for their company. See

section III.B.9. of this preamble for available training related to hiring practices.

iii. Require Licensed Recruiters

*Comment:* Several respondents recommended incorporating the requirement for licensed recruiters into the final rule. One respondent stated that requiring a plan that includes the identity of recruitment companies being used and proof that the company and/or recruiter is licensed under laws of the country of recruitment could be vital to identifying potential persons involved in human trafficking and preventing further victims. Another respondent recommended prohibiting the use of agents, subagents or consultants or anyone other than a bona fide employee of the recruiting company to recruit workers. The respondent also recommended using only licensed recruiters. Another respondent recommended that FAR 52.222–50(h)(3)(iii) should be amended to require licensed recruiters be used by contractors, and to stipulate that no agents or subagents of those recruiters may be utilized. According to the respondent, the current rule requires only trained recruiters, which does not go far enough.

*Response:* The final rule has been revised to specify that recruiters must comply with local labor laws of the country in which the recruiting takes place. The statute and E.O. do not specifically require licensing of recruiters. Practices regarding recruiting vary greatly from country to country.

iv. Editorial Comment on Recruitment Practices

*Comment:* One respondent recommended adding ''or offering employment'' after ''during the recruitment of employees'' in FAR 22.1703(a)(5) and 52.222–50(b)(5) to better integrate E.O. 13627 section 2(a)(1)(A)(i) and 22 U.S.C. 7104(g)(iv)(III). The respondent further recommended moving the place of the revised phrase to come after a modified lead-in phrase ''Using misleading or fraudulent practices.''

*Response:* The Councils accepted the recommendations and have incorporated the changes into the final rule.

c. Recruitment Fees (FAR 22.1703(a)(6) and 52.222–50(b)(6))

*Comment:* Several respondents supported the unequivocal stance of prohibiting charging employees recruitment fees. One respondent commented that the final rule should align with the language in the statute and prohibit ''charging unreasonable placement or recruitment fees.''

One respondent recommended defining the term ''recruitment fees'' using the definition of recruitment costs found at FAR 31.205–34.

Another respondent recommended prohibiting other types of fees being charged to the employee such as travel, hiring, administrative, handling, or any other types of fees assessed against the employee.

*Response:* In order to comply with both the E.O. and the statute, the rule applies the most stringent requirement (*i.e.,* no recruitment fees). The Councils note public support for prohibiting employees from being charged recruitment fees. Prohibiting recruitment fees for employees is a key anti-trafficking in persons principle, since being charged any recruitment fees increases workers' vulnerability to debt bondage or involuntary servitude. Additionally, monitoring and enforcing ''unreasonable'' recruitment fees is burdensome for Federal agencies and contractors and requires evidence to evaluate whether the amount of money that an employee is charged is ''reasonable.''

The rule prohibits charging employees any recruitment fees, not just those recruitment fees that are considered allowable costs under a contract. Expanding the types of prohibited fees beyond recruitment fees is beyond the scope of this case.

*Comment:* One respondent was concerned that the prohibition of certain kinds of fees may be construed to prohibit program fees through the State Department Exchange Visitor Program, which is a fee-for-service program.

*Response:* The E.O. prohibits recruitment fees charged by employers, contractors, and/or subcontractors, which are different than program fees. Program fees for the J nonimmigrants (*i.e.,* students, exchange visitors, and their dependents) are fees mandated by Congress to support the program office and the Student and Exchange Visitor Program automated system (*i.e.,* the Student and Exchange Visitor Information System). This system is used to track students and exchange visitors while in the United States. The Department of State collects these program fees when it redesignates program sponsor organizations, usually every two years.

Recruitment fees are quite different from program fees. Recruitment/placement/housing fees are payments made by individual exchange visitors to the sponsor organization or a related third party organization for services provided to the exchange visitor during his/her program. The Department of State took action in 2012 to address weaknesses in the Summer Work Travel program by, among other things, publishing new regulations to implement safeguards that expand the list of ineligible positions, enhancing oversight and vetting of sponsors and third parties, and better defining cultural activities. Notably, the Department of State has conducted more than 1500 site visits in the past two years, required comprehensive orientation materials for participants, and has made available a 24-hour toll free helpline. The Department of State continues to examine ways to further strengthen the program. As part of this effort, the Department of State through regulation requires sponsors to submit annual participant price lists each year, breaking down the costs that exchange visitors must pay to both sponsors and foreign third party entities to participate in the program.

d. Return Transportation (FAR 22.1703(a)(7) and 52.222–50(b)(7))

*Comment:* One respondent recommended adding at FAR 22.1703(a)(7) the statutory modifier as follows: ''if requested by the employee at the end of employment, failing to provide return transportation . . .''.

*Response:* If the employer brought the employee into a country where the employee is not a national, then the employer cannot leave the employee in that country at the end of employment. Unless an exception applies (see FAR 22.1703(a)(7)(ii) and 52.222–50(b)(7)(ii)), the employer is required to provide the employee return transportation; this is not contingent on the employee requesting it. For employees not aware of their right to return transportation, the concern is that the employer would use that as an excuse to claim the employee did not formally request return transportation. The rule allows an employee to refuse return transportation, if that employee is otherwise allowed to stay in the country; however, the rule does not state that employees who do not request transportation are not entitled to it.

*Comment:* Two respondents sought clarification on the conditions regarding the ''provide or pay'' provision at FAR 22.1703(a)(7): Would the contractor be required to ''pay'' only at the end of the period of employment? What mode of transportation is required? Must the payment be in the form of a non-transferrable and non-refundable ticket? Can it be in cash in the currency of the country where the work is being performed or can it be a voucher for the employee to use as they see fit?

Referencing FAR 31.205–35, which permits contractors to recover relocation costs on Government contracts, would an employee's return relocation be allowable even if the employee resigns, is terminated, or the project unexpectedly ends within 12 months of hire?

*Response:* The contractor must make a reasonable decision on whether to provide or pay for transportation and then what mode of transportation to provide or how to reimburse an employee for transportation. This decision should be based on any existing requirements to provide or pay for return transportation for temporary nonimmigrant workers, the contractor's established travel policies and procedures, the modes and cost of transportation available, and other factors related to the unique circumstances for the employees, the location they work in and the country to which they are returning. There are no exemptions to the ''provide'' or ''pay'' requirements of the rule for employees who are terminated or who want to leave before one year of employment. While FAR 31.205–35, Relocation costs, addresses relocation costs incident to the permanent change of assigned work location, the transportation costs referred to in the rule are not the same as relocation costs in the FAR. The rule refers to travel only to and from the place of employment. It does not include all the costs listed in FAR, such as moving family and furnishings, real estate sales, etc. The rule puts no limits on the length of employment or whether the employment was ended for cause. Indeed, for an unscrupulous employer, these limitations could be used as an excuse not to pay for or provide return fare for its employees.

*Comment:* One respondent noted that the exemption ''by the Federal department or agency providing the contract,'' is only addressed at FAR 22.1703(a)(7)(ii)(B) and not included in the contract clause at FAR 52.222–50. Two respondents noted there is no guidance in the regulation as to how, when or from whom within the agency such exception is to be obtained and that this could create a significant loophole because there are no listed criteria that would circumscribe the agency's discretion to exempt contractors.

*Response:* The exemption has been added to the list of exemptions at FAR 52.222–50(b)(7)(ii)(B). By its nature, this exemption is unique to individual agencies and their particular situation. Any guidance on the use of this exemption should be addressed in individual agency guidance and regulations. Agencies may also choose not to use this exemption.

*Comment:* Two respondents had questions concerning return transportation for victims or witnesses of human trafficking. One asked if the country of employment or the U.S. Government will provide the means for the victims or witnesses to return to their home countries. One respondent states that the rule does not consistently address the return of workers to their country of origin. According to the respondent, the rule states that contractors merely have to interview suspected victims and witnesses prior to repatriation. Elsewhere in the rule, the contractors' requirement to provide return transportation or costs is waived for victims of or witnesses to trafficking in persons. This respondent recommended, because repatriation could be a form of retaliation against workers, once a contractor notifies Government authorities of suspected trafficking in persons, the contractor should first obtain authorization from appropriate Government officials prior to repatriating a witness or victim.

*Response:* It is beyond the scope of this rule to set requirements for an agency or another entity to pay for a victim or witness' return transportation or to require prior approval for the repatriation of victims or witnesses. However, the rule has been clarified that the contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall also offer return transportation to a witness at a time that supports the witness' need to testify. Also, the rule has been revised to delete the requirement for interviewing (FAR 52.222–50(g)(1)(iv)).

e. Housing Arrangement (FAR 22.1703(a)(8) and 52.222–50(b)(8))

*Comment:* A respondent recommended adding a requirement to prohibit employees from being charged an excess portion of their wages as payment for housing. One respondent suggested that such a requirement would prevent traffickers from keeping their employees in a perpetual state of indebtedness.

*Response:* It is beyond the scope of this rule to regulate the costs charged for housing. However, the final rule has been modified at FAR 22.1703(a)(5)(i) and (a)(9) and 52.222–50(b)(5)(i) and (b)(9) to require disclosure of housing costs. The employer should provide this disclosure during the recruiting process and as part of any required work documents, prior to relocation of the employee.

*Comment:* A respondent expressed concern that the housing requirements established at FAR 22.1703(a)(8) and at 52.222–50(b)(8) were inconsistent with the housing plan requirements at FAR 52.222–50(h)(3)(iv). Specifically, the respondent noted that the clause at FAR 52.222–50(h)(3)(iv) allows the contractor to explain any variance from the host country housing standards, while the language at FAR 22.1703(a)(8) and 52.222–50(b)(8) does not.

*Response:* Following the principle of compliance with the most stringent requirement in order to comply with both the statute and the E.O., the final rule has been amended at FAR 52.222–50(h)(3)(iv) to be consistent with FAR 22.1703(a)(8) and 52.222–50(b)(8) and the statute. The statute requires that contractors meet the host country housing and safety standards (22 U.S.C. 7104(g)(iv)(V)). It does not provide the opportunity for contractors to explain any variances from host-country housing standards, even though the E.O. would allow such explanation of variance in the housing plan (sec 2(a)(2)(A)(iv)).

*Comment:* One respondent recommended deleting the phrase ''housing (if employer provided or arranged)'' in FAR 22.1703(a)(5) from the list of employment terms and conditions that the contractor may not misrepresent or fail to disclose material information about. The respondent commented that FAR 22.1703(a)(8) and 52.222–50(b)(8) already preclude ''providing or arranging housing that fails to meet the host country housing and safety standards,'' rendering the phrase in FAR 22.1703(a)(5) unnecessary.

*Response:* The phrases at FAR 22.1703(a)(5) and 52.222–50(b)(5) serve different purposes than the similar phrases at FAR 22.1703(a)(8) and 52.222–50(b)(8). The former requirement governs false representations during the employee recruitment process, while the prohibitions at FAR 22.1703(a)(8) and 52.222–50(b)(8) govern the condition and safety of the employee housing arrangements once the employee is working on the contract. Therefore, the Councils have retained the phrases at FAR 22.1703(a)(5) and 52.222–50(b)(5).

f. Employment Contract (FAR 22.1703(a)(9) and 52.222–50(b)(9))

*Comment:* Two respondents recommended always requiring an employment contract for workers participating in a Federal contract, and therefore removing the qualifying ''if

required'' language in FAR 22.1703(a)(9). The respondents argued that this uniform requirement for a written contract would allow contractors to more effectively implement the FAR 22.1703(a)(5) requirement that contractors not use misleading or fraudulent recruitment practices.

*Response:* Neither the Trafficking Victims Protection Act (22 U.S.C. chapter 78), as modified by the NDAA for FY 2013, nor the E.O. require a written employment contract or other work documents. The rule has clarified that written work documents are mandated only when required by law or contract. This provides the contracting officer the option of requiring written work documents in situations where the compliance provisions contained in this rule do not adequately manage the risk of trafficking in persons.

A written employment contract or other work documents are not a panacea to trafficking in persons and may in some circumstances work to the detriment of the employee. This situation can arise when verbal inducements conflict with written terms and the written terms accurately reflect key terms and conditions of employment. Not all potential employees are literate, able to fully understand an artfully drafted contract, or actually read the entire document before signing it. Additionally, compliance monitoring will require additional resources and enforcement could be challenging, since failure to provide a written employment contract is not one of the listed acts or omissions in 22 U.S.C. 7104(g) for which a remedy is provided under 22 U.S.C. 7104b(c). Employees are afforded the protection of this rule whether or not they have a signed employment contract.

*Comment:* One respondent recommended that employment contracts require disclosure of the following: identity of the employer and identity of the person conducting the recruiting on behalf of the employer, including any subcontractor or agent involved in such recruiting; the period of employment; any withholdings or deductions from compensation, whether on behalf of a government, the employer, or a third party; any penalties for early termination of employment; and if applicable, the type of visa under which the foreign worker is to be employed, the length of time the visa is valid, the terms and conditions under which this visa may be renewed with a clear statement that there is no guarantee that the visa will be renewed, and an itemized list detailing the ''significant costs to be charged to the employee'' as indicated in FAR 22.1703(a)(5).

*Response:* The Trafficking Victims Protection Act (22 U.S.C. chapter 78) and Executive Order 13627 do not require a written employment contract. The list of items for inclusion into work documents is not intended to be a comprehensive list. Rather, it is a nonexclusive list which contractors are encouraged to expand as needed. The scope and specificity of covered terms and conditions will likely vary based on factors such as the sophistication of the employee and country in which the contract is to be performed. A contract or work document covering the employment of a professional from one European Union (EU) country in another EU country may not require the same level of detail and coverage as a laborer from one developing country employed in a another developing country or an area of military operations. Additionally, contractors and subcontractors must always comply with any contract or disclosure requirements under any other law, including, for example, the requirements of the Migrant & Seasonal Agricultural Worker Protection Act and the Immigration and Nationality Act, and applicable regulations for temporary nonimmigrant workers.

*Comment:* One respondent was supportive of the FAR 22.1703(a)(9) requirement for written employment contracts when required, but noted that one common scam used by traffickers was to give the worker his/her contract while either at the airport, on the plane or at the ultimate destination. The respondent therefore recommended revising the language to include a requirement that the contract be provided to the workers at least five days in advance of his/her deployment, thus allowing the worker adequate time to make a reasoned and well-informed decision.

*Response:* The recommendation is accepted and has been incorporated into the final rule.

4. Compliance Plan/Certification (FAR 22.1703(d) (Now at Paragraph (c)), 52.222–50(h), and 52.222–56)

a. Positive Support

*Comment:* One respondent stated that the certification and compliance plan requirements are important for the purposes of adding the crucial implementation element to the rule, and are a proactive measure for all contractors involved in Federal contracts to participate.

*Response:* Noted.

b. Compliance Plan Requirements

i. Appropriate to Size and Complexity

*Comment:* One respondent stated that the E.O. in one place required a compliance plan that was appropriate for the size of the contract, but in another place required the plan to include procedures to prevent subcontractors ''at any tier'' from engaging in trafficking in persons. The respondent pointed out the proposed rule went even further by requiring the plan procedures to prevent trafficking in persons ''at any tier and at any dollar level.''

*Response:* The E.O. was more specific in the place where ''at any tier'' language was used. The FAR Council does not consider this to be an ambiguity. The clause added the words ''at any dollar level'' to clarify that although the lesser-dollar subcontractors are not expected to implement a formal plan, they are not allowed to engage in trafficking, and the prime contractor and higher-tier subcontractors are expected to pay attention to what the lower-tier subcontractors are doing. The Federal Government's policy prohibits trafficking in persons activities.

*Comment:* One respondent noted that section 1703(b) of the NDAA for FY 2013 provides that any compliance plan or procedure shall be appropriate to the size and complexity of the contract and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons. The respondent stated that this language was missing from the FAR 52.222–50 clause and asserted that the language should also appear in the FAR 22.1705 prescription.

*Response:* The Councils note that this language, from the statute and the E.O., does, in fact, already appear in paragraph (h)(2) of clause at FAR 52.222–50. It is not appropriate to also include that language in the FAR 22.1705 prescription. In accordance with FAR drafting principles, the clause prescription is to direct when the clause is to be used, not to address the terms the clause contains.

ii. Provide More Guidance

*Comment:* One respondent stated that the rule does not establish minimum guidelines for the compliance plan, which would make it difficult for contractors and subcontractors to know what is a ''good plan'', and recommended identifying agency

experts to provide technical assistance to the contractors.

Another respondent recommended that the proposed requirement for a code of conduct for suppliers should at a minimum require contractors to adhere to the international core labor standards and provide decent conditions at work, including compensation, hours of work, occupational safety and health, industrial hygiene, emergency preparedness, safety equipment, sanitation, and access to food and water.

*Response:* As noted in FAR 22.1703(d)(5), any compliance plan or procedures needs to be appropriate to the size and complexity of the contract and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons. In addition, 52.222–50(h)(3) lists the minimum requirements for any compliance plan. The Councils do not consider it necessary to state that the contractor should not negligently expose its employees to unhealthy or unsafe conditions, beyond the requirements already listed in the statute and the E.O.

*Comment:* One respondent recommended providing additional guidance (either in the final rule or discussion and analysis section) for contractors on creating an anti-trafficking in persons compliance plan and guidance for contracting officers on what compliance plans should include. The respondent also provided detailed proposed guidance on assessing the trafficking in persons risk, based on Department of Labor and Department of State lists of countries and industries involved in trafficking in persons, number of non-United States citizens expected to be employed, as well as the skill and labor mix to be used for the contracted effort.

*Response:* The FAR includes general policies and procedures and does not include detailed guidance. The respondent's proposed guidance on risk-based compliance plan will be shared with State and Labor Departments for their review. The Department of Labor's Office of Child Labor, Forced Labor, and Human Trafficking Web site at *http://www.dol.gov/ilab/child-forced-labor/index.htm* has a Toolkit for Responsible Businesses, which contains extensive information and guidance on trafficking in persons. This information will be useful to contractors and includes a step-by-step process for developing a social compliance plan to address forced labor in supply chains. The FAR clause at 52.222–50(h)(3) sets forth the minimum requirements for an acceptable compliance plan that is appropriate to the size and complexity of the contract. Many of the respondent's recommendations concerning flow down provisions, compliance plans from subcontractors, and review of the plan, are contained in the FAR clause. E.O. 13627 also requires guidance and training for Federal employees awarding and administering contracts subject to anti-trafficking in persons statutes and regulations.

Additionally, the E.O. also called on the President's Interagency Task Force to Monitor and Combat Trafficking in Persons member agencies to establish a process for identifying industries or sectors where there is either a history or evidence of trafficking in persons or trafficking-related activities, in the context of Federal contracts performed substantially in the United States. In support of this effort, the Department of State is collaborating with a non-governmental organization and leader in supply chain management to strengthen protections against trafficking in persons in federal and corporate supply chains. The project will collect data and identify areas and industries at greatest risk of trafficking in persons in global supply chains. It will also develop a tool for businesses to analyze the potential risk of trafficking in persons in their supply chains and adopt compliance plans that align with the language of the E.O. This Interagency Task Force is evaluating and identifying industries and sectors with a history of trafficking in persons and will publish appropriate safeguards, guidance and compliance assistance to prevent trafficking in persons under Federal contracts.

iii. Reporting Requirement

*Comment:* Two respondents recommended establishing minimum requirements or guidance governing the employee reporting process to ensure that the process remains confidential and that employees do not fear retaliation.

*Response:* The FAR rule outlines the minimum criteria for compliance plans. The rule requires a process for employees to report without fear of retaliation, but does not specify the process. However, the final rule has added the requirement to make available to all employees the Global Human Trafficking Hotline phone number and email address.

*Comment:* Two respondents expressed concern that contractors might dissuade employees from speaking up about trafficking in persons abuses and argued that only an independent and confidential complaint mechanism would be effective in surfacing abuses. One respondent further suggested that the certification of a contractor or subcontractor should require identification of how an independent complaint mechanism will be operated and by whom.

*Response:* FAR clause 52.222–50(h) requires that the contractor's compliance plan include a process for employees to report, ''without fear of retaliation.'' When the contractor fails in its responsibilities, the Government may impose one or more of the available remedies as contained in FAR 22.1704 and 52.222–50(e).

*Comment:* One respondent recommended that contractors and subcontractors be required to provide all workers with the phone number (1–888–373–7888), texting number (233733), email address, and Web site address for the National Human Trafficking Resource Center (NHTRC) hotline posted in a place that is clearly conspicuous and visible to workers, and it should be provided in a language understood by workers, describing human trafficking and labor exploitation in non-technical and accessible ways. Another respondent said that they currently supply their employees with appropriate communication means, such as a phone number, operable 24/7, by which an employee may inform law enforcement authorities regarding their observation of activities that, pursuant to their company training program, appear to resemble human trafficking.

*Response:* FAR 52.222–50(h)(3) requires that as a part of the compliance plan, there be a process for employees to report activity inconsistent with the Government's policy prohibiting trafficking in persons. A number of Federal agencies provide information through posters, pamphlets, and other means to ensure that workers have a way to report such activity through specific anti-trafficking in persons or anti-exploitation related hotlines or through Office of Inspector General hotlines. Several agencies, such as the Department of Justice, Department of Homeland Security, and Department of State, also publicize the National Human Trafficking Resource Center (NHTRC) hotline number including the Department of State's ''Know Your Rights'' pamphlet and the Department of Homeland Security's Blue Campaign materials. To comply with the rule's mandate of a reporting process, the final rule has been revised to require that as part of the compliance plan contractors must provide, at a minimum, the Global Human Trafficking hotline and its email

address. However, contractors may also exceed this requirement and provide additional ways for employees to report.

iv. Other Requirements

*Comment:* One respondent recommended that contractors be required to establish and implement, and/or cause subcontractors to establish and implement, managerial systems, rules, and procedures to ensure they have the ability to guarantee compliance. The respondent further recommended that these systems address pricing, order schedules, and other purchasing practices that impact suppliers' capacity to comply with labor standards.

*Response:* The respondent's recommendations go beyond the scope of this case. The Councils implemented the requirements of the E.O. and statute in the least burdensome manner. The clause at FAR 52.222–50 establishes the requirements for contractor and subcontractor compliance in paragraphs (c), (d), (g), (h) and (i).

v. Contractor/Subcontractor Responsibilities

*Comment:* One respondent stated that FAR 22.1703(d)(3) (now (c)(3)) fails to differentiate the responsibilities of the contractor and the subcontractor. The respondent recommended deleting the duplicative coverage for contractors and revising the paragraph as follows: ''Require the contractor to obtain a certification from each subcontractor, prior to award of a subcontract, for work that will be subject to the threshold, that the subcontractor (a) has a compliance plan that addresses the substantive elements of paragraph (d)(1) and (b) after conducting due diligence, either (i) to the best of the subcontractor's knowledge and belief neither it nor its agents, has engaged in any such activities or (ii) if abuses have been found, the subcontractor has taken the appropriate remedial and referral actions;''.

*Response:* The Councils have rewritten FAR 22.1703(c)(3) to increase the clarity in the final rule.

*Comment:* One respondent commented that the requirements for contractors to cooperate fully with Government officials during audits, investigations or other actions, apply to subcontractors.

*Response:* Subcontractors are required to cooperate fully with Government officials during audits, investigations or other actions, see FAR 52.222–50(g). Also, contractors are required to include the substance of the clause at FAR 52.222–50 in all of their subcontracts (see FAR 52.222–50(i)). As a result, subcontractors are covered by FAR 52.222–50(g).

vi. Products Included on the E.O. 13126 List

*Comment:* One respondent recommended that all suppliers and their subcontractors who are supplying goods that contain more than $500,000 worth of a product included on the E.O. 13126 List produce a compliance plan before being awarded a contract.

*Response:* The requirement for a compliance plan is based on the criteria in the statute and E.O. 13627, which do not provide for special treatment of suppliers of products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor (E.O. 13126 List) (see FAR subpart 22.15, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor); such offerors are already required to submit certifications regarding the use of forced or indentured child labor. The apparently successful offeror is required by FAR 52.222–56 to submit a certification in advance of award regarding the compliance plan. However, the contracting officer may consider that buying products on the E.O. 13126 List presents a risk that the contract or subcontract may involve supplies susceptible to trafficking in persons. The contracting officer can request a copy of the compliance plan at any time after contract award.

c. Communication

*Comment:* One respondent provided feedback on the question concerning a requirement for facilitating regular contact with family and embassies. The respondents suggested that workers who are able to keep in touch with families and embassies are less likely to be trafficked. The respondents also suggested that employers who are aware that their employees are communicating with others about their living and working conditions are less likely to engage in human trafficking in persons. The respondent was concerned that it might be difficult to facilitate contact when workers are in remote locations.

Another respondent suggested that the regulations should include a process to facilitate direct contact by the contracting officer with contractors' and subcontractors' employees using email and social media.

*Response:* The FAR includes general policies and procedures. The respondent's recommendation is encouraged in other guidance documents issued by the State Department and other agencies. E.O. 13627 and title XVII of the NDAA for FY 2013 do not require the Federal Government to facilitate regular contact between those employed on Federal contracts and their families or embassies. Similarly, there is no requirement that the Federal Government facilitate regular contact between contracting officers and the contractor/subcontractor employees.

However, the E.O. and NDAA for FY 2013 do require contractor compliance plans and specify that there are minimum elements of the compliance plan (see FAR 52.222–50(h)), but contractors may go beyond those minimum elements and incorporate further measures that promote ending trafficking in persons. The President's Interagency Task Force to Monitor and Combat Trafficking in Persons is developing public awareness materials to inform those employed on Federal contracts overseas of their rights under the E.O., the NDAA for FY 2013, and this rule and to provide information on where to call should an employee be subject to trafficking in persons.

Existing related efforts to track workers serving on contracts overseas include the Department of Defense's Synchronized Pre-Deployment and Operational Tracker (SPOT), also used by the Department of State and other agencies. This system requires tracking of data on contract employees from any country working in Afghanistan and Iraq and other designated operational areas. The State Department also uses the mandatory E-Clearance system to register Government personnel and contractors working as support personnel within the Department of State traveling to a post under Chief of Mission authority. E-Clearance helps posts understand how much support will be needed by visiting personnel. A subset of all workers serving on U.S. Government contracts would be tracked by these two systems.

Other State Department efforts to make individuals aware of their rights and to provide information on where to call for help could serve as models for future outreach. Existing efforts to protect employment and education-based nonimmigrant visa applicants intending to reside in the United States include: The State Department's ''Know Your Rights'' pamphlet and video developed in consultation with several Federal agencies, which is given to recipients in certain visa classes vulnerable to trafficking in persons available at: *http://travel.state.gov/content/visas/english/general/rights-protections-temporary-workers.html;* and the development of an informational video that will complement the pamphlet. Embassies

and consulates overseas will play the video in consular waiting rooms as appropriate, in languages spoken by the greatest concentrations of those applicants. Non-governmental organizations have commended the Federal Government for the effectiveness of the ''Know Your Rights'' pamphlet in reaching those in exploitative and abusive situations.

d. Posting

*Comment:* A number of respondents were supportive of the posting requirement.

*Response:* Noted.

*Comment:* Several respondents provided feedback on requiring posting notices on trafficking in persons in workers' living and work areas. Respondents expressed concern that the posting requirement is burdensome and that some companies' wage and recruiting plans may contain proprietary information. They also expressed the concern that the appropriate audience for such plans is employees and not the public-at-large. Respondents also questioned how information would be posted if work is performed in the field or not in a fixed location. Respondents suggested that an alternative would be posting on the contractor's and/or subcontractor's internal (non-public) Web site(s), so long as the Web site is accessible to covered employees. Respondents also suggested that greater flexibility be given to the contractor on what it determines to be relevant content and on how to obtain such content in any such notice that is posted conspicuously where work is performed, consistent with the nature of its compliance plan, the nature and location of the work performed, and the number of employees performing work.

*Response:* As required by the statute, FAR 52.222–50(h)(4) requires the contractor, to post the relevant contents of the compliance plan at the workplace and on the Web site (if one is maintained), as appropriate. The regulations do not specify that the Web site must be available to the public. The final rule has been modified to provide that if posting at the worksite or on the Web site is impracticable (*i.e.,* the work is to be performed in the field or not in a fixed location and there is no Web site available), the relevant contents of the compliance plan may be presented to the employee in writing. The rule provides flexibility in determining what relevant content to post. However, given that the compliance plan consists of five components, it is logical that, at a minimum, a summary of the five components should be posted, with the option for the employee to request and receive additional details. Contractors may also go beyond a summary of the five components and provide additional information to achieve the purpose of the rule.

e. Submission

*Comment:* One respondent stated that the compliance plan should be available when the solicitation process is open, so that contracts are awarded to those who are both qualified and most likely to avoid prohibited conduct.

*Response:* Section 1703 of the NDAA for FY 2013 requires the potential recipient of a contract, prior to receiving award, to provide certification to the contracting officer that the recipient has implemented a plan to prevent prohibited trafficking in persons activities, and is in compliance with that plan. The statute only requires disclosure of the plan to the contracting officer upon request.

*Comment:* One respondent seeks clarification regarding when or how a subcontractor must submit a compliance plan to the prime prior to award.

*Response:* In the final rule, the Councils have revised FAR 52.222–50(i)(2) to delete the requirement for subcontractors to submit the compliance plan prior to subcontract award.

f. Monitoring

*Comment:* Several respondents, asked for clarification and further guidance on what constitutes adequate monitoring of subcontractors and employees. One respondent recommended that contractors release the results of audits and inspection results and that Federal agencies share information about independent entities which perform monitoring and conduct investigations. This respondent also recommended a contractor prequalification for contractors which work proactively to eliminate trafficking in persons.

*Response:* There are a variety of agencies and organizations that provide guidance on monitoring for trafficking in persons, including the Department of Labor's Reducing Child and Forced Labor toolkit at *http://www.dol.gov/ilab/child-forced-labor/index.htm,* which has extensive information on developing, communicating and monitoring a comprehensive social compliance system. The State Department's Office to Monitor and Combat Trafficking in Persons at *http://www.state.gov/j/tip/id/index.htm,* the United States Agency for International Development at *http://www.usaid.gov/trafficking,* and the Department of Homeland Security at *https://www.dhs.gov/end-human-trafficking* have general information about trafficking in persons, including the indicators of human trafficking and how to identify potential. The prime contractor's monitoring efforts will vary based on the risk of trafficking in persons related to the particular product or service being acquired and whether the contractor has direct access to a work site or not. Where a prime contractor has direct access, the prime contractor would be expected to look for signs of trafficking in persons at the workplace, and if housing is provided, inspect the housing conditions. For cases where the employees and subcontractors are distant, or for lower tier subcontractors, the prime contractor must review the plans and certifications of its subcontractors to ensure they include adequate monitoring procedures, and to compare this information to public audits and other trafficking in persons data available. The plans must include a process for employees to report, without fear of retaliation, any prohibited activities. The contractor may use this process to monitor employees' concerns.

It is beyond the scope of this rule to require that contractors release the results of audits and inspections. While Federal agencies do share information about their activities related to trafficking in persons, they are not allowed to make recommendations or referrals to private or independent entities.

Establishing a program to prequalify contractors that work proactively to eliminate trafficking in persons is beyond the scope of this rule.

*Comment:* One respondent recommended modifying the regulations to eliminate the requirement that the prime contractor directly monitor each subcontractor at any tier and any dollar value and alternatively require each contractor to be responsible for monitoring its direct subcontractor, with each subcontractor being responsible to monitor its direct subcontractors. Additionally, if a risk assessment reveals credible evidence that there is a material risk of labor trafficking with a specific subcontractor, additional due diligence and monitoring beyond the first tier may be required. This respondent alternatively proposed a good faith effort approach similar to the certification requirements in FAR subpart 22.15, regarding the Prohibition of Acquisition of Products Procured by Forced or Indentured Child Labor.

*Response:* The Councils consider the responsibilities of the prime contractor to prevent subcontractors at any tier from engaging in trafficking in persons and to monitor, detect, and terminate any subcontractors or subcontractor employees that have engaged in such

activities at any tier, to be one of the key contractual requirements to ensuring compliance. Public comments on this rule reveal that some subcontractor employees take kickbacks from traffickers, and of course will not report their own violations or those of their agents or lower tier subcontractors. Accordingly, vigilance by the prime contractor is necessary.

*Comment:* One respondent questioned whether it is appropriate for the Federal Government to require contractors to regulate the procuring of commercial sex by its employees, stating that prostitution is a state rather than a Federal responsibility and it is not the function of the FAR to monitor.

*Response:* The final FAR rule is implementing the requirements of statute and Executive Order regarding the prohibition of trafficking in Federal Government contracts. The coverage of commercial sex is not new in this rule; see the explanation of this statutory implementation in the final rule published January 15, 2009 (74 FR 2741).

*Comment:* One respondent recommended implementing government-wide requirements to audit contractor trafficking in persons compliance and random unannounced interviews with workers to ensure that trafficking in persons violations are not occurring.

*Response:* Agencies may institute such auditing and interviewing tactics now, as they deem appropriate, but are often constrained by resources from performing this type of oversight.

g. Enforcement

*Comment:* Two respondents commented that contractors should not be allowed to design and implement compliance plans that are structured around self-disclosure on their part. The respondent recommended that the FAR regulations should require independent and accessible grievance mechanisms, independent verification of practices, and sufficient resources and mechanisms to ensure meaningful enforcement.

*Response:* FAR 52.222–50(h)(3)(ii) requires contractors to have a process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons. In addition, during administration of the contract, the contracting officer has access to contract administration organizations and various Federal enforcement agencies to provide assistance in the enforcement of anti-trafficking in persons requirements. The policy at FAR subpart 3.9, Whistleblower Protections for Contractor Employees, further protects contractor employees against reprisal for certain disclosures of information related to a contract.

h. Use as Evaluation Factor

*Comment:* One respondent recommended mandating that the evaluation of the corporate compliance program be a part of the evaluation criteria found in section ''M'' of the solicitation to encourage contractors to develop and implement effective compliance programs.

*Response:* It is not appropriate to mandate consideration of the corporate compliance program in every acquisition. FAR 15.304, Evaluation factors and significant subfactors, states that the contract award decision is based on evaluation factors that are tailored to the instant acquisition and that these evaluation factors must represent the key areas of importance and emphasis to be considered in the source selection decision as well as support meaningful comparison and discrimination between and among competing proposals. In accordance with established FAR procedures, the source selection authority determines the key discriminators in evaluating proposals based on the unique requirements of a given acquisition and how to best assess an offeror's ability to meet those requirements.

The Councils note that the rule does not preclude having the compliance plan as a source selection factor, where it is a key discriminator, but leaves this decision to the discretion of the source selection authority.

i. Pre-Award Certification

*Comment:* Some respondents commented that the pre-award certification requirements (now at FAR 22.1703(c)(1) and 52.222–56) would be impossible for a contractor to comply with, since the contractor may not know who all of their subcontractors are at all tiers prior to award.

*Response:* The requirement for each contractor and subcontractor that meets the criteria to certify, prior to receiving an award, that they have implemented a plan to prevent prohibited trafficking in persons activities is expressly required in the E.O. and statute.

The offeror is certifying to the proposed subcontracts it has at the time. At FAR 22.1703(c), the prime contractor is required to certify annually to this information and to require its subcontractors to certify as well, when applicable. Any subcontractors that meet the criteria are required to complete the certification. If a prime adds a subcontractor after award of the prime contract, the prime is required to obtain the certification from the subcontractor at the time of subcontract award.

*Comment:* One respondent commented that the requirement in the statute at section 1703(a) to obtain a ''recipient certification'' should be moved to the opening of subparagraph (d)(1).

*Response:* The Councils have moved the language ''apparent successful offeror'' to the beginning of the paragraph (FAR 22.1703(c)(1)), as recommended.

5. Full Cooperation (FAR 22.1703(d) and 52.222–50(g))

a. Rights Against Self-Incriminations, etc.

*Comment:* Several respondents expressed concern that disclosure requirements and ''full cooperation'' should be structured so as not to infringe on fundamental individual rights against self-incrimination, attorney-client privilege, and the company's right to conduct an internal investigation. These respondents recommended aligning this rule with the FAR Business Ethics rules.

*Response:* The requirement for ''full cooperation'' at FAR 52.222–50(g) has been augmented with a second paragraph, which incorporates the rights in the second paragraph of the definition of ''full cooperation'' at FAR 52.203–13(a).

In addition, two types of full cooperation listed in the definition at FAR 52.203–13(a) have been added to FAR 22.1703(d)(1) and (2) and FAR 52.222–50(g)(1)(i) and (ii)—the responsibility to disclose sufficient information to the contracting officer and the agency Inspector General to identify the nature and extent of the offense, and provide timely and complete response to Government auditors' and investigators' request for documents. A reminder is added at FAR 52.222–50(d)(1) that in contracts that contain FAR 52.203–13 ''Contractor Code of Business Ethics and Conduct'', paragraph (b)(3)(i)(A) requires disclosure to the agency Office of Inspector General when the contractor has credible evidence of fraud.

b. ''Federal Agencies''

*Comment:* Three respondents requested clarification on what constitutes ''other responsible enforcement agencies'' and recommended aligning FAR 22.1703(e) (now (d)) with the provisions of the NDAA for FY 2013 to specify ''Federal agencies'' and remove the ''other

responsible enforcement agencies'' language.

*Response:* Efforts to prohibit trafficking in persons under Federal Government contracts is a collaborative effort that requires cooperation among Federal agencies, state and local agencies, foreign governments, non-governmental organizations, faith-based communities, private industry, and private citizens. However, ''other responsible enforcement agency'' was written broadly in the E.O. to mean Federal agencies such as an agency Office of Inspector General, the Department of Justice, Department of State, Department of Homeland Security, or Department of Labor that are responsible for conducting audits, investigations, or other actions to ascertain compliance with trafficking in persons laws or regulations. The final rule changes FAR 22.1703(d)(3) and FAR 52.222–50(g)(1)(iii) to read ''other responsible Federal agencies to conduct . . .''.

c. Interviews

*Comment:* Two respondents commented that the contractor should not have primary responsibility for interviewing the witness, but rather the contractor should notify Government authorities about the existence of such persons and make such persons available to be interviewed by Government law enforcement agents. Another respondent commented that interviews should be conducted only by employees who have been properly trained in the identification of trafficking in persons and trafficking victims, and those who are interviewed should have access to interpreters. Another respondent commented that access to facilities and staff by the contracting agencies or responsible enforcement agencies should not be required before a contractor performs its own investigation; and that the contractor has a right to have a representative present during any access and interviews.

*Response:* The Councils have removed the requirement for contractors to interview all employees suspected of being victims of or witnesses to prohibited trafficking in persons activities because it is not a requirement of the E.O. or the statute. Therefore, FAR 22.1703(d) and 52.222–50(g) have been modified to delete the word ''interview''.

*Comment:* One respondent recommended that the rule should require that the contracting officer and the agency Inspector General be notified of suspected trafficking in persons in all sections, including FAR 22.1703(e) (now (d)) and 52.222–50(g), which only requires contractors to interview workers before returning to their country of origin.

*Response:* The primary requirement for the contractor to notify the contracting officer and the agency Inspector General is at FAR 52.222–50(d). However, the Councils have added at FAR 22.1703(d)(1) and 52.222–50(g)(1), the requirement that the contractor disclose to the contracting officer and the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct. The requirement to interview has been removed.

*Comment:* One respondent requested clarification on ''reasonable access.''

*Response:* As with any other Government investigation or audit, the contractor and any of its employees or subcontractor employees are required to cooperate fully with Government agents and allow access to their facilities and staff in a way that does not impede, obstruct or influence the investigation or audit.

6. Violations and Remedies (FAR 22.1704 and 52.222–50(e) and (f))

a. ''May'' to ''Shall''

*Comment:* Several respondents recommended changing the word from ''may'' to ''shall'' at FAR 22.1704.

*Response:* The final rule has been revised at FAR 22.1704(d)(2) to require the contracting officer to consider taking the specified remedies. The E.O. was silent on this issue, but the statute was clear (22 U.S.C. 7104b(c), Remedial actions).

b. Mitigating and Aggravating Factors

*Comment:* One respondent supported the requirement for the contracting officer to address both mitigating and aggravating factors in a remedy determination. (See also section III.B.6.c.ii. below on ''stronger remedies'').

*Response:* Noted.

c. Remedies

i. Safe Harbor

*Comment:* Two respondents suggested that a provision be included absolving prime contractors from responsibility for acts of its subcontractors. Alternatively, it was suggested that an affirmative defense be established for the prime contractor where it has implemented its own compliance plan, flowed down the required clause, affirmatively communicated to subcontractors the requirements of the rule and reports trafficking in persons activity of a subcontractor if and when it becomes known to the contractor.

*Response:* Neither the statute nor the E.O. fully shield a prime contractor or create an affirmative defense. Culpability is determined on a case-by-case basis.

ii. Stronger Remedies

*Comment:* One respondent commented that contractors who use forced labor or victims of severe forms of trafficking in the persons should not get paid for their work.

*Response:* Withholding payment, loss of award fee, contract termination, and suspension and debarment are remedies already available to the Government if the contractor fails to comply with the trafficking in persons provisions (see FAR 52.222–50(e)).

*Comment:* One respondent commented that debarment should be mandatory when a contractor violates the prohibition against forced labor and trafficking in persons. Another respondent recommended suspending and debarring any entity that withholds passports.

*Response:* FAR 9.402(b) states that debarment and suspension are not imposed for punishment. The Suspending and Debarring Official (SDO) has discretion to address suspension or debarment cases with individualized analysis and uses a broad range of preliminary and final actions to balance the need to protect the Government against the need to treat fairly the contractors involved. FAR 22.1703(e) requires the Government to impose suitable remedies, including termination, on contractors that fail to comply with the requirements to combat trafficking in persons.

*Comment:* One respondent commented that through an enforceable contract provision, contractors should pay liquidated damages in a manner to help compensate the victim harmed by the breach.

*Response:* While neither the E.O. nor statute provide a basis for requiring the contractors to pay liquidated damages to compensate victims, the FAR text at FAR 22.1704(d)(2)(i) and 52.222–50(f)(1) was changed to more clearly identify that if the contractor has taken appropriate remedial actions for violations, including reparations to victims, those actions will be considered as a mitigating factor.

iii. Due Process

*Comment:* One respondent was concerned that FAR 22.1704(b) (now (d)) violates the principle of due process, because the contracting officer only requires adequate evidence to

suspect a violation in order to pursue remedies against the contractor.

*Response:* The Councils have revised the final rule to require substantiation of the allegations prior to consideration of remedies. This is consistent with section 1704(c) of the NDAA for FY 2013.

7. Posting in the Federal Awardee Performance and Integrity Information System (FAPIIS)

a. Support Posting in FAPIIS

*Comment:* One respondent supported the addition of FAR 9.104–6(e), requiring contracting officers to include substantiated trafficking in persons allegations in the Federal Awardee Performance and Integrity Information System (FAPIIS).

*Response:* Noted. However, while retaining the content, the Councils have moved the proposed text at FAR 9.104–6(e), because FAR 9.104–6 addresses the use of FAPIIS, not actions relating to entry of the data into FAPIIS. The requirements for agency head notification to the contracting officer are now located at FAR 22.1704(c)(1). The requirement for entry of the information into FAPIIS was moved to FAR 42.1503(h)(1)(v), with a cross-reference at FAR 22.1704(d)(1), because the former section addresses entry of post-award contractor performance information (other than past performance reviews). Information entered in accordance with FAR 42.1503(h) will be made available to the public after 14 days (see FAR 9.105–2(b)(2)).

b. Standards for Review by the Agency Inspector General

*Comment:* One respondent stated that the proposed rule fails to set forth the due process requirements for establishing whether allegations are ''substantiated'' and does not provide any process for review. The respondent recommended establishing a framework by which the agency Inspector General determines whether the allegation is substantiated, including the applicable standard of proof.

The respondent also stated that the FAR regulations should provide procedures for the contractor to review and rebut the agency Inspector General report, including establishing time periods for review and comment prior to posting in FAPIIS. The respondent stated that there should be an affirmative requirement that rebuttal evidence be reviewed and taken into consideration prior to reporting into FAPIIS.

*Response:* The FAR does not regulate the procedures of the agency Inspectors General. The agency Inspectors General establish the criteria by which they conduct reviews and the procedures for providing an opportunity for the contractor to rebut the allegations, prior to completions of the investigation.

However, the Councils have addressed the requirement of section 1704(d)(2) of the NDAA for FY 2013 (codified at 41 U.S.C. 2313(c)(1)(E)) that entry into FAPIIS of a substantiated allegation pursuant to section 1704(b) of the NDAA for FY 2013 shall be based on the outcome of an administrative proceeding. Therefore, the final rule provides at FAR 22.1704(c)(2), that upon receipt of a report from the agency Inspector General that provides support for the allegations relating to violation of the trafficking in persons prohibitions, the head of the agency, in accordance with agency procedures, shall delegate to an authorized agency official, such as the agency suspending or debarring official, the responsibility to expeditiously conduct an administrative proceeding, allowing the contractor the opportunity to respond to the report. The authorized official shall then make a final determination as to whether the allegations are substantiated.

c. Contractor Right To Comment After Posting

*Comment:* One respondent stated that while the proposed amendment to FAR 9.104–6 repeats the statutory language it does not provide meaningful guidance to the contracting officer or contractors. The respondent recommended referencing the existing provisions of FAR 9.104–6 that provide that the contractor shall be given a reasonable opportunity to review and comment on the report (in this case by the agency Inspector General) that substantiated the violation in advance of the report being posted in FAPIIS and to have the contractor's comments appended to and made part of the information posted. Another respondent also requested that the final rule establish a right for the contractor to post rebuttal documents in FAPIIS along with the agency Inspector General report.

*Response:* Revised FAR 22.1704(c) provides for an administrative proceeding that allows the contractor the opportunity to respond to the report, prior to a final determination as to whether the allegations are substantiated.

If the allegations are substantiated and the violation is posted in FAPIIS, FAPIIS provides contractors an opportunity to comment on any data that has been entered relating to the contractor. However, FAPIIS does not currently provide the capability for contractors to append documents. It is possible for contractors to post documents at their own Web site, and provide the URL to that Web site in their posted comments in FAPIIS.

The Councils did not find any language at FAR 9.104–6 that provides the contractor such opportunity to comment on information in FAPIIS, prior to posting. FAR 9.105–2(b)(2)(iv) only addresses the narrow situation in which any information posted to FAPIIS is covered by a disclosure exemption under the Freedom of Information Act. Information is first posted in FAPIIS and only shared with the contractor, and this FAPIIS information is not made available to the public until after 14 days. If the contractor asserts within 7 days to the Government official who posted the information, that some or all of the information is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must, within 7 days, remove the posting from FAPIIS and resolve the issue in accordance with the Freedom of Information Act, prior to reposting any releasable information. The final rule clarifies that all such information entered in FAPIIS in accordance with FAR 42.1503(h) (except for past performance reviews) will be made publicly available after 14 days, unless covered by a disclosure exemption under the Freedom of Information Act, with a cross-reference to FAR 9.105(b)(2).

FAPIIS only contains records on entities that have been awarded a Federal contract or grant. Any information on subcontractor violations must be entered against the record of the prime contractor. The prime contractor is required to have procedures in place to prevent subcontractors from engaging in trafficking in persons. The Councils have added, at FAR 9.104–6(b)(2), guidance to the contracting officer in assessing adverse information posted regarding subcontractor violations of the trafficking in persons prohibitions. The contracting officer is directed to consider any mitigating factors, such as the degree of compliance by the prime contractor with the terms of FAR clause 52.222–50 (including disclosure of the violation to the Government, full cooperation with an investigation, and remedial actions taken).

d. Reporting of Unsubstantiated Allegations

*Comment:* One respondent commented that only including in FAPIIS allegations substantiated by the Inspector General does not go far

enough to implement the E.O., since Inspector General investigations and reports are rare and those affected by trafficking in persons do not have the resources to get a complaint investigated by the Inspector General. Therefore, any allegations of trafficking in persons should be put into the database.

*Response:* FAPIIS includes violations regarding a contractor's integrity where there was a finding of fault. Section 1704(d) of the NDAA for FY 2013, requires inclusion in the FAPIIS database of substantiated allegations of violations of the prohibitions in 22 U.S.C. 7104(g), after an administrative proceeding.

e. Change Reference to E.O. and Statute

*Comment:* One respondent recommended replacing at FAR 9.104–6(e) ''. . . a violation of the trafficking in persons prohibitions in E.O. 13627 or the Trafficking Victims Protection Act of 2000, as amended, (22 U.S.C. chapter 78)'' with ''a violation of the trafficking in persons prohibitions in FAR 22.1704 or agency-specific supplemental provisions.'' This change was recommended because the E.O. is not substantive law and its provisions do not provide an independent basis for establishing trafficking in persons violations.

*Response:* This issue is now addressed at FAR 22.1704(c)(1) and 42.1503(h)(1)(v), and the reference has been revised to address the trafficking in persons prohibitions in FAR 22.1703(a) and 52.222–50(b). It is not appropriate to address in the FAR prohibitions that are in agency-specific supplemental provisions.

8. Harmonize With Contractor Code of Business Ethics and Conduct (FAR Subpart 3.10 and 52.203–13)

a. Contractor Notifications (FAR 52.222–50(d))

i. Credible Information/Evidence

*Comment:* Several respondents commented regarding the standard for triggering the reporting of apparent violations. The respondents noted an internal inconsistency in the rule and suggested that the standard be harmonized with the credible evidence standard in FAR subpart 3.10 Contractor Code of Business Ethics and Conduct. Some respondents also expressed a preference for the inclusion of a definition of the term ''credible information.''

*Response:* Pursuant to 22 U.S.C. 7104b(a)(1) and 22 U.S.C. 7104c(1), contracting or grant officers and recipients of grants, contracts, or cooperative agreements shall inform appropriate agency Inspectors General upon receipt of ''credible information of a violation''. While the proposed clause at FAR 52.222–50(d)(1) accurately reflects that standard, the proposed text at FAR 22.1704(c) used the term ''credible violations.'' In the final rule FAR 22.1704(b) has been modified to reflect the standard set forth in 22 U.S.C. 7104b(a)(1) and the related reporting requirement at 22 U.S.C. 7104c(1). Since the credible information standard is dictated by statute and modification of the reporting standard under FAR subpart 3.10 is beyond the scope of this case, harmonization of the terms ''credible information'' and ''credible evidence'' under this FAR case is not possible.

It is not necessary to include a definition of the term ''credible information.'' Under the plain meaning of the term, if believable information is presented, the matter shall be referred to the appropriate Inspector General. Although this standard presents a low threshold, contractors' interests are protected through a mandatory and independent review by the appropriate Inspector General prior to opening an investigation (22 U.S.C. 7104b(2)). The low threshold for initial referral, conversely, upholds the policy to prevent human trafficking.

ii. Immediate/Timely

*Comment:* Several respondents commented on the requirement at FAR 52.222–50(d) for ''immediate'' notification to the contracting officer and the agency Inspector General of any credible information alleging a violation. Both respondents mentioned that the requirement under the contractor Code of Business Ethics and Conduct at FAR 52.203–13 only requires ''timely'' notification of credible evidence. One respondent recommended that the final rule should make it clear that the requirement for immediate notification permits a contractor some period of time to conduct its own investigation into the credibility of information it receives.

*Response:* The Councils note that, prior to this final rule, the clause at FAR 52.222–50 already included the requirement for the contractor to inform the contracting officer immediately of any information it receives from any source that alleges conduct that violates the policy on trafficking in persons.

Section 1705 of the statute (22 U.S.C. 7104c) requires immediate notification to the agency Inspector General of any information from any source that alleges credible information regarding violations of the prohibition in 22 U.S.C. 7104(g). On the other hand, 41 U.S.C. 3509 requires ''timely notification'' with regard to the Code of Business Ethics and Conduct.

Because of these separate statutory requirements, the different notification requirements in FAR 52.203–13 and 52.222–50 have not been conformed to match.

iii. Tie to Contract or Subcontract

*Comment:* One respondent stated that the notification requirement (FAR 52.222–50(d)) does not tie to the ''award, performance or closeout of [a] contract or any subcontract thereunder,'' which differs from the Business Ethics Rule. This lack of clarity in tying the requirement to an individual contract could result in a contractor having to notify every contracting officer with whom it has a contract.

*Response:* FAR 52.222–50(d) requires the contractor to inform the contracting officer of credible information that alleges a contractor employee, subcontractor, or subcontractor employee, or their agent has engaged in conduct that violates the policy at paragraph (b) of the clause. This is consistent with the statutory requirement. A trafficking in persons violation by a contractor employee may not be associated with a specific contract. The final rule has added the clarification at FAR 52.222–50(d) that, if the allegation may be associated with more than one contract, the contractor shall inform the contracting officer for the contract with the highest dollar value.

b. False Claims

*Comment:* One respondent stated that the rule should contain a provision at FAR 52.222–50(e) that advises that filing a false certification or other trafficking in persons record could constitute a false claim under 31 U.S.C. 3729, and thereby trigger the False Claims Act. According to the respondent, with the newly added criminal violation at 18 U.S.C. 1351, linking the trafficking in persons provision mandatory disclosure and the False Claims Act would prompt compliance and ensure timely trafficking in persons disclosures and cooperation from all within the labor supply chain.

*Response:* The FAR does not specify what constitutes a false claim. Nor does it specify what, or what constitutes a crime, especially where this would require a decision on the application of United States criminal laws outside the United States. The Councils consider expansion of the list of remedies at paragraph (e) of the clause to be unnecessary because the final rule

already states that the remedies listed in paragraph (e) are ''in addition to any other remedies available to the United States Government'' (FAR 22.1704(d)(2)).

c. Integrate Into FAR Subpart 3.10 and 52.203–13

*Comment:* Several respondents recommended integrating Trafficking in Persons reporting requirements into the list of violations covered by FAR 3.1003(a) and (b) and 52.203–13. According to the respondent, the regulations should expressly state that fraudulent hiring of labor constitutes a ''violation of Federal criminal law involving fraud, conflict of interest, bribery, gratuity, or trafficking in persons violations found in Title 18 of the United States Code''. According to the respondents, including trafficking in persons violations under the mandatory disclosure rule pursuant to 52.203–13 will ensure proper authorities are notified and will better protect victims. One respondent commented, however, that harmonizing the rule and related reporting of misconduct with the Code of Business Ethics, does not necessitate identical provisions.

*Response:* The Councils have not integrated the trafficking in persons disclosure requirements into the Contractor Code of Business Ethics and Conduct (FAR 3.1003(a) and (b) and 52.203–13) because this rule implements a statute and E.O. with specific detailed requirements relating to trafficking in persons violations. Trying to integrate the separate requirements relating to thresholds, compliance plans, mandatory disclosure, full cooperation, etc. may result in confusion or inconsistent and conflicting requirements.

*Comment:* One respondent commented that violation of the Foreign Labor Act (18 U.S.C. 1351) will trigger the mandatory reporting requirement in FAR subpart 3.10 and the clause at 52.203–13, and therefore should be specifically referenced in the listing of offenses mandated to be reported so that contractors will be put on notice.

*Response:* As recognized by the respondent, 18 U.S.C. 1351 is already included under 3.1003(b) and 52.203–13(b)(3)(i)(A) as a ''violation of Federal criminal law involving fraud . . . found in title 18 of the U.S.C.'' There are many such laws, none of which are listed individually. The Councils, however, have added a cross reference at FAR 52.222–50(d)(1) to this law when addressing the prohibitions at FAR 52.222–50(b)(5).

9. Training

a. Enhanced Training for Contracting Officers

*Comment:* Two respondents recommend enhancing training requirements for contracting officers.

*Response:* The FAR does not include training. Section 3 of the E.O. requires the Administrator of the Office of Federal Procurement Policy, in consultation with the Federal Acquisition Institute (FAI) and appropriate councils, such as the Chief Acquisition Officers Council, to implement training requirements, to ensure that the Federal acquisition workforce is trained on the policies and responsibilities for combating trafficking in persons. Training will be established in accordance with the E.O. requirements.

Many agencies, currently, offer training on combating trafficking in persons (CTIP). For example, DoD policy on CTIP requires heads of all DoD components to conduct an annual CTIP awareness training program for all Component members and provide data to OSD (P&R) needed to compile its annual CTIP report. Trafficking in Persons General Awareness Training is mandatory for all DoD military members and civilian employees. DoD has developed five trainings, offered on the Department of Defense Combating Trafficking in Persons Web site at *http://ctip.defense.gov/Training.aspx.* These include—

(1) *General Awareness Training* for those who have never taken the CTIP General Awareness Training;

(2) *Law Enforcement Training* for those working in law enforcement and investigative agencies;

(3) *Refresher Training* for those who have previously taken the CTIP General Awareness Training, a 15-minute ''refresher'' course;

(4) *Leadership Training* for those in leadership positions; and

*(5) Contracting and Acquisition Training*—for acquisition professionals and those working in contracting and acquisition. The Contracting and Acquisition Training is also available from Defense Acquisition University at *http://www.dau.mil/default.aspx.*

The Departments of State and Homeland Security developed an interactive training for the Federal acquisition workforce on combating trafficking in persons in 2011. The 35-minute training module articulates the U.S. Government's policy prohibiting trafficking in persons; defines and identifies forms of trafficking in persons; describes vulnerable populations, indicators, and relevant legislation; and articulates specific remedies available to acquisition professionals if contractors engage in trafficking in persons, including suspension or debarment. The training is available to all members of the Federal acquisition workforce through the Federal Acquisition Institute's Web site. (This training is not yet updated to reflect the new law and policy promulgated in this rule.) During FY 2013, 1,351 professionals, including 704 acquisition professionals, had completed the training from 26 Federal agencies.

The Department of State's Office to Monitor and Combat Trafficking in Persons and the Department's Foreign Service Institute developed and released an interactive online course, ''Human Trafficking Awareness Training'' to enhance State Department personnel's understanding of the signs of human trafficking and Department reporting obligations. This training has information on the Department's standards of conduct related to trafficking in persons.

b. Contractor's Awareness Program

*Comment:* One respondent recommended the final rule remain flexible with respect to tailoring the contractor's training to the contractor's compliance plan and awareness program.

*Response:* The FAR does not require contractors to tailor training to the contractor's compliance plan and awareness program. The FAR requires—

(1) An awareness program as part of the compliance plan (see FAR 52.222–50(h)(3)(i)); and

(2) Contracting officers to consider, as a mitigating factor, whether the contractor had a Trafficking in Person compliance plan or an awareness program at the time of the violation (see FAR 22.1704(d), Remedies).

*Comment:* One respondent recommended permitting agencies to make available to contractors the training provided to the Federal acquisition workforce.

*Response:* The FAR does not specify trafficking in person training details for the Federal acquisition workforce. However, various agencies have made on-line training for the Federal acquisition workforce available to contractors as well. For example:

- The Department of Defense hosts on its Web site a basic training for acquisition professionals. It is available to the public at *http://ctip.defense.gov/Training/ContractingAcquisition.aspx.*
- The Department of Homeland Security training is specifically tailored for the U.S. Government acquisition

workforce on combating trafficking in persons using the pertinent provisions of the FAR.

• The Department of Defense Combating Trafficking in Persons Web site, at *http://ctip.defense.gov/,* offers extensive information and guidance to prime contractors on how to ensure hiring practices comply with the law and prevent trafficking in persons. In particular, see CTIP Trainings at *http://ctip.defense.gov/Training.aspx.*

*Comment:* One respondent recommended that contractors hold educational workshops before work begins and throughout employment for employees about modern slavery so that an employee will know what to look for and how to spot potential trafficking in persons situations.

*Response:* Such recommendations may be included in the contractor's awareness program required by the E.O. and the statute.

10. Other

*Comment:* One respondent recommended the additional requirements set forth in the Discussion and Analysis section of the proposed rule at 78 FR 59317 be promulgated in the rule.

*Response:* The proposed rule preamble contained a summary of comments from the public meeting on Trafficking in Persons on March 5, 2013. Most of the recommendations at this meeting were also submitted as comments to the proposed rule and have been addressed separately through this section.

*Comment:* One respondent recommended implementing a requirement to create and distribute documentation (all recruiting papers, signed recruiting and employment contracts, posters, training materials, as well as victim and witness statements) up the labor supply chain.

*Response:* While the prime contractor may, and in some cases should, ask for these items, requiring submission of this much paperwork as a matter of course would greatly increase the paperwork burden under Federal contracts and create a significant reporting burden on businesses. The prime contractor is provided the flexibility to determine which documentation is needed based on the place of performance, *e.g.,* in a country and industry group with a high level of trafficking in persons.

*Comment:* One respondent recommended that agencies continue to work with transportation industry representatives to ensure that companies transporting Government freight under Federal contracts adopt or establish a companywide trafficking in persons awareness program and supply their employees a means to inform law enforcement of suspected trafficking in persons activities.

*Response:* FAR clause 52.222–50, Combating Trafficking in Persons, currently requires contractors to notify its employees of the United States Government's policy prohibiting trafficking in persons and to inform the contracting officer immediately of any information it receives regarding violations of this policy. Additionally, outside of the Federal acquisition process, other Government agencies, such as the Department of Homeland Security, the Department of Labor, and the State Department, have awareness programs and points of contact for assistance or to report potential human trafficking activity (see responses at section III.B.4.b.ii, III.B.4.f., and III.B.9 of this preamble).

*Comment:* One respondent recommended that prohibitions on employer actions include a general prohibition on limiting employees' freedom of association since unionized workers are less vulnerable to employer coercion and less vulnerable to conditions that lead to forced labor and trafficking in persons.

*Response:* This FAR rule implements requirements to prohibit trafficking in Federal Government contracts. The respondent's comment is outside the scope of this rule.

*Comment:* One respondent recommended that setting aside contracts for U.S. small business and then only allowing American workers on the contract would end human trafficking.

*Response:* The Small Business Act does not apply overseas. Even if an acquisition is set aside for small businesses or awarded to a small local business overseas, that does not enable the Government to dictate the nationality of the workers, unless security considerations or contingency operations require U.S. citizenship.

*Comment:* A comment was received recommending that offerors disclose the names and location of all suppliers and subcontractors prior to award.

*Response:* The FAR already provides for a responsibility determination on prospective subcontractors. In accordance with FAR 9.104–4, prospective prime contractors are required to assess the responsibility of their prospective subcontractors, which includes a satisfactory record of integrity and business ethics.

FAR subpart 44.2 provides that if a contractor has an approved purchasing system, consent to subcontract is required only for subcontracts specifically identified by the contracting officer in the subcontracts clause of the contract. The Government relies on review and approval of a contractor's purchasing system, rather than separately managing each subcontractor and supplier.

11. Paperwork Reduction Act

*Comment:* Several respondents commented that the four hour estimate per contract to prepare and submit an annual certification underestimates the burden because it does not take into consideration the time required to monitor, detect and terminate any agent subcontractors or subcontractor employees who have engaged in trafficking in persons at all tiers.

*Response:* The Councils performed an analysis and have determined that the certification process should require minimal additional attention if a company is taking the time required to maintain a sound compliance plan. Therefore, the Councils have not increased the estimated number of burden hours.

*Comment:* One respondent commented that the 24 hour estimate to prepare the compliance plan underestimates the burden.

*Response:* The Councils performed an analysis, taking into account that this is a one-time submission only to be updated, as necessary, to align with the size, scope and complexity of the procurement. The estimated burden associated with writing the compliance plan takes into consideration that this is a one-time requirement, to be updated as necessary, to align with the size, scope, and complexity of later procurements. The Councils have not increased the estimate.

12. Regulatory Flexibility Act

*Comment:* One respondent separately submitted comments on the reporting burden to the Chief Counsel for Advocacy at the Small Business Administration, in conjunction with comments that the information collection requirements of the rule are understated. Another respondent recommended that the FAR Council should conduct a thorough and complete regulatory flexibility analysis of the global reach of the proposed rule.

*Response:* DoD, GSA, and NASA did an analysis of the burdens associated with this rule. Small business cannot be excluded from the requirements of this rule, because violations of the trafficking in persons prohibitions often occur at various subcontract tiers and frequently involve small businesses. However, the rule does provide maximum flexibility to small

businesses. The compliance and certification requirements only apply to any portion of the contract or subcontract that is for supplies (other than COTS items) to be acquired outside the United States, or for services to be performed outside the United States; and only if such portion has an estimated value that exceeds $500,000. Furthermore, if a compliance plan is required, it shall be appropriate to the size and complexity of the contract or subcontract and the nature and scope of the activities under the contract or subcontract.

**IV. Determinations**

The Federal Acquisition Regulatory (FAR) Council has made the following determinations with respect to the rule's application of title XVII, entitled ''Ending Trafficking in Government Contracting (ETGCA),'' of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 to contracts in amounts not greater than the simplified acquisition threshold (SAT), contracts for the acquisition of commercial items, and contracts for the acquisition of commercially available off-the-shelf (COTS) items.

*A. Applicability to Contracts at or Below the Simplified Acquisition Threshold*

Pursuant to 41 U.S.C. 1905 contracts or subcontracts in amounts not greater than the SAT will be exempt from a provision of law unless the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1905 and states that the law applies to contracts and subcontracts in amounts not greater than the SAT; or (iii) the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding (D&F) that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law. If none of these conditions are met, the Federal Acquisition Regulation (FAR) is required to include the statutory requirement(s) on a list of provisions of law that are inapplicable to contracts and subcontracts in amounts not greater than the SAT.

The ETGCA requires that the FAR must be amended to provide certain protections against trafficking in persons, including the following:

1. A clause that prohibits contractors and subcontractors from engaging in the following types of trafficking-related activities:

- Destroying, concealing, removing, confiscating, or otherwise denying access to the employee's identity or immigration documents.
- Failing to provide return transportation for an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment unless the contractor is exempted from the requirement or the employee is a victim of human trafficking and is seeking redress in the country of employment or a witness in a human trafficking enforcement action.
- Soliciting a person for the purposes of employment, or offering employment by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.
- Charging recruited employees unreasonable placement or recruitment fees such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited;
- Providing or arranging housing that fails to meet the host Country housing and safety standards.

2. A requirement that contractors and subcontractors fully cooperate with any Federal agencies responsible for audits, investigations or corrective actions relating to trafficking in persons. The head of an executive agency must ensure that any substantiated allegation in the report be included in the Federal Awardee Performance and Integrity Information System (FAPIIS) and the contractor has an opportunity to respond.

3. A requirement for a compliance plan appropriate to the size and complexity of the contract and a certification, upon award and annually thereafter, which provides that after conducting due diligence the contractor has implemented a plan to prevent any prohibited trafficking in persons activities and implemented procedures to prevent any prohibited trafficking in persons activities. These requirements for a certification and compliance plan apply to contracts and subcontracts, if any portion of the contract or subcontract—

- Is for services to be performed outside the United States; and
- The estimated value exceeds $500,000.

The contractor must provide a copy of the plan to the contracting officer, upon request, and post useful and relevant contents of the plan on its Web site and at the workplace.

Several months prior to the enactment of the ETGCA, the President signed E.O. 13627, *Strengthening Protections Against Trafficking In Persons In Federal Contracts* (September 25, 2012). The E.O. imposed similar requirements. There are some differences. For example, the E.O. expressly prohibits federal contractors and subcontractors from charging employees recruitment fees.

Section 1 of E.O. 13627, explaining the government's policy against trafficking in persons, states: The United States has long had a zero-tolerance policy regarding Government employees and contractor personnel engaging in any form of this criminal behavior. As the largest single purchaser of goods and services in the world, the United States Government bears a responsibility to ensure that taxpayer dollars do not contribute to trafficking in persons. By providing our Government workforce with additional tools and training to apply and enforce existing policy, and by providing additional clarity to Government contractors and subcontractors on the steps necessary to fully comply with that policy, this order will help to protect vulnerable individuals as contractors and subcontractors perform vital services and manufacture the goods procured by the United States.

In addition, the improved safeguards provided by this order to strengthen compliance with anti-trafficking laws will promote economy and efficiency in Government procurement. These safeguards, which have been largely modeled on successful practices in the private sector, will increase stability, productivity, and certainty in Federal contracting by avoiding the disruption and disarray caused by the use of trafficked labor and resulting investigative and enforcement actions.

The ETGCA is silent on the applicability of the requirements set forth in paragraphs 1 and 2 of section IV.A. of this preamble to contracts and subcontracts in amounts not greater than the SAT and does not provide for criminal or civil penalties. Therefore, under 41 U.S.C. 1907 the ETGCA does not apply to contracts and subcontracts not greater than the SAT unless the FAR Council makes a written determination that such application is in the best interest of the Federal Government.

In contrast to the ETGCA, E.O. 13627 applies most of its strengthened prohibitions (other than the requirement for compliance plans and certifications) to acquisitions in any dollar amount. (The requirements for compliance plans and certifications apply only to acquisitions valued above $500,000 for services performed outside the United States.)

The final FAR rule mirrors the implementation approach taken by E.O. 13627 regarding the handling of small dollar procurements. Specifically, the rule applies the general prohibitions

described in paragraphs 1 and 2 to contracts and subcontracts of a value equal to or less than the SAT. By applying the general prohibitions, the rule, like the E.O., most effectively furthers the policy, including economy and efficiency in procurement, described in the E.O. and quoted above and avoids creation of an exception that could undermine this policy and the ability to enforce the prohibition.

The provisions listed above will apply to acquisitions for commercial items. They will also apply to acquisitions for commercially available off-the-shelf items, except for the requirements for a compliance plan and certification. Separate D&Fs outline the rationale for those additional determinations, as required in 41 U.S.C. 1906 and 1907, respectively.

*B. Applicability to Contracts for the Acquisition of Commercial Items*

Pursuant to 41 U.S.C. 1906, acquisitions of commercial items (other than acquisitions of commercially available off-the-shelf (COTS) items, which are addressed in 41 U.S.C. 1907) are exempt from a provision of law unless the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1906 and states that the law applies to acquisitions of commercial items; or (iii) the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding (D&F) that it would not be in the best interest of the Federal Government to exempt contracts (or subcontracts under a contract) for the procurement of commercial items from the provision of law. If none of these conditions are met, the Federal Acquisition Regulation (FAR) is required to include the statutory requirement(s) on a list of provisions of law that are inapplicable to acquisitions of commercial items.

The ETGCA requires that the FAR must be amended to provide certain protections against trafficking in persons, including the following:

1. A clause that prohibits contractors and subcontractors from engaging in the following types of trafficking-related activities:

- Destroying, concealing, removing, confiscating, or otherwise denying access to the employee's identity or immigration documents.
- Failing to provide return transportation for an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment unless the contractor is exempted from the requirement or the employee is a victim of human trafficking and is seeking redress in the country of employment or a witness in a human trafficking enforcement action.
- Soliciting a person for the purposes of employment, or offering employment by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.
- Charging recruited employees unreasonable placement or recruitment fees such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited;
- Providing or arranging housing that fails to meet the host Country housing and safety standards.

2. A requirement that contractors and subcontractors fully cooperate with any Federal agencies responsible for audits, investigations or corrective actions relating to trafficking in persons. The head of an executive agency must ensure that any substantiated allegation in the report be included in the Federal Awardee Performance and Integrity Information System (FAPIIS) and the contractor has an opportunity to respond.

3. A requirement for a compliance plan appropriate to the size and complexity of the contract and a certification, upon award and annually thereafter, which provides that after conducting due diligence the contractor has implemented a plan to prevent any prohibited trafficking in persons activities and implemented procedures to prevent any prohibited trafficking in persons activities. These requirements for a certification and compliance plan apply to contracts and subcontracts, if any portion of the contract or subcontract—

- Is for services to be performed outside the United States; and
- The estimated value exceeds $500,000.

The contractor must provide a copy of the plan to the contracting officer, upon request, and post useful and relevant contents of the plan on its Web site and at the workplace.

Several months prior to the enactment of the ETGCA, the President signed E.O. 13627, *Strengthening Protections Against Trafficking In Persons In Federal Contracts* (September 25, 2012). The E.O. imposed similar requirements. However, there are some differences. For example, the E.O. expressly prohibits Federal contractors and subcontractors from charging employees recruitment fees.

Section 1 of E.O. 13627, explaining the government's policy against trafficking in persons, states: The United States has long had a zero-tolerance policy regarding Government employees and contractor personnel engaging in any form of this criminal behavior. As the largest single purchaser of goods and services in the world, the United States Government bears a responsibility to ensure that taxpayer dollars do not contribute to trafficking in persons. By providing our Government workforce with additional tools and training to apply and enforce existing policy, and by providing additional clarity to Government contractors and subcontractors on the steps necessary to fully comply with that policy, this order will help to protect vulnerable individuals as contractors and subcontractors perform vital services and manufacture the goods procured by the United States.

In addition, the improved safeguards provided by this order to strengthen compliance with anti-trafficking laws will promote economy and efficiency in Government procurement. These safeguards, which have been largely modeled on successful practices in the private sector, will increase stability, productivity, and certainty in Federal contracting by avoiding the disruption and disarray caused by the use of trafficked labor and resulting investigative and enforcement actions.

The ETGCA is silent on the applicability of the requirements set forth above to contracts for commercial items and does not provide for criminal or civil penalties. Therefore, under 41 U.S.C. 1906 the ETGCA does not apply to acquisitions for commercial items unless the FAR Council makes a written determination that such application is in the best interest of the Federal Government.

In contrast to the ETGCA, E.O. 13627 applies the strengthened requirements described above to commercial items. The final FAR rule mirrors the approach taken by E.O. 13627 and applies the restrictions and requirements described above to commercial item acquisitions. By doing so, the rule, like the E.O., most effectively furthers the policy, including economy and efficiency in procurement, described in the E.O. and quoted above and avoids creation of an exception that could undermine this policy and the ability to enforce the prohibition.

The provisions listed above, except for the requirements for a compliance plan and certification, will also apply to contracts and subcontracts in amounts not greater than the simplified acquisition threshold and acquisitions for COTS items. Separate D&Fs outline the rationale for those additional determinations, as required in 41 U.S.C. 1905 and 1907, respectively.

*C. Applicability of Contracts for the Acquisition of COTS Items*

Pursuant to 41 U.S.C. 1907, acquisitions of commercially available off the shelf (COTS) items will be exempt from a provision of law unless the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1907 and states that the law applies to acquisitions of COTS items; (iii) concerns authorities or responsibilities under the Small Business Act (15 U.S.C. 644) or bid protest procedures developed under the authority of 31 U.S.C. 3551 *et seq.,* 10 U.S.C. 2305(e) and (f), or 41 U.S.C. 3706 and 3707; or (iv) the Administrator for Federal Procurement Policy makes a written determination and finding (D&F) that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items from the provision of law. If none of these conditions are met, the Federal Acquisition Regulation (FAR) is required to include the statutory requirement(s) on a list of provisions of law that are inapplicable to acquisitions of COTS items.

The ETGCA requires that the FAR must be amended to provide certain protections against trafficking in persons, including the following:

1. A clause that prohibits contractors and subcontractors from engaging in the following types of trafficking-related activities:

• Destroying, concealing, removing, confiscating, or otherwise denying access to the employee's identity or immigration documents.

• Failing to provide return transportation for an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment unless the contractor is exempted from the requirement or the employee is a victim of human trafficking and is seeking redress in the country of employment or a witness in a human trafficking enforcement action.

• Soliciting a person for the purposes of employment, or offering employment by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.

• Charging recruited employees unreasonable placement or recruitment fees such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited;

• Providing or arranging housing that fails to meet the host Country housing and safety standards.

2. A requirement that contractors and subcontractors fully cooperate with any Federal agencies responsible for audits, investigations or corrective actions relating to trafficking in persons. The head of an executive agency must ensure that any substantiated allegation in the report be included in the Federal Awardee Performance and Integrity Information System (FAPIIS) and the contractor has an opportunity to respond.

3. A requirement for a compliance plan appropriate to the size and complexity of the contract and a certification, upon award and annually thereafter, which provides that after conducting due diligence the contractor has implemented a plan to prevent any prohibited trafficking in persons activities and implemented procedures to prevent any prohibited trafficking in persons activities. These requirements for a certification and compliance plan apply to contracts and subcontracts, if any portion of the contract or subcontract—

• Is for services to be performed outside the United States; and

• The estimated value exceeds $500,000.

The contractor must provide a copy of the plan to the contracting officer, upon request, and post useful and relevant contents of the plan on its Web site and at the workplace.

Several months prior to the enactment of the ETGCA, the President signed E.O. 13627, *Strengthening Protections Against Trafficking In Persons In Federal Contracts* (September 25, 2012). The E.O. imposed similar requirements, including a requirement for the development of compliance plans and certifications. There are some differences. For example, the E.O. expressly prohibits Federal contractors and subcontractors from charging employees recruitment fees.

Section 1 of E.O. 13627, explaining the government's policy against trafficking in persons, states: The United States has long had a zero-tolerance policy regarding Government employees and contractor personnel engaging in any form of this criminal behavior. As the largest single purchaser of goods and services in the world, the United States Government bears a responsibility to ensure that taxpayer dollars do not contribute to trafficking in persons. By providing our Government workforce with additional tools and training to apply and enforce existing policy, and by providing additional clarity to Government contractors and subcontractors on the steps necessary to fully comply with that policy, this order will help to protect vulnerable individuals as contractors and subcontractors perform vital services and manufacture the goods procured by the United States.

In addition, the improved safeguards provided by this order to strengthen compliance with anti-trafficking laws will promote economy and efficiency in Government procurement. These safeguards, which have been largely modeled on successful practices in the private sector, will increase stability, productivity, and certainty in Federal contracting by avoiding the disruption and disarray caused by the use of trafficked labor and resulting investigative and enforcement actions.

The ETGCA is silent on the applicability of its requirements to COTS items. In addition, the ETGCA does not provide for criminal or civil penalties. Nor does it concern authorities or responsibilities under the Small Business Act or bid protest procedures. Therefore, the ETGCA does not apply to the acquisition of COTS, pursuant to 41 U.S.C. 1907, unless the Administrator for Federal Procurement Policy makes a written determination that such application is in the best interest of the Federal Government.

In contrast to the ETGCA, E.O. 13627 expressly applies its strengthened requirements to all acquisitions, including those for commercial items and COTS. In addition, the E.O. expressly excludes application of the requirement for compliance plans and certifications to COTS.

The final FAR rule mirrors the implementation approach taken by E.O. 13627 regarding the acquisition of COTS products. Specifically, the rule applies the general prohibitions described in paragraphs 1 and 2 of section IV.C. of this preamble to COTS but not the requirements for a compliance plan and certification described in paragraph 3 of section IV.C. of this preamble. This approach is reflected in FAR clause 52.222–50 and 52.212–5. By applying the general prohibitions, the rule, like the E.O., most effectively furthers the policy, including economy and efficiency in procurement, described in the E.O. and quoted above and avoids creation of an exception that could undermine this policy and the ability to enforce the prohibition. At the same time, by excluding the requirements for providers of COTS items to develop a compliance plan and execute a certification, the rule avoids the cost and complexity that contractors selling COTS may face tracing the origin of component parts in a global supply chain.

The provisions listed above will apply to acquisitions for commercial items. They will also apply to contracts and subcontracts not greater than simplified

acquisition threshold, except for the requirements for a compliance plan and certification. Separate D&Fs outline the rationale for those additional determinations, as required in 41 U.S.C. 1905 and 1906, respectively.

**V. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**VI. Regulatory Flexibility Act**

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The objective of the final rule is to strengthen protections against trafficking in persons in Federal contracting by providing the Government workforce with additional tools to enforce existing policy and provide additional clarity to Government contractors and subcontractors on the steps necessary to comply with that policy. While the goal is to implement the E.O. and statute to the maximum extent practicable in the FAR to strengthen protections against trafficking in persons, the FAR Council has taken steps to minimize the burden associated with this rule.

One respondent separately submitted comments on the reporting burden to the Chief Counsel for Advocacy at the Small Business Administration, in conjunction with comments that the information collection requirements of the rule are understated. Another respondent recommended that the FAR Council should conduct a thorough and complete regulatory flexibility analysis of the global reach of the proposed rule.

DoD, GSA, and NASA conducted an analysis of the burdens associated with this rule that considers that global nature including the flowdown requirements of this rule. Small business concerns cannot be excluded from the requirements of this rule, because violations of the trafficking in persons prohibitions often occur at the lower subcontract tiers and frequently involve small businesses. However, the rule does provide maximum flexibility to small businesses. The compliance and certification requirements only apply to any portion of the contract or subcontract that is for supplies (other than COTS items) to be acquired outside the United States, or services to be performed outside the United States; and if such portion has an estimated value that exceeds $500,000. Furthermore, if a compliance plan is required, it shall be appropriate to the size and complexity of the contract or subcontract and the nature and scope of the activities under the contract or subcontract.

Any entity of any size that violates the U.S. Government's policy prohibiting trafficking in persons will be impacted by this rule. New policies prohibit denying an employee access to his/her identity or immigration documents; using misleading or fraudulent recruitment practices or charging recruitment fees; providing or arranging housing that fails to meet the host country housing and safety standards; and failing to provide return transportation or requiring payment for the cost of return transportation for certain employees. There are also requirements for a compliance plan and certification; this will impact only entities where the estimated value of supplies acquired or services to be performed outside the United States exceeds $500,000. There is no requirement for a compliance plan or certification if the supplies to be furnished outside the United States involve solely commercially available off-the-shelf items. DoD, GSA, and NASA anticipate that these certification and written compliance plan exceptions will significantly reduce the impact on small entities.

Using Fiscal Year 2011 data from the Federal Procurement Data System (FPDS) and Electronic Subcontractor Reporting System (eSRS), DoD, GSA, and NASA estimate that about 1,622 of the entities impacted will be small entities. This number is the number of small businesses with a prime contract or subcontract of $500,000 or more that is performed outside the U.S.

The rule requires the following projected reporting and recordkeeping burdens for access to information:

a. Compliance Plan: (1,622 recordkeepers × 24 hours per record = 38,928 hours)

b. Certification: (1,622 respondents × 4 hours per response = 6,488 hours)

For the certification process, DoD, GSA, and NASA estimate that the respondents will be high-level administrative/legal employees earning an average of approximately $83.00 an hour ($60.47 + 36.45% overhead). For the compliance plan, DoD, GSA, and NASA estimate that the respondents will be high-level administrative/program manager employees earning an average of approximately $68.00 per hour ($50.05 + 36.45% overhead).

DoD, GSA, and NASA have taken steps in this rule to minimize the impact on small entities by allowing contractors to tailor the compliance plan requirements to the appropriate size and complexity of the contract and subcontract and the nature and scope of the activities performed, including number of non-U.S. citizens expected to be employed and the risk that these activities will involve services or supplies susceptible to trafficking in persons.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

**VII. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Number 9000–0188, titled: Ending Trafficking in Persons.

**List of Subjects in 48 CFR Parts 1, 2, 9, 12, 22, 42, and 52**

Government procurement.

Dated: January 22, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 9, 12, 22, 42, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 9, 12, 22, 42, and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

**1.106 [Amended]**

■ 2. Amend section 1.106, in the table following the introductory text, by adding in numerical sequence, FAR segments ''22.17'', ''52.222–50'', and ''52.222–56'' and their corresponding OMB Control No. ''9000–0188''.

## PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101 in paragraph (b)(2), in the definition ''United States'', by redesignating paragraphs (7) through (11) as paragraphs (8) through (12), respectively, and adding a new paragraph (7) to read as follows:

**2.101 Definitions.**

* * * * *

(b) * * *

(2) * * *

*United States* * * *

(7) For use in subpart 22.17, see the definition at 22.1702.

* * * * *

## PART 9—CONTRACTOR QUALIFICATIONS

■ 4. Amend section 9.104–6 by revising paragraph (b) to read as follows:

**9.104–6 Federal Awardee Performance and Integrity Information System.**

* * * * *

(b) The contracting officer shall consider all the information in FAPIIS and other past performance information (see subpart 42.15) when making a responsibility determination. For source selection evaluations of past performance, see 15.305(a)(2). Contracting officers shall use sound judgment in determining the weight and relevance of the information contained in FAPIIS and how it relates to the present acquisition.

(1) Since FAPIIS may contain information on any of the offeror's previous contracts and information covering a five-year period, some of that information may not be relevant to a determination of present responsibility, *e.g.,* a prior administrative action such as debarment or suspension that has expired or otherwise been resolved, or information relating to contracts for completely different products or services.

(2) Because FAPIIS is a database that provides information about prime contractors, the contracting officer posts information required to be posted about a subcontractor, such as trafficking in persons violations, to the record of the prime contractor (see 42.1503(h)(1)(v)). The prime contractor has the opportunity to post in FAPIIS any mitigating factors. The contracting officer shall consider any mitigating factors posted in FAPIIS by the prime contractor, such as degree of compliance by the prime contractor with the terms of FAR clause 52.222–50.

* * * * *

## PART 12—ACQUISITION OF COMMERCIAL ITEMS

**12.103 [Amended]**

■ 5. Amend section 12.103 by removing from the third sentence the words ''; the components test of the Buy American statute, and the two recovered materials certifications in subpart 23.4, do not apply to COTS items''.

■ 6. Amend section 12.301 by redesignating paragraphs (d)(4) and (5) as paragraphs (d)(5) and (6), respectively, and adding new paragraph (d)(4) to read as follows:

**12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

* * * * *

(d) * * *

(4) Insert the provision at 52.222–56, Certification Regarding Trafficking in Persons Compliance Plan, in solicitations as prescribed at 22.1705(b).

* * * * *

■ 7. Amend section 12.505 by adding paragraph (c) to read as follows:

**12.505 Applicability of certain laws to contracts for the acquisition of COTS items.**

* * * * *

(c) Compliance Plan and Certification Requirement, section 1703 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), Title XVII, Ending trafficking in Government Contracting (see 52.222–50(h) and 52.222–56).

## PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 8. Revise section 22.1700 to read as follows:

**22.1700 Scope of subpart.**

This subpart prescribes policy for implementing 22 U.S.C. chapter 78 and Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts, dated September 25, 2012.

■ 9. Revise section 22.1701 to read as follows:

**22.1701 Applicability.**

(a) This subpart applies to all acquisitions.

(b) The requirement at 22.1703(c) for a certification and compliance plan applies only to any portion of a contract or subcontract that—

(1) Is for supplies, other than commercially available off-the-shelf (COTS) items, to be acquired outside the United States, or services to be performed outside the United States; and

(2) Has an estimated value that exceeds $500,000.

■ 10. Amend section 22.1702 by adding, in alphabetical order, the definitions ''Agent'', ''Subcontract'', ''Subcontractor'', and ''United States'' to read as follows:

**22.1702 Definitions.**

* * * * *

*Agent* means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

* * * * *

*Subcontract* means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

*Subcontractor* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

*United States* means the 50 States, the District of Columbia, and outlying areas.

■ 11. Amend section 22.1703 by—

■ a. Revising the introductory text and paragraph (a);

■ b. Removing from the end of paragraph (b) ''; and'' and adding '';'' in its place;

■ c. Revising paragraph (c); and

■ d. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

**22.1703 Policy.**

The United States Government has adopted a policy prohibiting trafficking in persons, including the trafficking-related activities below. Additional information about trafficking in persons may be found at the Web site for the Department of State's Office to Monitor and Combat Trafficking in Persons at *http://www.state.gov/j/tip/*. Government solicitations and contracts shall—

(a) Prohibit contractors, contractor employees, subcontractors, subcontractor employees, and their agents from—

(1) Engaging in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procuring commercial sex acts during the period of performance of the contract;

(3) Using forced labor in the performance of the contract;

(4) Destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5)(i) Using misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant costs to be charged to the employee, and, if applicable, the hazardous nature of the work;

(ii) Using recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charging employees recruitment fees;

(7)(i)(A) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment, for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract, for portions of contracts and subcontracts performed outside the United States; or

(B) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment, for an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee for portions of contracts and subcontracts performed inside the United States; except that—

(ii) The requirements of paragraph (a)(7)(i) of this section do not apply to an employee who is—

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the contracting agency, designated by the agency head in accordance with agency procedures, from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (a)(7)(i) of this section are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall also offer return transportation to a witness at a time that supports the witness' need to testify. This paragraph does not apply when the exemptions at paragraph (a)(7)(ii) of this section apply.

(8) Providing or arranging housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, failing to provide an employment contract, recruitment agreement, or other required work document in writing. Such written document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons. The contracting officer shall consider the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons, and the number of non-U.S. citizens expected to be employed, when deciding whether to require work documents in the contract;

* * * * *

(c) With regard to certification and a compliance plan—

(1)(i) Require the apparent successful offeror to provide, before contract award, a certification (see 52.222–56) that the offeror has a compliance plan if any portion of the contract or subcontract—

(A) Is for supplies, other than COTS items (see 2.101), to be acquired outside the United States, or services to be performed outside the United States; and

(B) The estimated value exceeds $500,000.

(ii) The certification must state that—

(A) The offeror has implemented the plan and has implemented procedures to prevent any prohibited activities and to monitor, detect, and terminate the contract with a subcontractor or agent engaging in prohibited activities; and

(B) After having conducted due diligence, either—

(*1*) To the best of the offeror's knowledge and belief, neither it nor any of its agents, proposed subcontractors, or their agents, has engaged in any such activities; or

(*2*) If abuses relating to any of the prohibited activities identified in 52.222–50(b) have been found, the offeror or proposed subcontractor has taken the appropriate remedial and referral actions;

(2) Require annual certifications (see 52.222–50(h)(5)) during performance of the contract, when a compliance plan was required at award;

(3)(i) Require the contractor to obtain a certification from each subcontractor, prior to award of a subcontract, if any portion of the subcontract—

(A) Is for supplies, other than COTS items (see 2.101), to be acquired outside the United States, or services to be performed outside the United States; and

(B) The estimated value exceeds $500,000.

(ii) The certification must state that—

(A) The subcontractor has implemented a compliance plan; and

(B) After having conducted due diligence, either—

(*1*) To the best of the subcontractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents, has engaged in any such activities; or

(*2*) If abuses relating to any of the prohibited activities identified in 52.222–50(b) have been found, the subcontractor has taken the appropriate remedial and referral actions;

(4) Require the contractor to obtain annual certifications from subcontractors during performance of the contract, when a compliance plan was required at the time of subcontract award; and

(5) Require that any compliance plan or procedures shall be appropriate to the size and complexity of the contract and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons. The minimum elements of the plan are specified at 52.222–50(h);

(d) Require the contractor and subcontractors to—

(1) Disclose to the contracting officer and the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(2) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(3) Cooperate fully in providing reasonable access to their facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act (22 U.S.C. chapter 78), Executive Order 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(4) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities; and

(e) Provide suitable remedies, including termination, to be imposed on contractors that fail to comply with the requirements of paragraphs (a) through (d) of this section.

■ 12. Revise section 22.1704 to read as follows:

**22.1704 Violations and remedies.**

(a) *Violations.* It is a violation of the Trafficking Victims Protection Act of 2000, as amended, (22 U.S.C. chapter 78), E.O. 13627, or the policies of this subpart if—

(1) The contractor, contractor employee, subcontractor, subcontractor employee, or agent engages in severe forms of trafficking in persons during the period of performance of the contract;

(2) The contractor, contractor employee, subcontractor, subcontractor employee, or agent procures a commercial sex act during the period of performance of the contract;

(3) The contractor, contractor employee, subcontractor, subcontractor employee, or agent uses forced labor in the performance of the contract; or

(4) The contractor fails to comply with the requirements of the clause at 52.222–50, Combating Trafficking in Persons.

(b) *Credible information.* Upon receipt of credible information regarding a violation listed in paragraph (a) of this section, the contracting officer—

(1) Shall promptly notify, in accordance with agency procedures, the agency Inspector General, the agency debarring and suspending official, and if appropriate, law enforcement officials with jurisdiction over the alleged offense; and

(2) May direct the contractor to take specific steps to abate the alleged violation or enforce the requirements of its compliance plan.

(c) *Receipt of agency Inspector General report.* (1) The head of an executive agency shall ensure that the contracting officer is provided a copy of the agency Inspector General report of an investigation of a violation of the trafficking in persons prohibitions in 22.1703(a) and 52.222–50(b).

(2)(i) Upon receipt of a report from the agency Inspector General that provides support for the allegations, the head of the executive agency, in accordance with agency procedures, shall delegate to an authorized agency official, such as the agency suspending or debarring official, the responsibility to—

(A) Expeditiously conduct an administrative proceeding, allowing the contractor the opportunity to respond to the report;

(B) Make a final determination as to whether the allegations are substantiated; and

(C) Notify the contracting officer of the determination.

(ii) Whether or not the official authorized to conduct the administrative proceeding is the suspending and debarring official, the suspending and debarring official has the authority, at any time before or after the final determination as to whether the allegations are substantiated, to use the suspension and debarment procedures in subpart 9.4 to suspend, propose for debarment, or debar the contractor, if appropriate, also considering the factors at 22.1704(d)(2).

(d) *Remedies.* After a final determination in accordance with paragraph (c)(2)(ii) of this section that the allegations of a trafficking in persons violation are substantiated, the contracting officer shall—

(1) Enter the violation in FAPIIS (see 42.1503(h)); and

(2) Consider taking any of the remedies specified in paragraph (e) of the clause at 52.222–50, Combating Trafficking in Persons. These remedies are in addition to any other remedies available to the United States Government. When determining the appropriate remedies, the contracting officer may consider the following factors:

(i) *Mitigating factors.* The contractor had a Trafficking in Persons compliance plan or awareness program at the time of the violation, was in compliance with the plan at the time of the violation, and has taken appropriate remedial actions for the violations, that may include reparation to victims for such violations.

(ii) *Aggravating factors.* The contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by a contracting officer to do so.

■ 13. Revise section 22.1705 to read as follows:

**22.1705 Solicitation provision and contract clause.**

(a)(1) Insert the clause at 52.222–50, Combating Trafficking in Persons, in all solicitations and contracts.

(2) Use the clause with its Alternate I when the contract will be performed outside the United States (as defined at 22.1702) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of ''off-limits'' local establishments) that apply to contractor employees at the contract place of performance.

(b) Insert the provision at 52.222–56, Certification Regarding Trafficking in Persons Compliance Plan, in solicitations if—

(1) It is possible that at least $500,000 of the value of the contract may be performed outside the United States; and

(2) The acquisition is not entirely for commercially available off-the-shelf items.

## PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 14. Amend section 42.1503 by—

■ a. Removing from paragraph (h)(1)(iii) ''; or'' and adding '';'' in its place;

■ b. Removing from paragraph (h)(1)(iv) ''convenience.'' and adding ''convenience; or'' in its place;

■ c. Adding a new paragraph (h)(1)(v);

■ d. Redesignating paragraphs (h)(2) and (3) as paragraphs (h)(3) and (4), respectively; and

■ e. Adding a new paragraph (h)(2).

The additions read as follows:

**42.1503 Procedures.**

* * * * *

(h) * * *

(1) * * *

(v) Receives a final determination after an administrative proceeding, in accordance with 22.1704(d)(1), that substantiates an allegation of a violation of the trafficking in persons prohibitions in 22.1703(a) and 52.222–50(b).

(2) The information to be posted in accordance with this paragraph (h) is information relating to contractor performance, but does not constitute a ''past performance review,'' which would be exempted from public availability in accordance with section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111–212). Therefore, all such information posted in FAPIIS will be publicly available, unless covered by a disclosure exemption under the Freedom of Information Act (see 9.105–2(b)(2)).

* * * * *

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 15. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing paragraph (a)(2);

■ c. Redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3), respectively;

■ d. Redesignating paragraphs (b)(33) through (53) as paragraphs (b)(34) through (54), respectively;

■ e. Adding a new paragraph (b)(33);

■ f. Revising paragraph (e)(1)(x); and

■ g. Amending Alternate II by—

■ i. Revising the date of the Alternate; and

■ ii. Revising paragraph (e)(1)(ii)(I).

The revisions and additions read as follows:

**52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.**

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Items (March 2, 2015)

* * * * *

(b) * * *

____(33)(i) 52.222–50, Combating Trafficking in Persons (March 2, 2015) (22 U.S.C. chapter 78 and E.O. 13627).

____(ii) *Alternate I* (March 2, 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).

* * * * *

(e)(1) * * *

(x) ____(A) 52.222–50, Combating Trafficking in Persons (March 2, 2015) (22 U.S.C. chapter 78 and E.O. 13627).

____(B) Alternate I (March 2, 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).

* * * * *

*Alternate II* (March 2, 2015).* * *

* * * * *

(e)(1) * * *

(ii) * * *

(I) ____ (*1*) 52.222–50, Combating Trafficking in Persons (March 2, 2015) (22 U.S.C. chapter 78 and E.O. 13627).

____ (*2*) Alternate I (March 2, 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).

* * * * *

■ 16. Amend section 52.213–4 by—
■ a. Revising the date of the clause;
■ b. Removing paragraph (a)(1)(iv);
■ c. Redesignating paragraphs (a)(1)(v) through (vii) as paragraphs (a)(1)(iv) through (vi), respectively;
■ d. Revising paragraph (a)(2)(viii);
■ e. Redesignating paragraphs (b)(1)(viii) through (xiv) as paragraphs (b)(1)(ix) through (xv), respectively; and
■ f. Adding a new paragraph (b)(1)(viii).

The revision and addition read as follows:

**52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).**

* * * * *

Terms and Conditions-Simplied Acquisitions (Other Than Commercial Items) (March 2, 2015)

* * * * *

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (March 2, 2015)

* * * * *

(b) * * *

(1) * * *

(i) * * *

(viii)(A) 52.222–50, Combating Trafficking in Persons (March 2, 2015) (22 U.S.C. chapter 78 and E.O. 13627) (Applies to all solicitations and contracts).

(B) Alternate I (applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies.

* * * * *

■ 17. Amend section 52.222–50 by—
■ a. Removing from the introductory paragraph ''22.1705(a)'' and adding ''22.1705(a)(1)'' in its place;
■ b. Revising the date of the clause;
■ c. Adding to paragraph (a), in alphabetical order, the definitions ''Agent'', ''Commercially available off-the-shelf (COTS) item'', ''Subcontract'', ''Subcontractor'', and ''United States'';
■ d. Revising paragraphs (b) through (e);
■ e. Removing paragraph (f);
■ f. Redesignating paragraph (g) as paragraph (f);
■ g. Revising the newly designated paragraph (f);
■ h. Adding new paragraphs (g), (h), and (i); and
■ i. Amending Alternate I by—
■ i. Revising the date of the Alternate, introductory paragraph, and paragraph (i)(A); and
■ ii. Removing from paragraph (i)(B), in the table, third column, ''Applies Performance to in/at'', and adding ''Applies to performance in/at'' in its place, and removing in the bracketed text, ''*U.S.*'' and adding ''*United States*'' in its place.

The revision and addition read as follows:

**52.222–50 Combating Trafficking in Persons.**

* * * * *

Combating Trafficking in Persons (March 2, 2015)

* * * * *

(a) * * *

*Agent* means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

*Commercially available off-the-shelf (COTS) item* means—

(1) Any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

* * * * *

*Subcontract* means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

*Subcontractor* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

*United States* means the 50 States, the District of Columbia, and outlying areas.

(b) *Policy.* The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not—

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract;

(3) Use forced labor in the performance of the contract;

(4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5)(i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work;

(ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charge employees recruitment fees;

(7)(i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment—

(A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or

(B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that—

(ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is—

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an

enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(c) *Contractor requirements.* The Contractor shall—

(1) Notify its employees and agents of—

(i) The United States Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.* (1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately of—

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203–13(b)(3)(i)(A), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and

(ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with more than one contract, the Contractor shall inform the contracting officer for the contract with the highest dollar value.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in—

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments until the Contractor has taken appropriate remedial action;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Declining to exercise available options under the contract;

(6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(7) Suspension or debarment.

(f) *Mitigating and aggravating factors.* When determining remedies, the Contracting Officer may consider the following:

(1) *Mitigating factors.* The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.

(2) *Aggravating factors.* The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.

(g) *Full cooperation.* (1) The Contractor shall, at a minimum—

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not—

(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or

(iii) Restrict the Contractor from—

(A) Conducting an internal investigation; or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan.* (1) This paragraph (h) applies to any portion of the contract that—

(i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(ii) Has an estimated value that exceeds $500,000.

(2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate—

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.

(3) *Minimum requirements.* The compliance plan must include, at a minimum, the following:

(i) An awareness program to inform contractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the Web site for the Department of State's Office to Monitor and Combat Trafficking in Persons at *http://www.state.gov/j/tip/.*

(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1–844–888–FREE and its email address at *help@befree.org.*

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.

(4) *Posting.* (i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at

the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.

(ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request.

(5) *Certification.* Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that—

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and

(ii) After having conducted due diligence, either—

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(i) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the subcontract that—

(A) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(B) Has an estimated value that exceeds $500,000.

(2) If any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

(End of clause)

*Alternate I* (March 2, 2015). As prescribed in 22.1705(a)(2), substitute the following paragraph in place of paragraph (c)(1)(i) of the basic clause:

(i)(A) The United States Government's policy prohibiting trafficking in persons described in paragraph (b) of this clause; and

* * * * *

■ 18. Add section 52.222–56 to read as follows:

**52.222–56 Certification Regarding Trafficking in Persons Compliance Plan.**

As prescribed in 22.1705(b), insert the following provision:

Certification Regarding Trafficking in Persons Compliance Plan (March 2, 2015)

(a) The term ''commercially available off-the-shelf (COTS) item,'' is defined in the clause of this solicitation entitled ''Combating Trafficking in Persons'' (FAR clause 52.222–50).

(b) The apparent successful Offeror shall submit, prior to award, a certification, as specified in paragraph (c) of this provision, for the portion (if any) of the contract that—

(1) Is for supplies, other than commercially available off-the-shelf items, to be acquired outside the United States, or services to be performed outside the United States; and

(2) Has an estimated value that exceeds $500,000.

(c) The certification shall state that—

(1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at 52.222–50, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222–50, Combating Trafficking in Persons; and

(2) After having conducted due diligence, either—

(i) To the best of the Offeror's knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or

(ii) If abuses relating to any of the prohibited activities identified in 52.222–50(b) have been found, the Offeror or proposed subcontractor has taken the appropriate remedial and referral actions.

(End of provision)

■ 19. Amend section 52.244–6 by revising the date of the clause and paragraph (c)(1)(ix) to read as follows:

**52.244–6 Subcontracts for Commercial Items.**

* * * * *

Subcontracts for Commercial Items (March 2, 2015)

* * * * *

(c)(1) * * *

(i) * * *

(ix)(A) 52.222–50, Combating Trafficking in Persons (March 2, 2015) (22 U.S.C. chapter 78 and E.O. 13627).

(B) Alternate I (March 2, 2015) of 52.222–50 (22 U.S.C. chapter 78 and E.O. 13627).

* * * * *

[FR Doc. 2015–01524 Filed 1–28–15; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## 48 CFR Parts 37 and 52

**[FAC 2005–80; FAR Case 2014–008; Item II; Docket No. 2014–0008; Sequence No. 1]**

**RIN 9000–AM84**

## Federal Acquisition Regulation; Management and Oversight of the Acquisition of Services

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a recommendation to strengthen guidance on service acquisitions on uncompensated overtime.

**DATES:** *Effective:* March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–80, FAR Case 2014–008.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Section 865 of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011 (Pub. L. 111–383) directed the Secretary of Defense to submit, in consultation with the Office of Federal Procurement Policy (OFPP) and all other relevant Federal agencies, a review of the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS), to ensure that they have appropriate guidance for service acquisitions. As a result, the regulatory drafting teams for the FAR and DFARS reviewed current regulations related to services and considered the extent to which improvements might be needed.

In November 2011, DoD issued a report entitled *DoD Report to Congress on Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS) Review Regarding Services Acquisition.* This Report to Congress includes a series of recommendations on issues for strengthening existing guidance on services acquisition through addition, clarification, or expansion.

### II. Analysis and Discussion

This FAR case implements a recommendation to create a definition of uncompensated overtime. Accordingly, the existing definitions of ''uncompensated overtime'' and ''uncompensated overtime rate'' at FAR 52.237–10(a) have been incorporated at FAR 37.101, with the defined term ''uncompensated overtime rate'' changing to ''adjusted hourly rate (including uncompensated overtime).'' Additionally, the definition of the new term ''adjusted hourly rate (including uncompensated overtime)'' clarifies that the proposed hours per week include

uncompensated overtime hours over and above the standard 40-hour work week. The clause at FAR 52.237–10 is further amended to clarify the application of the adjusted hourly rate, and categorization of proposed hours subject to the adjusted hourly rate. Finally, a change is made at FAR 37.115–2 to reflect the change made in the clause at FAR 52.237–10(b).

**III. Publication of This Final Rule for Public Comment Is Not Required by Statute**

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only clarifies policy that is already stated in the FAR. These proposed changes as described in section II of this preamble affect only the internal operating procedures of the Government.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**V. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

**VI. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in CFR Parts 37 and 52**

Government procurement.

Dated: January 22, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 37 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 37 and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## PART 37—SERVICE CONTRACTING

■ 2. Amend section 37.101 by adding, in alphabetical order, the definitions ''Adjusted hourly rate (including uncompensated overtime)'' and ''Uncompensated overtime'' to read as follows:

**37.101 Definitions.**

* * * * *

*Adjusted hourly rate (including uncompensated overtime)* is the rate that results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week which includes uncompensated overtime hours over and above the standard 40-hour work week. For example, 45 hours proposed on a 40-hour work week basis at $20 per hour would be converted to an uncompensated overtime rate of $17.78 per hour ($20.00 × 40/45 = $17.78).

* * * * *

*Uncompensated overtime* means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.

■ 3. Amend section 37.115–2 by adding paragraph (d) to read as follows:

**37.115–2 General policy.**

* * * * *

(d) Whenever there is uncompensated overtime, the adjusted hourly rate (including uncompensated overtime) (see definition at 37.101), rather than the hourly rate, shall be applied to all proposed hours, whether regular or overtime hours.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 52.237–10 by—

■ a. Revising the date of the provision;

■ b. Removing from paragraph (a) the definition ''Uncompensated overtime rate'', and adding, in alphabetical order, the definition ''Adjusted hourly rate (including uncompensated overtime)''; and

■ c. Revising paragraph (b).

The revisions and addition read as follows:

**52.237–10 Identification of Uncompensated Overtime.**

* * * * *

**Identification of Uncompensated Overtime Mar 2015**

(a) * * *

*Adjusted hourly rate (including uncompensated overtime*) is the rate that results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week which includes uncompensated overtime hours over and above the standard 40-hour work week. For example, 45 hours proposed on a 40-hour work week basis at $20 per hour would be converted to an uncompensated overtime rate of $17.78 per hour ($20.00 × 40 divided by 45 = $17.78).

* * * * *

(b)(1) Whenever there is uncompensated overtime, the adjusted hourly rate (including uncompensated overtime), rather than the hourly rate, shall be applied to all proposed hours, whether regular or overtime hours.

(2) All proposed labor hours subject to the adjusted hourly rate (including uncompensated overtime) shall be identified as either regular or overtime hours, by labor categories, and described at the same level of detail. This is applicable to all proposals whether the labor hours are at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

* * * * *

[FR Doc. 2015–01525 Filed 1–28–15; 8:45 am]

BILLING CODE 6820–EP–P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 46 and 52**

**[FAC 2005–80; Item III; Docket No. 2014–0053; Sequence No. 5]**

## Federal Acquisition Regulation; Technical Amendments

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

**DATES:** *Effective:* March 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–80, Technical Amendments.

**SUPPLEMENTARY INFORMATION:** In order to update certain elements in 48 CFR parts 46 and 52 this document makes editorial changes to the FAR.

**List of Subject in 48 CFR Parts 46 and 52**

Government procurement.

Dated: January 22, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 46 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 46 and 52 continues to read as follow:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## PART 46—QUALITY ASSURANCE

**46.202–4 [Amended]**

■ 2. Amend section 46.202–4 by removing from paragraph (b) ''ANSI/ASQC E4'' and adding ''ASQ/ANSI E4'' in its place.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212–3 by revising the date of the provision and in paragraph (a) the definition ''Manufactured end product'' to read as follows:

**52.212–3 Offeror Representations and Certifications—Commercial Items.**

* * * * *

**Offeror Representations and Certifications—Commercial Items (Jan 2014)**

* * * * *

(a) * * *

*Manufactured end product* means any end product in product and service codes (PSCs) 1000–9999, except—

(1) PSC 5510, Lumber and Related Basic Wood Materials;

(2) Product or Service Group (PSG) 87, Agricultural Supplies;

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

(5) PSC 9410, Crude Grades of Plant Materials;

(6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) PSC 9610, Ores;

(9) PSC 9620, Minerals, Natural and Synthetic; and

(10) PSC 9630, Additive Metal Materials.

* * * * *

■ 4. Amend section 52.225–18 by revising the date of the provision and in paragraph (a) the definition ''Manufactured end product'' to read as follows:

**52.225–18 Place of Manufacture.**

* * * * *

**Place of Manufacture (Jan 2015)**

* * * * *

(a) * * *

*Manufactured end product* means any end product in product and service codes (PSCs) 1000–9999, except—

(1) PSC 5510, Lumber and Related Basic Wood Materials;

(2) Product or Service Group (PSG) 87, Agricultural Supplies;

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

(5) PSC 9410, Crude Grades of Plant Materials;

(6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) PSC 9610, Ores;

(9) PSC 9620, Minerals, Natural and Synthetic; and

(10) PSC 9630, Additive Metal Materials.

* * * * *

[FR Doc. 2015–01526 Filed 1–28–15; 8:45 am]

**BILLING CODE 6820–EP–P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**[Docket No. FAR 2014–0052, Sequence No. 8]**

## Federal Acquisition Regulation; Federal Acquisition Circular 2005–80; Small Entity Compliance Guide

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–80, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–80, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

**DATES:** January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–80 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–80

| List | Subject | FAR case | Analyst |
|---|---|---|---|
| I* | Ending Trafficking in Persons | 2013–001 | Davis. |
| II | Management and Oversight of the Acquisition of Services | 2014–008 | Jackson. |
| III | Technical Amendments. | | |

**SUPPLEMENTARY INFORMATION:** Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–80 amends the FAR as specified below:

**Item I—Ending Trafficking in Persons (FAR Case 2013–001)**

This final rule amends the FAR to implement Executive Order 13627 and Title XVII of the National Defense Authorization Act for Fiscal Year 2013 and promotes the United States policy prohibiting trafficking in persons. Contractors and subcontractors must disclose to employees the key conditions of employment, starting with wages and work location; no recruiting fees are allowed to be charged to employees.

Compliance plans and annual certifications are required for portions of contracts over $500,000 performed outside the United States, except for commercially available off-the-shelf items of supply; plans shall be appropriate to the size and complexity of the contract or subcontract, and the nature and scope of the activities under the contract or subcontract. These plan exceptions will significantly reduce the impact on small entities.

Contracting officers should specify in the contract whether a written employee work document is required, which notifies the employee of certain details about the work and about trafficking in persons. The contracting officer is also required to notify the agency Inspector General, debarring and suspending official, and, if appropriate, law enforcement of credible information regarding violations. The contracting officer is required to put into FAPIIS violations substantiated by the agency Inspector General, after a final agency determination.

**Item II—Management and Oversight of the Acquisition of Services (FAR Case 2014–008)**

This final rule amends the FAR to implement a recommendation to strengthen guidance on service acquisitions by incorporating at FAR 37.101 the definitions relating to ''uncompensated overtime'' presently set forth in FAR 52.237–10(a), except that the defined term ''uncompensated overtime rate'' has been changed to ''adjusted hourly rate (including uncompensated overtime).'' Additionally, the definition of the new term ''adjusted hourly rate (including uncompensated overtime)'' clarifies that the proposed hours per week include uncompensated overtime hours over and above the standard 40-hour work week. FAR 52.237–10 is further amended to clarify the application of the adjusted hourly rate, and categorization of proposed hours subject to the adjusted hourly rate. In addition, FAR 52.237–10 has been amended to reflect that all proposed labor hours subject to the adjusted hourly rate shall be identified as either regular or overtime hours, by labor categories. Finally, FAR 37.115–2 has been amended to add a paragraph (d) to clarify that when there is uncompensated overtime, the adjusted hourly rate, rather than the hourly rate shall be applied to all proposed hours, whether regular or overtime hours.

This rule is not expected to have a significant cost or administrative impact on contractors or offerors. This final rule is also not expected to have a significant impact on contracting officers because it only clarifies policy that is already stated in the FAR. These requirements affect only the internal operating procedures of the Government.

**Item III—Technical Amendments**

Editorial changes are made at FAR 46.202–4, 52.212–3, and 52.225–18.

Dated: January 22, 2015.

**William Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2015–01527 Filed 1–28–15; 8:45 am]

BILLING CODE 6820–EP–P


# FEDERAL REGISTER

Vol. 80 Thursday,
No. 19 January 29, 2015

Part III

## Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 203, 204, 212, et al.
Defense Federal Acquisition Regulation Supplement: Defense Contractors Performing Private Security Functions (DFARS Case 2014–D008) and Further Implementation of Trafficking in Persons Policy (DFARS Case 2013–D007); Final Rules

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 212, 225, and 252**

**RIN 0750–AI31**

## Defense Federal Acquisition Regulation Supplement: Defense Contractors Performing Private Security Functions (DFARS Case 2014–D008)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address DoD-unique requirements for defense contractors performing private security functions outside the United States.

**DATES:** Effective January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Hawes, telephone 571–372–6115.

**SUPPLEMENTARY INFORMATION:**

### I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 35713 on June 24, 2014, to prescribe a new clause for use in solicitations and contracts, including solicitations and contracts for the acquisition of commercial items, when defense contractors are performing private security functions outside the United States in covered operations. No public comments were submitted in response to the proposed rule. The final rule reflects two changes to clarify terminology used in the proposed rule.

### II. Discussion

This final rule adds a new section at DFARS 225.302 titled Contractors Performing Private Security Functions Outside the United States. The new section provides a prescription for new DFARS clause 252.225–7039, Defense Contractors Performing Private Security Functions. The new clause requires covered contractors to—

- Register in the Synchronized Predeployment and Operational Tracker (SPOT) system all weapons, armored vehicles, helicopters, and other vehicles used or operated by personnel performing private security functions; and
- Comply with ANSI/ASIS PSC.1–2012, American National Standard, Management System for Quality of Private Security Operations—Requirements with Guidance.

Contracting officers were already incorporating the requirement to comply with the ANSI/ASIS PSC.1–2012 if the acquisition required performance of private security functions, based on a checklist provided at DFARS Procedures, Guidance, and Information 225.7401. This requirement is more appropriately included in a clause.

The new clause, DFARS 252.225–7039, is also added to the list at DFARS 212.301 of clauses and provisions for the acquisition of commercial items.

The final rule makes the following changes to clarify terminology used in the proposed rule. The final rule removes the reference to ''humanitarian or peace operations'' from the proposed rule clause prescription at DFARS 225.302–6 and the proposed clause at DFARS 252.225–7039 and replaces it with ''peace operations, consistent with Joint Publication 3–07.3.'' Humanitarian or peacekeeping operations are a subcategory of peace operations as defined in the Joint Publication 3–07.3. Consistent with this change, the definition of ''peace operation'' is also being removed from DFARS 225.302 and the associated clause at DFARS 252.225–7039.

### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This rule is needed to provide DoD-unique requirements for implementation and supplementation of Federal Acquisition Regulation (FAR) clause 52.225–26, Contractors Performing Private Security Functions Outside the United States. FAR 52.225–26 implements section 862 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Pub. L. 110–181), sections 831 and 832 of the NDAA for FY 2011 (Pub. L. 111–383), and the Memorandum of Understanding signed by DoD, the Department of State, and the United States Agency for International Development.

The objective of the rule is to ensure that DoD contractors performing private security functions in covered operations comply with the DoD-unique Synchronized Predeployment and Operational Tracker (SPOT) System registration requirements and ANSI/ASIS PSC.1–2012, American National Standard, Management System for Quality of Private Security Operations–Requirements with Guidance.

No comments were received from the public regarding the initial regulatory flexibility analysis.

According to the Armed Contractor Oversight Directorate for United States Forces-Afghanistan, as of September 1, 2014, current operations include 2,355 contractors performing private security functions. It is not known how many of those firms were small businesses; however, any impact on small business firms will be minor because these are not new requirements.

The requirement to enter data on weapons, armored vehicles, helicopters, and other military vehicles into SPOT was in the Defense Federal Acquisition Regulation Supplement (DFARS) until the registration requirement was transitioned into the FAR in July 2013 (but without specifying use of SPOT). The new DFARS clause 252.225–7039, Defense Contractors Performing Private Security Functions, specifies that the system to use is SPOT. In addition, contracting officers were already incorporating the requirement to comply with ANSI/ASIS PSC.1–2012 if the acquisition required performance of private security functions based on a checklist provided at DFARS Procedures, Guidance, and Information (PGI) 225.7401.

There are no new projected reporting, recordkeeping, or other compliance requirements projected for this rule.

No alternatives to the rule have been identified.

### V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35); however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved

under OMB Clearance Number 0704–0460, entitled Synchronized Predeployment and Operational Tracker (SPOT) System.

**List of Subjects in 48 CFR Parts 212, 225, and 252**

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 212, 225, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 225, and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. In section 212.301, redesignate paragraphs (f)(viii)(X) through (AA) as paragraphs (f)(viii)(Y) through (BB) and add a new paragraph (f)(viii)(X) to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) * * *

(viii) * * *

(X) Use the clause at 252.225–7039, Defense Contractors Performing Private Security Functions Outside the United States, as prescribed in 225.302–6, to comply with section 2 of Pub. L. 110–181, as amended.

* * * * *

## PART 225—FOREIGN ACQUISITION

■ 3. Add sections 225.302 and 225.302–6 to subpart 225.3 to read as follows:

**225.302 Contractors performing private security functions outside the United States.**

**225.302–6 Contract clause.**

Use the clause at 252.225–7039, Defense Contractors Performing Private Security Functions Outside the United States, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when private security functions are to be performed outside the United States in—

(1) Contingency operations;

(2) Combat operations, as designated by the Secretary of Defense;

(3) Other significant military operations (as defined in 32 CFR part 159), designated by the Secretary of Defense, and only upon agreement of the Secretary of Defense and the Secretary of State;

(4) Peace operations, consistent with Joint Publication 3–07.3; or

(5) Other military operations or military exercises, when designated by the Combatant Commander.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add section 252.225–7039 to read as follows:

**252.225–7039 Defense Contractors Performing Private Security Functions Outside the United States.**

As prescribed in 225.302–6, insert the following clause:

**DEFENSE CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS OUTSIDE THE UNITED STATES (JAN 2015)**

(a) *Requirements.* The Contractor shall—

(1) Register in the Synchronized Predeployment and Operational Tracker (SPOT)—

(i) Weapons to be carried by or available to be used by personnel performing private security functions; and

(ii) Armored vehicles, helicopters, and other vehicles operated by personnel performing private security functions; and

(2) Comply with ANSI/ASIS PSC.1–2012, American National Standard, Management System for Quality of Private Security Company Operations—Requirements with Guidance (located at *www.acq.osd.mil/log/PS/p_vault/item_1997–PSC_1_STD.PDF*).

(b) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (b), in subcontracts, including subcontracts for commercial items, when private security functions will be performed outside the United States in areas of—

(1) Contingency operations;

(2) Combat operations, as designated by the Secretary of Defense;

(3) Other significant military operations (as defined in 32 CFR part 159), designated by the Secretary of Defense upon agreement of the Secretary of State;

(4) Peace operations, consistent with Joint Publication 3–07.3; or

(5) Other military operations or military exercises, when designated by the Combatant Commander.

(End of clause)

[FR Doc. 2015–01433 Filed 1–28–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 203, 204, 212, 222, and 252

**RIN 0750–AH93**

## Defense Federal Acquisition Regulation Supplement: Further Implementation of Trafficking in Persons Policy (DFARS Case 2013–D007)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement DoD trafficking in persons policy, and to supplement Governmentwide changes proposed in connection with Executive Order 13627, to improve awareness, compliance, and enforcement.

**DATES:** Effective January 29, 2015.

**FOR FURTHER INFORMATION CONTACT:** Amy Williams, telephone 571–372–6106.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The United States Government's longstanding policy prohibiting human trafficking in Federal supply chains is codified in Governmentwide acquisition regulations at FAR subpart 22.17. DoD is strengthening its policies and practices to ensure that no taxpayer resources are used to support such egregious labor violations. DoD has identified a number of important supplementary actions to help eradicate trafficking in its own supply chain. The DFARS coverage ensures that employees of DoD contractors are fully aware of their labor rights and that they have a means of reporting suspected labor violations directly to the DoD Inspector General's office. These added protections will further improve stability, productivity, and certainty in the contingency operations that DoD supports, and they will ensure that DoD contractors do not benefit from the use of coerced labor.

DoD published a proposed rule in the **Federal Register** at 78 FR 59325 on September 26, 2013, to further implement DoD trafficking in persons policies to improve awareness, compliance, and enforcement. Two respondents submitted public comments in response to the proposed rule.

**II. Discussion and Analysis**

DoD reviewed the public comments in the development of the final rule. A discussion of the comments follows:

*A. Summary of Significant Changes From the Proposed Rule*

There were no changes from the proposed rule as a result of public comments. One minor editorial change was made to the title of the new provision 252.222–7007, Representation Regarding Combating Trafficking in Persons, to use the word ''regarding'' in lieu of ''with regard to.''

*B. Analysis of Public Comments*

*Comment:* Both respondents commended the drafters of the proposed rule. One respondent expressed appreciation that the drafters listened to stakeholder organizations that offered comments at the public meeting on ending trafficking in persons earlier in 2013. The other respondent stated that the proposed rule goes a significant way towards implementing the requirements of Executive Order 13627 and title XVII of the National Defense Authorization Act for FY 2013. The respondents did not suggest any changes to the DFARS proposed rule.

*Response:* Noted.

**III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**IV. Regulatory Flexibility Act**

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This rule amends the Defense Federal Acquisition Regulations Supplement (DFARS) to improve awareness, compliance, and enforcement of DoD policies on combating trafficking in persons. This rule requires the display of hotline posters on combating trafficking in persons and whistleblower protection for contracts and subcontracts, not for the acquisition of commercial items, that exceed $5 million (for performance both inside and outside the United States), display of a contractor employee bill of rights when the contract includes the DFARS clause 252.225–7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States, and a representation regarding hiring policies that is required in all DoD solicitations and contracts that exceed the simplified acquisition threshold.

There were no public comments in response to the Initial Regulatory Flexibility Analysis.

About 58,000 small entities do business with DoD. The mandatory disclosure requirements and the hotline poster requirements only apply to small business concerns with DoD contracts or subcontracts, not for the acquisition of commercial items, that exceed $5 million. The representation regarding hiring practices applies to all small business concerns (and all other businesses) that respond to solicitations with an estimated value exceeding the simplified acquisition threshold. The requirement to display the contractor employee bill of rights only applies to contracts with contractor personnel supporting U.S. Armed Forces deployed outside the United States in contingency operations, humanitarian or peacekeeping operations, or other military operations or exercises, when designated by the combatant commander. None of these requirements is expected to impose a significant economic burden on small business concerns.

There are no information collection requirements in this rule. This rule adopts dollar thresholds wherever possible and limits certain requirements to contracts where contractor personnel support U.S. Armed Forces deployed outside the United States. There were no additional alternatives identified that could further decrease the impact on small entities.

**V. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Parts 203, 204, 212, 222, and 252**

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 203, 204, 212, 222, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 203, 204, 212, and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 2. In section 203.1004, paragraph (b)(2)(ii) is revised to read as follows:

**203.1004 Contract clauses.**

* * * * *

(b)(2)(ii) Unless the contract is for the acquisition of a commercial item, use the clause at 252.203–7004, Display of Hotline Posters, in lieu of the clause at FAR 52.203–14, Display of Hotline Poster(s), in solicitations and contracts, if the contract value exceeds $5 million. If the Department of Homeland Security (DHS) provides disaster relief funds for the contract, DHS will provide information on how to obtain and display the DHS fraud hotline poster (see FAR 3.1003).

## PART 204—ADMINISTRATIVE MATTERS

**204.1202 [Amended]**

■ 3. In section 204.1202, redesignate paragraphs (2)(iv) through (xiii) as paragraphs (2)(v) through (xiv), respectively, and add a new paragraph (2)(iv) as follows:

204.1202 Solicitation provision.

* * * * *

(2) * * *

(iv) 252.222–7007, Representation Regarding Combating Trafficking in Persons.

* * * * *

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 4. In section 212.301, redesignate paragraphs (f)(vii) through (f)(xvii) as paragraphs (f)(viii) through (xviii), respectively, and add a new paragraph (f)(vii) to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) * * *

(vii) *Part 222—Application of Labor Laws to Government Acquisitions.* Use

the provision at 252.222–7007, Representation Regarding Combating Trafficking in Persons, as prescribed in 222.1771.

* * * * *

## PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 5. The authority citation for 48 CFR part 222 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 6. Add sections 222.1770 and 222.1771 to subpart 222.17 to read as follows:

### 222.1770 Procedures.

For a sample checklist for auditing compliance with Combating Trafficking in Persons policy, see the Defense Contract Management Agency checklist, Afghanistan Universal Examination Record Combating Trafficking in Persons, available at DFARS Procedures Guidance and Information 222.17.

### 222.1771 Solicitation provision.

Unless the solicitation includes the provision at 252.204–7007, use the provision at 252.222–7007, Representation Regarding Combating Trafficking in Persons, in all solicitations and contracts that exceed the simplified acquisition threshold, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Section 252.203–7004 is revised to read as follows:

### 252.203–7004 Display of Hotline Posters.

As prescribed in 203.1004(b)(2)(ii), use the following clause:

**DISPLAY OF HOTLINE POSTERS (JAN 2015)**

(a) *Definition. United States,* as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* (1) The Contractor shall display prominently the DoD fraud hotline poster, prepared by the DoD Office of the Inspector General, in common work areas within business segments performing work in the United States under Department of Defense (DoD) contracts.

(2) If the contract is funded, in whole or in part, by Department of Homeland Security (DHS) disaster relief funds, the DHS fraud hotline poster shall be displayed in addition to the DoD fraud hotline poster. If a display of a DHS fraud hotline poster is required, the Contractor may obtain such poster from:

_____

*[Contracting Officer shall insert the appropriate DHS contact information or Web site.]*

(c) *Display of combating trafficking in persons and whistleblower protection hotline posters.* The Contractor shall display prominently the DoD Combating Trafficking in Persons and Whistleblower Protection hotline posters, prepared by the DoD Office of the Inspector General, in common work areas within business segments performing work under DoD contracts.

(d)(1) These DoD hotline posters may be obtained from: Defense Hotline, The Pentagon, Washington, DC 20301–1900, or are also available via the internet at *http://www.dodig.mil/hotline/hotline_posters.htm.*

(2) If a significant portion of the employee workforce does not speak English, then the posters are to be displayed in the foreign languages that a significant portion of the employees speak. Contact the DoD Inspector General at the address provided in paragraph (d)(1) of this clause if there is a requirement for employees to be notified of this clause and assistance with translation is required.

(3) Additionally, if the Contractor maintains a company Web site as a method of providing information to employees, the Contractor shall display an electronic version of these required posters at the Web site.

(e) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts that exceed $5 million except when the subcontract is for the acquisition of a commercial item.

(End of clause)

■ 8. Section 252.204–7007 is amended by—

■ a. Removing the provision date ''(DEC 2014)'' and adding ''(JAN 2015)'' in its place; and

■ b. Redesignating paragraphs (d)(1)(iii) through (vii) as paragraphs (d)(1)(iv) through (viii), respectively, and adding a new paragraph (d)(1)(iii).

The addition reads as follows:

### 252.204–7007 Alternate A, Annual Representations and Certifications.

* * * * *

(d)(1) * * *

(iii) 252.222–7007, Representation Regarding Combating Trafficking in Persons, as prescribed in 222.1771. Applies to solicitations with a value expected to exceed the simplified acquisition threshold.

* * * * *

■ 9. Add new section 252.222–7007 to read as follows:

### 252.222–7007 Representation Regarding Combating Trafficking in Persons.

As prescribed in 222.1771, use the following provision:

**REPRESENTATION REGARDING COMBATING TRAFFICKING IN PERSONS (JAN 2015)**

By submission of its offer, the Offeror represents that it—

(a) Will not engage in any trafficking in persons or related activities, including but not limited to the use of forced labor, in the performance of this contract;

(b) Has hiring and subcontracting policies to protect the rights of its employees and the rights of subcontractor employees and will comply with those policies in the performance of this contract; and

(c) Has notified its employees and subcontractors of—

(1) The responsibility to report trafficking in persons violations by the Contractor, Contractor employees, or subcontractor employees, at any tier; and

(2) Employee protection under 10 U.S.C. 2409, as implemented in DFARS subpart 203.9, from reprisal for whistleblowing on trafficking in persons violations.

(End of provision)

■ 10. Section 252.225–7040 is amended by—

■ a. Removing the clause date ''(MAY 2014)'' and adding ''(JAN 2015)'' in its place; and

■ b. Adding paragraph (d)(8).

The addition reads as follows:

### 252.225–7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States.

* * * * *

(d) * * *

(8)(i) The Contractor shall ensure that Contractor employees supporting the U.S. Armed Forces are aware of their rights to—

(A) Hold their own identity or immigration documents, such as passport or driver's license, regardless of the documents' issuing authority;

(B) Receive agreed upon wages on time;

(C) Take lunch and work-breaks;

(D) Elect to terminate employment at any time;

(E) Identify grievances without fear of reprisal;

(F) Have a copy of their employment contract in a language they understand;

(G) Receive wages that are not below the legal host-country minimum wage;

(H) Be notified of their rights, wages, and prohibited activities prior to signing their employment contract; and

(I) If housing is provided, live in housing that meets host-country housing and safety standards.

(ii) The Contractor shall post these rights in employee work spaces in English and in any foreign language(s) spoken by a significant portion of the workforce.

(iii) The Contractor shall enforce the rights of Contractor personnel supporting the U.S. Armed Forces.

* * * * *

[FR Doc. 2015–01431 Filed 1–28–15; 8:45 am]

BILLING CODE 5001–06–P

# Reader Aids

**Federal Register**

Vol. 80, No. 19

Thursday, January 29, 2015

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### ELECTRONIC RESEARCH

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