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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1951 and 1956

RIN 0570–AA88

Rural Development Loan Servicing

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Business-Cooperative Service is amending its regulations for Debt Settlement. This amendment would allow the Rural Business Service's (referred to as Agency throughout the remainder of the text) Administrator to use the statutory authority that has been delegated to him/her in accordance with title 331(b)(4) of the Consolidated Farm and Rural Development Act (CONACT), but is currently not being used for all of RBS's revolving loan programs, which include: The Intermediary Relending Program (IRP) loans, Rural Development Loan Fund (RDLF) loans, and the Rural Microentrepreneur Assistance Program (RMAP)loans. This regulation will allow the RBS to be consistent across all of its loan programs; all of RBS's other loan programs have regulations in place to settle debt.

This Direct Final Rule is intended to authorize the Agency to use its independent debt settlement authority under CONACT. Nothing in this Direct Final Rule is intended to affect the requirements of the Agency to follow other applicable Federal debt collection law such as the Debt Collection Improvement Act of 1996, as amended. Further nothing in this Direct Final Rule is intended to alter any requirements the Agency must follow when making collection referrals to the Department of Justice or the Treasury Department.

DATES: This rule is effective May 18, 2015. Comments on this direct final rule must be received on or before April 13, 2015 to be assured of consideration.

If RBS receives adverse comment(s) on all or a distinct portion of this rule, we will publish a timely withdrawal in the **Federal Register** informing the public that some of this rule or the entire direct final rule will not take effect. The rule provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comments on any other provision, unless we determine that it would not be appropriate to promulgate those provisions.

ADDRESSES: You may submit comments to this direct final rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 300 7th Street SW., 7th Floor, Washington, DC 20024.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail, or other courier service requiring a street address, to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture. All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Melvin Padgett, Rural Development, Business Programs, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 3226, Washington, DC 20250–3225; email: *melvin.padgett@wdc.usda.gov*; telephone: (202) 720–1495.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This rule has been determined to be significant for purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal Governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

The Agency conducted a benefit-cost analysis to fulfill the requirements of EO 12866. This rule will not impose any new costs for the public (customers, applicants, borrowers, grantees, recipients and/or beneficiaries) of Rural Development's loan programs. This direct final rule permits the debt settlement policy to be uniform and consistent for all programs and will allow the Rural Development to process eligible debt settlement cases in a prompt and efficient manner.

Programs Affected

The Catalog of Federal Domestic Assistance Program number assigned to the IRP is 10.767.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR, part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Executive Order 12372, Intergovernmental Consultation

The program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. Consultation will be completed at the time of the action performed.

Executive Order 12988, Civil Justice

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in § 3 of the Executive Order. Additionally, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to the rule; and (3) administrative appeal procedures, if any, must be exhausted before litigation against the Department or its agencies may be initiated, in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with States is not required.

Regulatory Flexibility Act Certification

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. The Agency made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants.

Unfunded Mandate Reform Act

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and Tribal Governments or the private sector. Thus, this rule is not subject to the requirements of § s 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development (RD) in the development of regulatory policies that have tribal implications or preempt tribal laws. RD has determined that this rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which RD is not aware and would like to engage with RD on this rule, please contact RD's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov*.

Paperwork Reduction Act

This rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies, to provide increased opportunities for citizens to access Government information and services electronically.

I. Background

The process of debt settlement is a time consuming process. Before a borrower in default can settle their indebtedness to the Agency, current regulations require four levels of review: The local/area office, the State Office, the National Office, and finally a United States Department of Justice (DOJ) review. This review process results in loans that are eligible for debt settlement, to continue to sit on the books much longer than necessary, incurring interest, and decreasing the likelihood that a borrower will exist to collect recoveries once the loan is finally sent to the Department of the Treasury.

The Agency has shown, through its use of the settlement authority in 7 U.S.C. 1981(b)(4) in its other loan programs, that it can judiciously and reasonably administer that authority on its own without the need for additional levels of review.

By revising its regulations governing the review process for debt settlement, the Agency will be able to process debt settlement claims in a more uniform, prompt, and efficient manner.

II. Discussion of Changes

The Agency is proposing to modify several paragraphs in 7 CFR part 1951, subpart R and in 7 CFR part 1956, subpart C in order to allow the aforementioned loans to be settled under Agency policies and procedures for debt settlement as found in 7 CFR part 1956, subpart C, and to remove the requirement to send settlements to DOJ, allowing us to use the Federal Claims Collection Standards (31 CFR parts 900–904). This will permit the Agency to quickly and efficiently dispose of debt settlements. The specific changes are summarized below:

1. The Agency is proposing to modify § 1951.851(a) by adding a sentence to indicate that all debt settlement cases submitted under 7 CFR part 1951, subpart R, will be handled in accordance with 7 CFR part 1956, subpart C. The Agency is adding reference to the RMAP in the first sentence to indicate its inclusion.

2. The Agency is proposing to revise § 1951.894 to state that the debt settlement of all claims, which would now include RMAP, would be handled in accordance with 7 CFR 1956, subpart C. Specifically, the Agency is replacing the reference to Federal Claims Collection Standards, 4 CFR parts 101–105, with reference to ''Subpart C of Part 1956 of this Chapter.''

3. The Agency is proposing to revise §§ 1956.101 so that debt settlement of RDLF loans, IRP loans and RMAP loans, will be under 7 CFR part 1956, subpart C (and will be handled by the Agency's Administrator) rather than under the Federal Claims Collection Standards as currently provided in the regulation.

4. The Agency is proposing to revise the introductory text to § 1956.147 to remove reference to RDLF loans and IRP loans. This is a conforming change that removes these loans from complying with the debt settlement provisions under the Federal Claims Collection Act.

List of Subjects

7 CFR Part 1951

Loan programs—agriculture, Loan programs—housing and community development.

7 CFR Part 1956

Loan programs—agriculture, Loan programs—housing and community development.

For the reasons set forth in the preamble, chapter XVIII, title 7, of the Code of Federal Regulations is amended as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

PART 1951—SERVICING AND COLLECTIONS

■ 1. The authority citation for part 1951 is revised to read as follows:

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

Subpart R—Rural Development Loan Servicing

■ 2. Paragraph (a) of § 1951.851 is revised to read as follows:

§ 1951.851 Introduction.

(a) This subpart contains regulations for servicing or liquidating loans or other assistance made by the Rural Business-Cooperative Service or its successor agency under the IRP and the RMAP. All debt settlement cases under this subpart will be settled in accordance with the debt settlement provisions set forth in 7 CFR part 1956, subpart C. The provisions of this subpart supersede conflicting provisions of any other subpart.

* * * * *

■ 3. Section 1951.894 is revised to read as follows:

§ 1951.894 Debt settlement.

Debt settlement of all claims will be handled in accordance with subpart C of part 1956 of this chapter.

PART 1956—DEBT SETTLEMENT

■ 4. The authority citation for part 1956 is revised to read as follows:

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

Subpart C—Debt Settlement—Community and Business Programs

■ 5. Section 1956.101 is revised to read as follows:

§ 1956.101 Purpose.

This subpart delegates authority and prescribes policies and procedures for debt settlement of Community Facility loans; Association Recreation loans; Rural Renewal loans; direct Business and Industry loans; Rural Development Loan Fund loans; Intermediary Relending Program loans; and the Rural Microentrepreneur Assistance Program (RMAP) loans and repayable portions of RMAP grants; and Shift-in-land-use loans. Settlement of Economic Opportunity Cooperative loans, Claims Against Third Party Converters, Non-program loans, Rural Business Enterprise/Television Demonstration Grants, Nonprofit National Corporations Loans and Grants, and 601 Energy Impact Assistance Grants, is not authorized under independent statutory authority, and settlement under these programs is handled pursuant to the Federal Claims Collection Joint Standards, 31 CFR parts 900 through 904, inclusive. In addition, this subpart does not apply to Water and Waste Programs of the Rural Utilities Service, Watershed loans, and Resource Conservation and Development loans, which are serviced under part 1782 of this title.

■ 6. The section heading and introductory text to § 1956.147 are revised to read as follows:

§ 1956.147 Debt settlement under the Federal Claims Collection Standard.

Unless otherwise provided in this title, loans and claims will be settled in accordance with the Federal Claims Collection Standards at 31 CFR parts 900 through 904, inclusive.

* * * * *

Dated: February 27, 2015.

Lisa Mensah,

Under Secretary.

Dated: February 26, 2015.

Michael Scuse,

Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2015–05435 Filed 3–12–15; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0467; Airspace Docket No. 14–ANM–7]

Establishment of Class E Airspace; Spokane, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Spokane, WA, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle Air Route Traffic Control Center (ARTCC). This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On November 19, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E en route domestic airspace at Spokane, WA (79 FR 68809). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association in support of the proposal.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at Spokane, WA. By this action, aircraft are contained while in IFR conditions under control of Seattle ARTCC by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and

management of controlled airspace within the NAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Spokane, WA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En route domestic airspace areas.

* * * * *

ANM WA E6 Spokane, WA [New]

Spokane, WA

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 45°49′52″ N., long. 118°02′34″ W.; to lat. 44°50′06″ N., long. 117°05′33″ W.; to lat. 45°50′00″ N., long. 115°45′00″ W.; to lat. 46°02′00″ N., long. 115°45′00″ W.; to lat. 48°24′00″ N., long. 115°44′57″ W.; to lat. 49°00′00″ N., long. 115°30′00″ W.; to lat. 49°00′00″ N., long. 120°00′00″ W.; to lat. 46°23′19″ N., long. 121°07′50″ W.; to lat. 45°09′13″ N., long. 119°01′43″ W.; thence to the point of beginning.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–05701 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0870; Airspace Docket No. 14–AWP–7]

Establishment of Class E Airspace; Maxwell, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at the Maxwell VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Maxwell, CA, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Oakland Air Route Traffic Control Center (ARTCC). This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On December 12, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace at the Maxwell VORTAC, Maxwell, CA (79 FR 73853). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association in support of the proposal. Subsequent to publication, the FAA found an inadvertent omission of exclusionary language regarding the 12-mile offshore territorial limit. This action makes the correction.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Maxwell VORTAC navigation aid, Maxwell, CA. By this action, aircraft are contained while in IFR conditions under control of Oakland ARTCC by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and management of controlled airspace within the NAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Maxwell VORTAC, Maxwell, CA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En route domestic airspace areas.

* * * * *

AWP CA E6 Maxwell, CA [New]

Maxwell VORTAC, CA
(Lat. 39°19′03″ N., long. 122°13′18″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 39°42′30″ N., long. 124°25′58″ W.; to lat. 39°40′00″ N., long. 124°06′00″ W.; to lat. 40°05′00″ N., long. 120°00′00″ W.; to lat. 39°33′00″ N., long. 120°18′00″ W.; to lat. 38°27′00″ N., long. 123°23′00″ W.; to lat. 38°59′30″ N., long. 124°00′00″ W.; thence to the point of beginning, excluding that airspace beyond 12-miles of the shoreline.

Issued in Seattle, Washington, on February 27, 2015.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–05708 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–1055; Airspace Docket No. 13–ANM–27]

Establishment of Class E Airspace; Rogue Valley, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at the Rogue Valley VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Rogue Valley, OR, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle and Oakland Air Route Traffic Control Centers (ARTCCs). This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On October 16, 2014 the FAA published in the **Federal Register** a

notice of proposed rulemaking (NPRM) to establish Class E en route domestic airspace at the Rogue Valley VORTAC, Rogue Valley, OR (79 FR 62080). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received supporting the proposal, one from the National Business Aviation Association, and one by an anonymous individual. Subsequent to publication, the FAA found an inadvertent omission of exclusionary language regarding the 12-mile offshore territorial limit. This action makes the correction.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Rogue Valley VORTAC navigation aid, Rogue Valley, OR. By this action, aircraft are contained while in IFR conditions under control of Seattle and Oakland ARTCCs by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and management of controlled airspace within the NAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Rogue Valley VORTAC, Rogue Valley, OR.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En route domestic airspace areas.

* * * * *

ANM OR E6 Rogue Valley, OR [New]

Rogue Valley VORTAC, OR
(Lat. 42°28′47″ N., long. 122°54′47″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 43°27′19″ N., long. 119°56′31″ W.; to lat. 42°39′54″ N., long. 119°42′02″ W.; to lat. 41°00′07″ N., long. 120°10′44″ W.; to lat. 40°45′47″ N., long. 120°14′45″ W.; to lat. 40°27′51″ N., long. 119°37′10″ W.; to lat. 39°33′53″ N., long. 120°19′02″ W.; to lat. 39°05′16″ N., long. 124°05′00″ W.; to lat. 39°42′30″ N., long. 124°25′58″ W.; to lat. 40°01′00″ N., long. 124°35′00″ W.; to lat. 40°25′25″ N., long. 124°40′06″ W.; to lat. 42°50′00″ N., long. 124°50′00″ W.; thence to the point of beginning, excluding that airspace beyond 12-miles of the shoreline.

Issued in Seattle, Washington, on February 27, 2015.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–05719 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–1020; Airspace Docket No. 13–AWP–20]

Establishment of Class E Airspace, and Amendment of Class D and Class E Airspace; Prescott, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace and modifies Class D and Class E surface area airspace at Prescott, AZ, to accommodate aircraft departing and arriving under Instrument Flight Rules (IFR) at Ernest A. Love Field. New Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures have made this action necessary for the safety and management of IFR operations at the airport. The geographic coordinates of the airport are adjusted in the respective Class D and Class E airspace areas. This also corrects the airport name to Ernest A. Love Field.

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order

7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On September 2, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend the Class D and Class E airspace areas at Ernest A. Love Field, Prescott, AZ (79 FR 51920). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E surface area airspace designated as an extension to Class D surface area within a 6-mile radius of Ernest A. Love Field, Prescott, Arizona, having a segment extending from the 6-mile radius of the airport to 11 miles southwest. Class E surface area airspace is amended by adding a segment from the 6-mile radius of the airport to 11 miles southwest. Class E airspace extending upward from 700 feet above the surface is modified to within a 18.7-mile radius of the airport; the Class E airspace area extending upward from 1,200 feet above the surface is modified to within a 22-mile radius of the airport clockwise east to west, and within a 38-mile radius of the airport to the north. Controlled airspace is necessary to accommodate RNAV (GPS) standard instrument approach procedures at the airport and enhances the safety and management of IFR operations. The geographic coordinates of the airport are updated to coincide with the FAA's aeronautical database for the respective Class D and Class E airspace areas. This action also corrects the airport name in the Class D and Class E surface area airspace descriptions from Prescott, Ernest A. Love Field to Ernest A. Love Field.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Ernest A. Love Field, Prescott, AZ.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AWP AZ D Prescott, AZ [Modified]

Ernest A. Love Field, AZ
(Lat. 34°39′17″ N, long. 112°25′09″ W)

That airspace extending upward from the surface to and including 7,500 feet MSL within a 6-mile radius of Ernest A. Love Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

Paragraph 6002 Class E airspace Designated as Surface Areas.

* * * * *

AWP AZ E2 Prescott, AZ [Modified]

Ernest A. Love Field, AZ
(Lat. 34°39′17″ N, long. 112°25′09″ W)

Within a 6-mile radius of Ernest A. Love Field, and within 2 miles each side of the 222° bearing of the airport extending from the 6-mile radius to 11 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace areas designated as an extension to Class D or Class E surface area.

* * * * *

AWP AZ E4 Prescott, AZ [New]

Ernest A. Love Field, AZ
(Lat. 34°39′17″ N, long. 112°25′09″ W)

That airspace extending upward from the surface within 2 miles each side of the Ernest A. Love Field 222° bearing extending from the 6-mile radius of the airport to 11 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP AZ E5 Prescott, AZ [Modified]

Ernest A. Love Field, AZ
(Lat. 34°39′17″N, long. 112°25′09″ W)

That airspace extending upward from 700 feet above the surface within a 18.7-mile radius of the Ernest A. Love Field; that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of Ernest A. Love Field, extending clockwise from the 047° bearing of the airport to the 300° bearing of the airport, and that airspace within a 38-mile radius of the airport extending clockwise from the 300° bearing of the airport to the 047° bearing of the airport.

Issued in Seattle, Washington, on February 27, 2015.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–05709 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0869; Airspace Docket No. 14–AWP–6]

Establishment of Class E Airspace; Hazen, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at the Hazen VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Hazen, NV, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Oakland Air Route Traffic Control Center (ARTCC). This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On December 15, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E en route domestic airspace at the Hazen VORTAC, Hazen, NV (79 FR 74042). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association in support of the proposal.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Hazen VORTAC navigation aid, Hazen, NV. By this action, aircraft are contained while in IFR conditions under control of Oakland ARTCC by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and management of controlled airspace within the NAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with

prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at the Hazen VORTAC, Hazen, NV.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En route domestic airspace areas.

* * * * *

AWP NV E6 Hazen, NV [New]

Hazen VORTAC, NV

(Lat. 39°30′59″ N., long. 118°59′52″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 40°05′00″ N., long. 120°00′00″ W.; to lat. 40°27′51″ N., long. 119°37′10″ W.; to lat. 40°04′38″ N., long. 118°49′42″ W.; to lat. 39°39′28″ N., long. 117°59′55″ W.; to lat. 39°41′00″ N., long. 119°00′00″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on February 27, 2015.

Johanna Forkner,

Acting Manager, Operations Support Group Western Service Center, AJV–W2.

[FR Doc. 2015–05705 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0466; Airspace Docket No. 14–ANM–6]

Establishment of Class E Airspace; Seattle, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Seattle, WA, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle Air Route Traffic Control Center (ARTCC). This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On November 19, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E en route domestic airspace at Seattle, WA (79 FR 68807). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received on the proposal, one from the National Business Aviation Association supporting the proposal and identifying a latitude typographical error, and one by Tim Gravelle, also identifying the same latitude typographical error. Subsequent to publication, the FAA found an inadvertent omission of exclusionary language regarding the 12-mile offshore territorial limit. These errors have been corrected in this document.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at Seattle, WA. By this action, aircraft are contained while in IFR conditions under control of Seattle ARTCC by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and management of controlled airspace within the NAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative

comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Seattle, WA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En route domestic airspace areas.

* * * * *

ANM WA E6 Seattle, WA [New]

Seattle, WA

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 49°00′00″ N., long. 120°00′00″ W.; to lat. 49°00′00″ N., long. 123°00′00″ W.; to lat. 48°30′00″ N., long. 123°00′00″ W.; to lat. 48°17′08″ N., long. 123°15′16″ W.; to lat. 48°13′28″ N., long. 123°32′45″ W.; to lat. 48°17′50″ N., long. 124°00′40″ W.; to lat. 48°26′30″ N., long. 124°32′40″ W.; to lat. 48°30′00″ N., long. 124°45′00″ W.; to lat. 48°30′00″ N., long. 125°00′00″ W.; to lat. 46°15′00″ N., long. 124°30′00″ W.; to lat. 46°23′19″ N., long. 121°07′50″ W.; thence to the point of beginning, excluding that airspace beyond 12-miles of the shoreline.

Issued in Seattle, Washington, on February 27, 2015.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–05716 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0805; Airspace Docket No. 14–ANE–9]

Establishment of Class E Airspace; North Adams, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at North Adams, MA, to accommodate new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) serving Harriman-and-West Airport. This action enhances the safety and management of Instrument Flight Rules (IFR) operations for SIAPs within the National Airspace System.

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On November 26, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace at Harriman-and-West Airport, North Adams, MA, (79 FR 70477). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Y dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Harriman-and-West Airport, North Adams, MA. Controlled airspace is required to support the new RNAV (GPS) standard instrument approach procedures for Robertson Field Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Harriman-and-West Airport, North Adams, MA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANE MA E5 North Adams, MA [New]

Harriman-and-West Airport, MA
(Lat. 42°41′46″ N., long. 73°10′13″ W.)

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Harriman-and-West Airport.

Issued in College Park, Georgia, on February 27, 2015.

James H. Dickinson,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2015–05703 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0468; Airspace Docket No. 14–ANM–8]

Establishment of Class E Airspace; Bend, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Bend, OR, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Seattle Air Route Traffic Control Center (ARTCC). This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On November 19, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E en route domestic airspace at Bend, OR (79 FR 68808). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association in support of the proposal. Subsequent to publication, the FAA found an inadvertent omission of exclusionary language regarding the 12-mile offshore territorial limit. This action makes the correction.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route domestic airspace extending upward from 1,200 feet above the surface at Bend, OR. By this action, aircraft are contained while in IFR conditions under control of Seattle ARTCC by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and management of controlled airspace within the NAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Bend, OR.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En route domestic airspace areas.

* * * * *

ANM WA E6 Bend, OR [New]

Bend, OR

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 45°09′13″ N., long. 119°01′43″ W.; to lat. 43°41′51″ N., long. 120°00′19″ W.; to lat. 43°27′19″ N., long. 119°56′31″ W.; to lat. 42°50′00″ N., long. 124°50′00″ W.; to lat. 46°15′00″ N., long. 124°30′00″ W.; to lat. 46°23′19″ N., long. 121°07′50″ W.; thence to the point of beginning, excluding that airspace beyond 12-miles of the shoreline.

Issued in Seattle, Washington, on February 27, 2015.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–05704 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742, 748 and 762

[Docket No. 131018874–5199–02]

RIN 0694–AG00

Revisions To Support Document Requirements for License Applications Under the Export Administration Regulations

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

ACTION: Final rule.

SUMMARY: This rule finalizes changes to the support document requirements for license applications submitted to the Bureau of Industry and Security (BIS) and is part of BIS's retrospective regulatory review under Executive Order 13563. In addition to clarifying and streamlining the support document requirements for license applications in part 748 of the Export Administration Regulations (EAR), this final rule removes the requirement to obtain an International Import Certificate or Delivery Verification in connection with a license application and limits the requirement to obtain a Statement by Ultimate Consignee and Purchaser to exports, reexports, and transfers (in-country) of 600 Series Major Defense Equipment. Revisions to the EAR affecting BIS's participation in issuing documents for the Import Certificate and Delivery Verification system for imports into the United States will be addressed in a future final rule, as will potential substantive changes to information collections under the Paperwork Reduction Act.

DATES: This rule is effective March 13, 2015.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of National Security and Technology Transfer Controls, 202–482–4479, *patricia.muldonian@bis.doc.gov,* or Steven Emme, Office of the Assistant Secretary for Export Administration, 202–482–5491, *steven.emme@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On April 9, 2014, the Bureau of Industry and Security (BIS) published a proposed rule (79 FR 19552) (hereinafter, the ''April 9 rule'') to revise the support document requirements of the Export Administration Regulations (EAR). This proposed rule was part of BIS's retrospective regulatory review being undertaken under Executive

Order 13563, which requires each agency to ''periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' The EAR's support document requirements are largely premised on the Import Certificate/Delivery Verification (IC/DV) system. As described in the proposed rule, the IC/DV system, while intended to prevent diversion and increase awareness among participating countries of potential enforcement concerns, has limited utility today and imposes unnecessary burdens on license applicants and BIS.

To further the aims of Executive Order 13563, BIS proposed to streamline and clarify the support document requirements as well as reduce unnecessary burdens for license applicants by removing the requirement to obtain International Import Certificates (ICs) for applications and by increasing the value threshold for requiring a Statement by Ultimate Consignee and Purchaser for an application. In addition, BIS proposed to eliminate the agency's participation in issuing United States ICs, ICs with triangular transaction stamp, and DV certificates. The proposals to change BIS's participation in issuing U.S. ICs and DVs will be addressed in a subsequent final rule. In addition, any other changes that substantively affect information collection burden hour estimates under the Paperwork Reduction Act will also be addressed in the subsequent, final rule.

In response to the proposed rule, BIS received eight public comments. Generally, commenters believed that the proposed rule provided greater clarity and flexibility, streamlined requirements, and ended outdated and ineffective requirements under the IC/DV system. However, to address public comments and to further the aims of Executive Order 13563, BIS is making additional changes to the proposed rule, as described herein. This final rule changes the implementation of the IC/DV system. That system is not addressed in the Wassenaar Arrangement Initial Elements nor is there an applicable U.S. statutory requirement for the system. A summary of the public comments and changes made to the proposed rule are addressed below.

Support Document Requirements for License Applications Submitted to BIS

Elimination of Import Certificate Requirement and Changes to Requirement to Obtain Statement by Ultimate Consignee and Purchaser

The April 9 rule would have eliminated the requirement to obtain an IC in conjunction with a BIS license application, and instead proposed the imposition of a requirement to obtain a Statement by Ultimate Consignee and Purchaser for certain license applications for commodities destined for countries (other than the People's Republic of China (PRC)) or territories not in the ''Americas'' (as proposed to be defined in § 772.1). This final rule maintains the elimination of Import Certificates but also limits the scope of applications requiring a Statement by Ultimate Consignee and Purchaser.

Commenters largely supported the proposal to eliminate the requirement to obtain ICs. They stated that the proposal would eliminate an outdated, burdensome requirement that creates red tape and obstacles for U.S. exporters that are not faced by exporters in other countries. One commenter, however, disagreed and stated that some U.S. exporters and their foreign affiliates have established timely procedures for obtaining ICs. Further, the commenter stated that the IC notifies the government that items controlled for national security reasons are being imported and that the government commits to take responsibility for any subsequent exports of the items. While some U.S. exporters may have developed efficient procedures for handling the IC requirement, such procedures do not justify the imposition of a burdensome requirement that provides little utility. In addition, BIS believes that the commenter overstates the purpose of the IC requirement. The IC only notifies the government of the importing country that the national security controlled items are planned to be imported into the country. Also, it is not the role of the government to take responsibility for subsequent exports; under U.S. law, the exporter must comply with any applicable requirements for the subsequent export of items subject to the EAR or other applicable regulations.

While commenters largely supported the elimination of the IC requirement, some commenters expressed concerns about requiring a Statement by Ultimate Consignee and Purchaser for commodities controlled for national security reasons valued over $50,000 and destined for a location not in the PRC or the ''Americas.'' Three commenters stated that the proposed requirement would still be more restrictive than the International Traffic in Arms Regulations (ITAR), 22 CFR parts 120–130. The commenters stated that under the ITAR, the DSP–83 Nontransfer and Use Certificate is the equivalent support document for license applications to the Department of State's Directorate of Defense Trade Controls (DDTC), and the DSP–83 is only required for significant military equipment (SME), as defined in § 120.7 of the ITAR. Thus, for 600 series items and 9x515 spacecraft items transitioning from the USML to the CCL, the proposed support document requirements would actually be more burdensome under the EAR than the ITAR. Further, one commenter also stated that requiring a Statement by Ultimate Consignee and Purchaser would prevent industry in allied countries from optimizing procurement of U.S. equipment for ''long lead items or bulk procurement'' in advance of identifying a customer. The commenter stated that such capability is necessary for affordability and timeliness of space and military assets for U.S. allies and that imposing a more strict support document requirement than the ITAR is inconsistent for items that have been deemed to not require the strictest controls of the ITAR.

In order to address these concerns, commenters provided different suggestions. Two commenters suggested requiring a Statement by Ultimate Consignee and Purchaser for items on the Wassenaar Very Sensitive List. One commenter suggested the requirement be tied to countries in Country Group D:5 and that the value threshold be raised to $1 million. Also, one commenter suggested amending the scope of locations subject to the requirement by pointing out that many allied countries, such as those in NATO, would be subject to the requirement as they are not part of the exclusion for the ''Americas.''

BIS agrees that the EAR should not impose additional or more burdensome requirements than the ITAR, and has repeated this assertion in many **Federal Register** publications pertaining to Export Control Reform (*see e.g.,* Proposed Revisions to the Export Administration Regulations: Implementation of Export Control Reform; Revisions to License Exceptions After Retrospective Regulatory Review, 77 FR 37524 (June 21, 2012); Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform, 78 FR 22660 (Apr. 16, 2013)).

The support document requirements should not hinder the benefits articulated under ECR by imposing more strict requirements for items moving to the EAR that do not warrant the controls of the ITAR. In addition, non-munitions items subject to the EAR should not have more onerous support document requirements than those items providing a critical military or intelligence capability that are listed on the USML. Consequently, in addition to removing the IC requirement, BIS is amending § 748.11(a)(1) to limit the requirement to obtain a Statement by Ultimate Consignee and Purchaser to commodities that are ''600 Series Major Defense Equipment.'' BIS agrees with the approach stated by one commenter that the requirement should match the ITAR in focusing on the type of item rather than situational parameters, such as value. BIS believes that using ''600 Series Major Defense Equipment'' best follows this approach and avoids requiring greater support document requirements for items subject to the EAR than items subject to the ITAR.

With this change to the requirement for providing a Statement by Ultimate Consignee and Purchaser, BIS is also eliminating the proposed $50,000 value threshold and the exclusion for locations in the ''Americas.'' All commodities that are ''600 Series Major Defense Equipment,'' as defined in § 772.1, will require a Statement by Ultimate Consignee and Purchaser to any destination other than the PRC, regardless of value. However, BIS will maintain discretion to require applicants to obtain a Statement by Ultimate Consignee and Purchaser for a license application that would not otherwise require one. Also, BIS may add, as a condition on a license, a requirement to obtain a Statement by Ultimate Consignee and Purchaser or a purchase order prior to shipment. Such requests may be common for license applications involving items controlled for Nuclear Nonproliferation, Chemical and Biological Weapons, or Missile Technology reasons to countries in Country Group D:2, D:3, or D:4, respectively. Additional changes to the proposed rule on the requirement to obtain a Statement by Ultimate Consignee and Purchaser are reflected below under changes to § 748.11.

Because this final rule removes the requirement to obtain an IC in conjunction with a license application submitted to BIS, this final rule also removes the requirement to obtain a DV in conjunction with a license application. This is reflected in the removal of text in prior § 748.13 and Supplement No. 4 to part 748. BIS did not receive any public comments on this topic.

Section 748.6—General Instructions for License Applications

The April 9 rule proposed to revise § 748.6(a) to provide greater clarity on general instructions for license applications and support documents, reference the specific requirements for support documents in proposed §§ 748.9 through 748.13, and refer to a new chart in Supplement No. 4 to part 748. BIS did not receive any public comments on § 748.6, and this final rule adopts that language with one exception. Because this final rule removes the proposed chart in Supplement No. 4 (as further explained herein), the sentence referencing the chart has been deleted.

Section 748.9—General Instructions for Support Documents

In the proposed rule, § 748.9 described the scope of support document requirements for license applications; the type of applications requiring a support document (*i.e.,* PRC End-User Statement, Statement by Ultimate Consignee and Purchaser, or Firearms Convention (FC) Import Certificate); exceptions to such requirements; content requirements; recordkeeping requirements; and other general requirements. This final rule largely adopts the description set forth in § 748.9 with additional modifications based on public comments and other changes, as described below.

Two commenters requested that BIS insert a clarifying note that applicants are not required to obtain support documents from end users. BIS did not accept this recommendation because the proposed rule did not include a requirement that applicants must obtain a support document from end users. However, if an end user is also an ultimate consignee on the license application, then that end user would be subject to applicable support document requirements. In addition, BIS notes that the agency may request additional information from any party listed on the license application, including end users.

Two commenters recommended that BIS delete the phrase, ''for certain transactions'' from proposed § 748.9(b)(1), which described the support document requirements for license applications involving the PRC. BIS does not accept this recommendation as not all license applications involving the PRC require a PRC End-User Statement. Thus, the qualifying phrase is needed. With respect to the scope of the requirements for a Statement by Ultimate Consignee and Purchaser and for an FC Import Certificate, two commenters recommended that the Organization of American States (OAS) be made new Country Group A:7 and that ''Americas'' be replaced with ''destinations not identified in Country Group A:7.'' BIS rejects these recommendations as the term ''Americas'' is removed under this final rule due to the changes to requirements for the Statement by Ultimate Consignee and Purchaser, as described above. Further, since the OAS is only used in conjunction with one requirement under the EAR, BIS believes it is inappropriate to make it a Country Group so this final rule continues to list the countries in § 748.12.

One commenter pointed out that proposed § 748.9(b)(1)–(b)(3) used the term ''ultimately destined'' with respect to the PRC End-User Statement and Statement by Ultimate Consignee and Purchaser, but only used ''destined'' for the FC Import Certificate. Under this final rule, this wording no longer appears in new § 748.9(b) because the description for the requirements to obtain a support document has been further streamlined. However, this final rule only uses ''destined'' in §§ 748.10(a), 748.11(a), and 748.12(a) when describing the requirements for the three support documents.

One commenter stated that the final rule should remove any ambiguity over whether support documents must be submitted as part of the license application, and the commenter cited to differing requirements in § 748.9(f), (g), and (i). Additionally, with respect to PRC End-User Statements, two commenters recommended that proposed § 748.10(d)(1) be revised to allow for applications requiring a PRC End-User Statement to be submitted to BIS prior to the PRC's issuance of the statement, and condition the license such that no items may be shipped under the license until the statement is obtained by the applicant.

BIS agrees that the final rule should remove ambiguity on this topic, but BIS only partially accepts the recommendation regarding the PRC End-User Statement. This final rule adds new § 748.9(e)(1), which applies to all support documents required under the EAR. Unless BIS informs an applicant that a support document must be submitted with a specific application, the applicant may submit an application prior to receipt of a copy of the support document. However, rather than conditioning the license, new § 748.9(e)(1) provides that the license holder may not ship items authorized on the license until

obtaining a copy of the support document. Thus, for those applications BIS believes require support documentation in addition to that specified in part 748, BIS will have discretion to consider a support document contemporaneous with the license application. For all other applications, applicants may obtain the support document after submitting the application. However, applicants may not ship prior to receipt of a copy of the support document, and they must retain the original or a copy of the document in conformance with the recordkeeping requirements of the EAR (see further below for a discussion on allowing retention of copies).

One commenter noted that there was no exception to the support document requirements when the U.S. Government is an end user in a foreign country in proposed § 748.9(d)(1). BIS agrees that for transactions for which License Exception GOV is not available, the U.S. Government should not have to supply a support document. Therefore, this final rule adds a new exception in new § 748.9(c)(1) for when the purchaser or ultimate consignee is an ''Agency of the United States Government,'' as defined in § 740.11(b)(1). If another party listed on the license application is an ultimate consignee or purchaser and does not qualify for an exception listed under new § 748.9(c)(1), then such party is still subject to any applicable support document requirements.

One commenter requested guidance on a situation where a support document may be required under proposed § 748.9(d)(1)(i), which described the exception to support document requirements for foreign governments excluding the PRC. Under this final rule, if a license application involving the export of 600 series MDE lists a non-governmental entity as a purchaser and a foreign government agency (excluding an agency of the PRC) as an ultimate consignee and end user, then a Statement by Ultimate Consignee and Purchaser would be required from the purchaser but not the ultimate consignee. One commenter questioned whether the English translation requirement for proposed § 748.9(e)(1), should be included in that section. BIS confirms that the English translation requirement should be in § 748.9 as the requirement applies to all support documents.

For proposed § 748.9(f)(1), two commenters stated that obtaining an electronic copy of a support document should suffice and thus the requirement to obtain an original support document should be removed. BIS agrees and has removed references to obtaining an original version of the support document throughout this final rule. Two commenters recommended striking the reference to ''import certificate'' in proposed § 748.9(h). Proposed § 748.9(h) applied to the grace period for complying with the support document requirements following a regulatory change. Given that this final rule removes the requirement to obtain an IC for any license application, BIS is changing the reference from ''import certificate'' to ''FC Import Certificate'' since future regulatory changes may affect the requirements for that support document.

To further streamline and clarify the support document requirements, BIS is making additional changes to this section. First, since the final rule further simplifies the support document requirements, BIS eliminated much of the text in new § 748.9(b) to eliminate redundancy. The specific requirements triggering a support document requirement are now fully described in the applicable section applying to the specific support document. Also, this final rule adds a new note to § 748.9(b) to make more clear that BIS may request that an applicant obtain a support document for any application.

This final rule also removes the distinction for support document requirements applying to reexport and in-country transfer license applications. This change simplifies the requirements, and given the changes for ICs and Statements by Ultimate Consignee and Purchaser described above, the only impact would be to require a Statement by Ultimate Consignee and Purchaser for 600 series MDE destined for a country not in Country Group D:1 or E:1. New § 748.9(d)(2)(i), which addresses responsibility for full disclosure, has been revised from the proposed rule. As proposed, that provision indicated that support documents do not have to be submitted to BIS as part of the application unless the applicant is informed by BIS to do so. In addition to the revisions described above, that section has also been updated to provide that information contained in a support document obtained after submission of a license application and not submitted to BIS as part of the application cannot be construed as modifying the specific information supplied in a license application or a license. This change is made in accordance with BIS's policy on license conditions, which began on December 8, 2014. New § 748.9(h)(2) has been revised to indicate BIS retains discretion to require additional information for applications filed during the 45-day grace period for complying with the support document requirements.

As part of the simplification effort, this final rule also harmonizes certain support document requirements that varied slightly among the documents. New § 748.9(e)(2) describes the requirements to follow in SNAP–R for license applications requiring a support document, regardless of whether BIS has informed the applicant that the document must be submitted as part of the application. Further, new § 748.9(f) describes the recordkeeping requirements for all support documents, and this final rule removes references to original document requirements, random sampling of documents (which is redundant of other sections of the EAR that apply to BIS's ability to request documents), and returning support documents to foreign importers (which is now obsolete due to the ability to retain copies).

Section 748.10—PRC End-User Statement

The proposed rule described the requirements for obtaining a PRC End-User Statement under § 748.10. This final rule largely adopts the requirements under the proposed rule, with the following changes described below.

Two commenters stated that it was unclear whether the value threshold requirement for any commodity requiring a license for any reason on the Commerce Control List (CCL) applies to one unit, line item value, or total license value in proposed § 748.10(a)(3). That value threshold requirement applies to the aggregate value for all commodities listed in the application that require a license to the PRC based on any reason on the CCL. To make this requirement clearer, BIS is revising that description, under new § 748.10(a)(3), to indicate that the license application includes ''any commodity(ies) requiring a license to the PRC for any reason on the Commerce Control List, and the total value of such commodity(ies) requiring a license exceeds $50,000.''

One commenter recommended removing the last sentence in proposed § 748.10(b)(1) that required obtaining an original PRC End-User Statement. As described above, BIS accepts this comment throughout this final rule and has revised the text accordingly. Two commenters suggested putting the contact information for the PRC's Ministry of Commerce (MOFCOM) on the BIS Web site, which would be referred to by the EAR. BIS has added a reference to the BIS Web site in new

§ 748.10(b)(2) to obtain the current contact information for MOFCOM.

Two commenters stated that proposed § 748.10(d)(5), which required that the first application used in conjunction with a PRC End-User Statement be submitted within six months from the date the statement was signed does not take into account the impact of multi-year programs and MOFCOM's reluctance to issue new statements until all items identified in the original statement have been shipped. In place of the six-month validity period, the commenters requested that BIS use a validity period based on whether the quantities identified on the statement have been shipped. BIS accepts this recommendation, which is addressed in new § 748.10(d)(3). To reflect this change, BIS has also amended new § 748.10(d)(1), which describes the requirements for using a PRC End-User Statement for multiple applications.

One commenter recommended removing the requirement under proposed § 748.10(e)(1) to obtain an original support document, and two commenters suggested eliminating the requirement under proposed § 748.10(e)(2), which described the requirements for returning a PRC End-User Statement to the foreign importer. As previously addressed, BIS is removing the requirement to obtain an original support document, which makes the text in proposed §§ 748.10(e)(1)–(e)(2) and 748.9(f)(2) obsolete. Thus, this final rule removes those paragraphs. All recordkeeping requirements for PRC End-User Statements, as well as the other support documents, are now reflected in new § 748.9(f).

To further streamline and clarify the support document requirements, BIS is making additional changes to this section. First, all information regarding corrections, additions, or alterations has been moved to new § 748.10(d)(2), including a revised requirement that if the PRC End-User Statement contains any inaccuracies, then the applicant should note any necessary corrections in a statement on file with the applicant rather than submitting such a statement with the application. In addition, the requirement to provide a certification on quantities of items in Block 24 of the application when using a PRC End-User Statement with multiple applications has been removed. This requirement is redundant and unnecessary. Also, this rule revises the wording in new § 748.10(a)(1) and (a)(2) to clarify that the requirement for a PRC End-User Statement applies to 6A003 cameras and computers if there are any license requirements under the EAR for those commodities to the PRC, not just for reasons on the Commerce Control List. This revised text conforms to the prior requirements for PRC End-User Statements. Other changes to new § 748.10, including to recordkeeping and retention of original documents, are addressed above under new § 748.9.

Section 748.11—Statement by Ultimate Consignee and Purchaser

The proposed rule put forward new requirements for obtaining a Statement by Ultimate Consignee and Purchaser. The proposed rule increased the value threshold for requiring a Statement by Ultimate Consignee and Purchaser from $5,000 to $50,000, and it proposed to require the statement in place of an IC for most license applications that currently require an IC. As addressed above, commenters expressed concerns that these changes would make the support document requirements of the EAR more burdensome than the ITAR. Consequently, this final rule limits the requirement to obtain a Statement by Ultimate Consignee and Purchaser to exports, reexports, or in-country transfers of ''600 Series Major Defense Equipment,'' regardless of value and destination (excluding the PRC). In addition to the comparison to the ITAR's support document requirements, commenters also raised additional concerns.

One commenter suggested that the permissive use of a Statement by Ultimate Consignee and Purchaser for the PRC, as described in proposed § 748.11(a)(2), be moved to § 748.10 so that all support document requirements pertaining to the PRC reside in one section. While BIS understands the concern, the agency did not accept this recommendation because the support document requirements are organized by document rather than by destination. However, this final rule adds a new note to new § 748.10(a) to provide a cross-reference to new § 748.11(a)(2).

Two commenters requested clarification or examples on proposed Note 2 to § 748.11(a). That proposed note, which is retained in this final rule, states that BIS has discretion to require a Statement by Ultimate Consignee and Purchaser for an application even though the EAR would not normally require one. For example, under this final rule, BIS may require a statement for an application not involving the PRC for items that are not ''600 Series Major Defense Equipment.'' BIS may make this request when additional information is needed to help verify the bona fides of a party involved in the transaction.

One commenter expressed concerns regarding proposed § 748.11(b)(5)(iii), which, *inter alia,* requires that the consignee and/or purchaser ''promptly send a new statement to the applicant if changes in the facts or intentions contained in the statement(s) occur after the statement(s) have been forwarded to the applicant.'' The commenter stated it was unclear which party is responsible for reporting changes to the license applicant, especially if the changes are a result of the actions of a different party involved in the transaction. BIS notes that an individual party is responsible for ensuring that its representations are true and correct to the best of the party's knowledge. Further, all parties participating in a transaction subject to the EAR must comply with the EAR, including the requirement that a party not proceed with a transaction with knowledge that a violation has occurred or is about to occur as a result of actions by another party.

Two commenters recommended moving proposed § 748.11(c), which describes the content requirements of the statement, to a new supplement to make § 748.11 easier to read. BIS accepts this recommendation and moved the information that was in proposed § 748.11(c) to newly revised Supplement No. 3 to part 748.

One commenter stated that the Form BIS–711 and the information required for a letter on company letterhead vary in the following ways: The letter allows for naming any country while the BIS–711 limits action to a single country (the country of residence of the ultimate consignee); the letter requires indicating whether the Statement by Ultimate Consignee and Purchaser is for a single transaction or multiple transactions while the BIS–711 does not require this; the letter requires identifying the name of the license applicant while the BIS–711 does not; and the letter does not require naming a party that assisted in preparing the letter while the BIS–711 does so in block 5. With respect to the country scope of the letter versus the BIS–711, BIS notes that the BIS–711 is not limited to a single country in that boxes B and D under block 2 allow for the identification of other countries, so BIS believes no changes are necessary to either the letter or BIS–711 requirements. The additional issues identified by the commenter will be addressed in a different rule. BIS will evaluate these concerns as part of the agency's separate review of Information Collection 0694–0021 under the Paperwork Reduction Act, which authorizes BIS to collect the information described in § 748.11. Any substantive changes to Information Collection 0694–0021 will be finalized under an additional rule.

Two commenters stated that the validity period for a Statement by Ultimate Consignee and Purchaser to be used for multiple license applications should be increased from two years to four years, which would correlate with the new license validity period in the EAR. BIS accepts this recommendation, which is reflected in new § 748.11(d)(1)(ii) and Supplement No. 3 to part 748. One commenter also suggested that the name ''Statement by Ultimate Consignee and Purchaser'' be changed to ''Recipient Statement'' to better identify the appropriate parties to make the relevant representations on the document. BIS does not accept this recommendation as part of this final rule. While using the term ''recipient'' would provide greater flexibility, it may also increase ambiguity since ''recipient'' is not a defined term, unlike both ''ultimate consignee'' and ''purchaser.'' BIS will, however, monitor the effects this final rule will have on support document requirements and will re-evaluate if further clarifications or changes are warranted.

To further streamline and clarify the support document requirements, BIS is making additional changes to this section. First, the term ''sub-assemblies'' has been replaced with ''components'' under new § 748.11(a)(2) since ''components'' is a defined term in part 772 and reflects the intent of the scope of ''sub-assemblies.'' Also, new § 748.11(d) has been revised to extend the validity period by allowing an applicant to submit the first license application within one year from the date the statement was signed rather than the prior six months. This change reflects the increased license validity period for BIS licenses and DDTC's practice of allowing purchase orders for DSP–5 licenses to be used within one year.

Section 748.12—Firearms Convention Import Certificate

The proposed rule made no substantive changes to the scope of the support document requirements for firearms and related commodities, but it did propose changing certain submission requirements to recordkeeping requirements and clarifying the name of the support document as a Firearms Convention (FC) Import Certificate. BIS did not receive any public comments specific to the FC Import Certificate requirements, and this final rule largely adopts the proposed requirements in § 748.12, as well as references to the revised name in § 742.17. However, to further clarify and streamline the proposed rule, BIS is making additional changes in this final rule.

This final rule revises new § 748.12(b)(1) to reflect that obtaining a copy of the FC Import Certificate or equivalent official document is permissible and that the application may be submitted prior to receipt of the original or copy. New § 748.12(b)(2) has been revised to incorporate text on the procedure to follow if the government of the importing country will not issue a document; this information was previously in proposed § 748.12(d)(1)(ii). New § 748.12(d)(2) has been revised to incorporate similar wording in prior sections addressing alterations, and new § 748.12(d)(3) has been revised to more closely harmonize, to the extent possible, the validity period on an FC Import Certificate (or equivalent official document) to that of a Statement by Ultimate Consignee and Purchaser. Unless the Certificate or equivalent official document has an expiration date, the new validity period will be four years rather than the prior limit of one year. Multiple license applications may be submitted using the same Certificate or equivalent official document so long as the document is still valid.

Section 748.13—Granting of Exceptions to the Support Document Requirements

The proposed rule suggested moving the information on granting exceptions to the support document requirements into § 748.13 and made no substantive changes to the existing text, which was previously in § 748.12(c) and (d). One commenter believed that the EAR's requirements for granting an exception are too onerous, and two commenters suggested replacing the process with a requirement for the applicant to keep a letter on file or provide such letter with the application describing why a required support document could not be obtained. BIS believes that a recordkeeping requirement would not be sufficient for utilizing an exception. However, this final rule revises new § 748.13 to streamline the process by requiring that information supporting the request be in or referred to in Block 24 of the application. Thus, a separate letter is not required. Additionally, this final rule revises new § 748.13 to give the agency greater discretion on adjudicating such requests.

Additional Public Comments on Support Document Requirements for License Applications and Additional Conforming Changes

Two commenters believed that the table in proposed Supplement No. 4 to part 744, which provided informal guidance on support document requirements, was confusing; one commenter believed that the proposed table was helpful. Because of changes described above to the requirements for obtaining a Statement by Ultimate Consignee and Purchaser, BIS believes that the support document requirements are sufficiently clear without the need for the table. Thus, this final rule removes the proposed table.

One commenter requested that BIS clarify the definition of ''ultimate consignee'' since it affects which party must fill out the Statement by Ultimate Consignee and Purchaser. The commenter further proposed a new definition for the term. BIS does not accept this comment as it is outside the scope of the proposed rule. The proposed changes to the support document requirements were premised on the existing definition of ''ultimate consignee.'' Moreover, any changes to the definition of that term should go through the proposed rulemaking process. Accordingly, at this time, BIS does not believe that such a proposal is warranted.

One commenter recommended that BIS add and define the term ''support document'' in part 772 to avoid inconsistency with the existing definition of ''export control document.'' BIS does not accept this recommendation. Support documents already fall under the definition of ''export control document,'' and BIS believes that new §§ 748.6(a)(3) and 748.9(a) provide sufficient guidance to applicants on the use of the term ''support documents.''

Finally, due to the removal of Import Certificate and Delivery Verification requirements, as well as the revised name for FC Import Certificates, this rule finalizes the references to support document names in § 762.2.

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. 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, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is part of BIS's retrospective regulatory review being undertaken under Executive Order 13563. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. 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 OMB control number. This final rule affects two collection numbers: Statement by Ultimate Consignee and Purchaser (0694–0021) and Import Certificates And End-User Certificates (0694–0093).

This final rule amends the requirements for support documents required in conjunction with a license application. Collection number 0694–0093 addresses Import Certificates and End-User Certificates, changes to Import Certificates and End-User Certificates, exception requests to Import Certificates and End-User Certificates, Delivery Verifications, exception requests to Delivery Verifications, and related recordkeeping. This final rule eliminates the requirement for obtaining a Delivery Verification in conjunction with a license application submitted to BIS. This results in an annual reduction in burden of 361 hours for Delivery Verifications and 0.5 hours for Delivery Verification exception requests. Also, this rule eliminates the requirement to obtain an Import Certificate in conjunction with a license application. This change results in the reduction of the following annual burden hour estimates: 354.5 hours for preparing the Import Certificate, 23.6 hours for recordkeeping related to the Import Certificate, 99 hours for changes to Import Certificates, and 7 hours for Import Certificate exception requests.

The changes to support documents required in conjunction with a license application also impact collection number 0694–0021, which addresses the Statement by Ultimate Consignee and Purchaser. This final rule limits the requirement to obtain a Statement by Ultimate Consignee and Purchaser to license applications involving ''600 Series Major Defense Equipment,'' as defined in part 772 of the EAR. Since Export Control Reform was initially implemented in October 2013, BIS has not received an application to export, reexport, or transfer (in-country) ''600 Series Major Defense Equipment.'' Therefore, BIS estimates this final rule will result in one application per year requiring a Statement by Ultimate Consignee and Purchaser. Based on the aggregate number of license applications in SNAP–R that have the entry for ''Statement by Ultimate Consignee and Purchaser/BIS 711'' checked, and those applications BIS believes were mistakenly checked as ''Import Certificate or End User Certificate'' but in fact were also Statements by Ultimate Consignee and Purchaser due to the destination of the application, BIS believes the changes in this final rule will decrease the burden hours measured under collection number 0694–0021 by approximately 1160.5 hours.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare an initial regulatory flexibility analysis (IRFA) for any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute. However, under section 605(b) of the RFA, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the RFA does not require the agency to prepare a regulatory flexibility analysis. BIS does not collect data on the size of entities that apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be affected by this rule, it acknowledges that this rule would affect some unknown number by reducing the burden of having to obtain certain support documents for certain license applications. Therefore, the impact on any affected small entities will be wholly positive. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that this final rule, will not have a significant impact on a substantial number of small entities. No comments were received on the certification and therefore no regulatory flexibility analysis is required. Pursuant to 5 U.S.C. 553(d)(1) good cause exists to waive the otherwise applicable 30 day delay in effectiveness. Because the information obtained through the pertinent support documents is collected elsewhere, there is no need for regulated entities to come into compliance with any regulatory requirements. Furthermore, there is a strong public interest in making these changes. The information contained in the support documents is collected in the license applications themselves, so there is no government or public interest in a duplicative collection. In addition, this rule decreases the burden on the regulated parties. A primary goal of the President's Export Control Reform Initiative is that the transition to jurisdiction under BIS should be no more burdensome under the EAR than the ITAR. However, under the existing regulations, the EAR's support document requirements are more restrictive than the ITAR, which control articles that provide the United States with a critical military or intelligence advantage or otherwise warrant more restrictive controls. There is no need for items subject to the EAR to have more restrictive requirements than defense articles under the ITAR. Indeed, any ongoing requirement that these documents be collected would undermine public policy goals.

There is also a public interest in moving this process along to ensure that entities that are transitioning from being regulated by the ITAR to being regulated by the EAR are not temporarily burdened by having to comply with a requirement that they did not previously have to comply with under the ITAR. For all these reasons, BIS finds good cause to waive the 30 day delay in effective date and implement this rule upon publication in the **Federal Register**.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 748

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

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information,

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 742—[AMENDED]

■ 1. The authority citation for part 742 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; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014).

■ 2. Section 742.17 is amended by:

■ a. Revising the last sentence of paragraph (a);

■ b. Removing ''Import Certificate'' and adding in its place ''FC Import Certificate'' in paragraph (b); and

■ c. Revising paragraph (g), to read as follows:

§ 742.17 Exports of firearms to OAS member countries.

* * * * *

(a) * * * Licenses will generally be issued on a Firearms Convention (FC) Import Certificate or equivalent official document, satisfactory to BIS, issued by the government of the importing OAS member country.

* * * * *

(g) *Validity period for licenses.* Although licenses generally will be valid for a period of four years, your ability to ship items that require an FC Import Certificate or equivalent official document under this section may be affected by the validity of the FC Import Certificate or equivalent official document (see § 748.12(d)(4) of the EAR).

PART 748—[AMENDED]

■ 3. The authority citation for part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *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 748.6 is amended by revising paragraph (a) to read as follows:

§ 748.6 General instructions for license applications.

(a) *Instructions.* (1) General instructions for filling out license applications are in Supplement No. 1 to this part.

(2) License applications may require additional information due to the type of items requested in the application or the characteristics of the transaction. Special instructions for applications requiring such additional information are listed in § 748.8 and described fully in Supplement No. 2 to this part.

(3) License applications may also require additional information for evaluation of the parties in the transaction. Special instructions for applications requiring such additional information are listed in §§ 748.9 through 748.13.

* * * * *

■ 5. Section 748.9 is revised to read as follows:

§ 748.9 Support documents for evaluation of foreign parties in license applications.

(a) *Scope.* License applicants may be required to obtain support documents concerning the foreign parties and the disposition of the items intended for export, reexport, or transfer (in-country). Some support documents are issued by foreign governments, while other support documents are signed and issued by the purchaser and/or ultimate consignee. For support documents issued by foreign governments, any foreign legal restrictions or obligations exercised by the government issuing the support document are in addition to the conditions and restrictions placed on the transaction by BIS. However, the laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of a support document by a foreign government.

(b) *Requirements to obtain support documents for license applications.* Unless an exception in paragraph (c) of this section applies, a support document is required for certain license applications for the People's Republic of China (PRC) (see §§ 748.10 and 748.11(a)(2)), ''600 Series Major Defense Equipment'' (see § 748.11), and firearms and related commodities to member countries of the Organization of American States (see § 748.12).

Note 1 to paragraph (b): On a case-by-case basis, BIS may require license applicants to obtain a support document for any license application.

Note 2 to paragraph (b): For End-Use Certificate requirements under the Chemical Weapons Convention, see § 745.2 of the EAR.

(c) *Exceptions to requirements to obtain support documents.* (1) Even if a support document requirement is imposed by paragraph (b) of this section, no support document is required for any of the following situations:

(i) The ultimate consignee or purchaser is an ''Agency of the United States Government'' (see § 740.11(b)(1) for definition). If either the ultimate consignee or purchaser is not an agency of the United States government, however, a support document may still be required from the non-U.S. governmental party;

(ii) The ultimate consignee or purchaser is a foreign government(s) or foreign government agency(ies), other than the government of the People's Republic of China. To determine whether the parties in a transaction meet the definition of ''foreign government agency,'' refer to the definition contained in part 772 of the EAR. If either the ultimate consignee or purchaser is not a foreign government or foreign government agency, however, a support document may still be required from the nongovernmental party;

(iii) The license application is filed by, or on behalf of, a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, U.S. Agency for International Development, for export to a member agency in the foreign country;

(iv) The license application is submitted for commodities for temporary exhibit, demonstration, or testing purposes;

(v) The license application is submitted for commodities controlled for short supply reasons (see part 754 of the EAR);

(vi) The license application is submitted under the Special Comprehensive License procedure described in part 752 of the EAR;

(vii) The license application is submitted for software or technology; or

(viii) The license application is submitted for encryption commodities controlled under ECCN 5A002 or 5B002.

(2) BIS will consider granting an exception to the requirement for obtaining a support document where the requirements cannot be met due to circumstances beyond the applicant's control. An exception will not be granted contrary to the objectives of the U.S. export control laws and regulations. Refer to § 748.13 of this part for specific instructions on procedures for requesting an exception.

(d) *Content of support documents.* In addition to specific requirements described for each support document in §§ 748.10, 748.11, and 748.12, the use

and submission of support documents must comply with the following requirements.

(1) *English translation.* All abbreviations, coded terms, or other expressions on support documents having special significance in the trade or to the parties to the transaction must be explained on an attachment to the document. Documents in a language other than English must be accompanied by an attachment giving an accurate English translation, either made by a translating service or certified by the applicant to be correct. Explanations or translations should be provided on a separate piece of paper, and not entered on the support documents themselves.

(2) *Responsibility for full disclosure.* (i) The license application covering the transaction discloses all facts pertaining to the transaction. Information contained in a support document obtained after submission of a license application and not submitted to BIS as part of the application cannot be construed as extending or expanding or otherwise modifying the specific information supplied in a license application or license issued by BIS. The authorizations contained in the resulting license are not extended by information contained in the support document regarding reexport from the country of destination, transfer (in-country), or any other facts relative to the transaction that are not reported on the license application.

(ii) Misrepresentations, either through failure to disclose facts, concealing a material fact, or furnishing false information, may subject responsible parties to administrative or criminal action by BIS.

(iii) In obtaining the required support document, the applicant is not relieved of the responsibility for full disclosure of any other information concerning the ultimate destination, end use, or end user of which the applicant knows, even if inconsistent with the representations made in the applicable support document. The applicant is responsible for promptly notifying BIS of any change in the facts contained in the support document that comes to the applicant's attention.

(e) *Procedures for using support document with license application.*—(1) *Timing for obtaining support document.* When a support document is required for a license application in §§ 748.10, 748.11, and 748.12, license applicants may submit the application prior to receipt of a copy of the support document, unless BIS informs the applicant that the support document must be submitted with the application. However, if the license is granted, items authorized on the license may not be exported, reexported, or transferred (in-country) until the license holder obtains a copy of the support document.

(2) *Information necessary for license application.* When a support document is required for a license application, applicants should mark the appropriate box in Block 7, regardless of whether a copy of the support document is on file with the applicant at the time of submission.

(f) *Recordkeeping provisions.* License applicants must retain on file the original or a copy of any support document issued in support of a license application submitted to BIS. All recordkeeping provisions in part 762 of the EAR apply to this requirement.

(g) *Effect on license application review.* BIS reserves the right in all respects to determine to what extent any license will be issued covering items for which a support document has been issued. If a support document was issued by a foreign government, BIS will not seek or undertake to give consideration to recommendations from the foreign government as to the action to be taken on a license application. A support document will be only one of the factors upon which BIS will base its licensing action, since end uses and other considerations are important factors in the decision making process.

(h) *Grace period for complying with requirements following regulatory change.* (1) Whenever the requirement for a PRC End-User Statement, Statement by Ultimate Consignee or Purchaser, or Firearms Convention Import Certificate is imposed or extended by a change in the regulations, the license application need not conform to the new support documentation requirements for a period of 45 days after the effective date of the regulatory change published in the **Federal Register**.

(2) License applications filed during the 45-day grace period may require the submission of evidence available to the applicant that will support representations concerning the ultimate consignee, ultimate destination, and end use, such as copies of the order, letters of credit, correspondence between the applicant and ultimate consignee, or other documents received from the ultimate consignee. If such evidence is required, applicants must also identify the regulatory change (including its effective date) that justifies exercise of the 45-day grace period.

■ 6. Section 748.10 is revised to read as follows:

§ 748.10 People's Republic of China (PRC) End-User Statement.

(a) *Requirement to obtain document.* Unless the provisions of §§ 748.9(c) or 748.11(a)(2) apply, a PRC End-User Statement is required for license applications including any of the following commodities destined for the PRC:

(1) Cameras classified under ECCN 6A003 requiring a license to the PRC for any reason, and the value of such cameras exceeds $5,000;

(2) Computers requiring a license to the PRC for any reason, regardless of the value of the computers; or

(3) Any commodity(ies) requiring a license to the PRC for any reason on the Commerce Control List, and the total value of such commodity(ies) requiring a license exceeds $50,000.

Note 1 to paragraph (a): If an order meets the commodity(ies) and value requirements listed above, then a PRC End-User Statement is required. An order may not be split into multiple license applications solely to avoid a requirement to obtain a PRC End-User Statement.

Note 2 to paragraph (a): If an order includes both items that do require a license to the PRC and items that do not require a license to the PRC, the value of the latter items should not be factored into the value thresholds described above. Also, if a license application includes 6A003 cameras and other items requiring a license to the PRC, then the value of the 6A003 cameras should be factored into the value threshold described in paragraph (a)(3).

Note 3 to paragraph (a): See § 748.11(a)(2) for permissive use of a Statement by Ultimate Consignee and Purchaser in place of a PRC End-User Statement.

Note 4 to paragraph (a): On a case-by-case basis, BIS may require license applicants to obtain a PRC End-User Statement for a license application that would not otherwise require a PRC End-User Statement under the requirements of paragraph (a) of this section.

(b) *Obtaining the document.* (1) If a PRC End-User Statement is required for any reason under paragraph (a) of this section, then applicants must request that the importer obtain a PRC End-User Statement for all items on a license application that require a license to the PRC for any reason listed on the CCL.

(2) PRC End-User Statements are issued and administered by the Ministry of Commerce; Department of Mechanic, Electronic and High Technology Industries; Export Control Division I; Chang An Jie No. 2; Beijing 100731 China; Phone: (86)(10) 6519 7366 or 6519 7390; Fax: (86)(10) 6519 7543; *http://zzyhzm.mofcom.gov.cn/.* See the BIS Web site (*www.bis.doc.gov*) for the current contact information.

(c) *Content of the document.* (1) The license applicant's name must appear on the PRC End-User Statement submitted to BIS as the applicant, supplier, or order party.

(2) License applicants must ensure that the following information is included on the PRC End-User Statement signed by an official of the Department of Mechanic, Electronic and High Technology Industries, Export Control Division I, of the PRC Ministry of Commerce (MOFCOM), with MOFCOM's seal affixed to it:

(i) Title of contract and contract number (optional);

(ii) Names of importer and exporter;

(iii) End user and end use;

(iv) Description of the commodity, quantity and dollar value; and

(v) Signature of the importer and date.

Note to paragraph (c): The license applicant should furnish the consignee with the commodity description contained in the CCL to be used in applying for the PRC End-User Statement. It is also advisable to furnish a manufacturer's catalog, brochure, or technical specifications if the commodity is new.

(d) *Procedures for using document with license application.* (1) *Using a PRC End-User Statement for multiple applications.* A PRC End-User Statement may cover more than one purchase order and more than one item. Where the Statement includes items for which more than one license application will be submitted, the applicant should ensure that the total quantities on the license application(s) do not exceed the total quantities shown on the PRC End-User Statement.

(2) *Alterations.* After a PRC End-User Statement is issued by the Government of the People's Republic of China, no corrections, additions, or alterations may be made on the certificate by any person. Any necessary corrections, additions, or alterations should be noted by the applicant in a separate statement on file with the applicant.

(3) *Validity period.* A PRC End-User Statement is valid until the quantities of items identified on the Statement have been shipped.

■ 7. Section 748.11 is revised to read as follows:

§ 748.11 Statement by Ultimate Consignee and Purchaser.

(a) *Requirement to obtain document.* (1) *General requirement for all countries excluding the People's Republic of China (PRC).* Unless an exception in § 748.9(c) or paragraph (a)(3) of this section applies, a Statement by Ultimate Consignee and Purchaser is required if the license application includes ''600 Series Major Defense Equipment'' (600 series MDE) requiring a license for any reason on the Commerce Control List and such items are destined for a country other than the PRC.

(2) *Permissive substitute of Statement by Ultimate Consignee and Purchaser in place of PRC End-User Statement.* The requirement to obtain a support document for license applications involving the PRC is generally determined by § 748.10(a) of the EAR. However, a Statement by Ultimate Consignee and Purchaser may be substituted in place of a PRC End-User Statement when the commodities to be exported (*i.e.,* replacement parts and components) are valued at $75,000 or less and are for servicing previously exported commodities.

(3) *Exception to general requirement.* The general requirement described in paragraph (a)(1) of this section does not apply if the applicant is the same person as the ultimate consignee, provided the required statements are contained in Block 24 on the license application. This exemption does not apply, however, where the applicant and consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms.

Note 1 to paragraph (a): An order may not be split into multiple license applications solely to avoid a requirement to obtain a Statement by Ultimate Consignee and Purchaser.

Note 2 to paragraph (a): On a case-by-case basis, BIS may require license applicants to obtain a Statement by Ultimate Consignee and Purchaser for a license application that would not otherwise require a Statement by Ultimate Consignee and Purchaser under the requirements of paragraph (a) of this section.

(b) *Obtaining the document.* (1) The ultimate consignee and purchaser must complete either a statement on company letterhead, or Form BIS–711, Statement by Ultimate Consignee and Purchaser, as described in paragraph (c) of this section. Unless otherwise specified, any reference in this section to ''Statement by Ultimate Consignee and Purchaser'' applies to both the statement on company letterhead and to Form BIS–711.

(2) If the consignee and purchaser elect to complete the statement on letterhead and both the ultimate consignee and purchaser are the same entity, only one statement is necessary.

(3) If the ultimate consignee and purchaser are separate entities, separate statements must be prepared and signed.

(4) If the ultimate consignee and purchaser elect to complete Form BIS–711, only one Form BIS–711 (containing the signatures of the ultimate consignee and purchaser) need be completed.

(5) Whether the ultimate consignee and purchaser sign a written statement or complete Form BIS–711, the following constraints apply:

(i) Responsible officials representing the ultimate consignee or purchaser must sign the statement. ''Responsible official'' is defined as someone with personal knowledge of the information included in the statement, and authority to bind the ultimate consignee or purchaser for whom they sign, and who has the power and authority to control the use and disposition of the licensed items.

(ii) The authority to sign the statement may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his or her official position with the ultimate consignee or purchaser for whom he or she signs. The signing official may be located in the United States or in a foreign country. The official title of the person signing the statement must also be included.

(iii) The consignee and/or purchaser must submit information that is true and correct to the best of their knowledge and must promptly send a new statement to the applicant if changes in the facts or intentions contained in their statement(s) occur after the statement(s) have been forwarded to the applicant. Once a statement has been signed, no corrections, additions, or alterations may be made. If a signed statement is incomplete or incorrect in any respect, a new statement must be prepared, signed and forwarded to the applicant.

(c) *Content of the document.* See Supplement No. 3 to this part for the information necessary to complete a statement on company letterhead or on Form BIS–711.

(d) *Procedures for using document with license application.*—(1) *Validity period.* (i) If a Statement by Ultimate Consignee and Purchaser is obtained prior to submission of the license application and the Statement is required to support one or more license applications, an applicant must submit the first license application within one year from the date the statement was signed.

(ii) All subsequent license applications supported by the same Statement by Ultimate Consignee and Purchaser must be submitted within four years of signature by the consignee or purchaser, whichever was last.

(2) [Reserved]

■ 8. Section 748.12 is revised to read as follows:

§ 748.12 Firearms Convention (FC) Import Certificate.

(a) *Requirement to obtain document.* Unless an exception in § 748.9(c) applies, an FC Import Certificate is required for license applications for firearms and related commodities, regardless of value, that are destined for member countries of the Organization of American States (OAS). This requirement is consistent with the OAS Model Regulations described in § 742.17 of the EAR.

(1) *Items subject to requirement.* Firearms and related commodities are those commodities controlled for ''FC Column 1'' reasons under ECCNs 0A984, 0A986, or 0A987.

(2) *Countries subject to requirement.* (i) OAS member countries include: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela.

(ii) [Reserved]

(3) *Equivalent official document in place of FC Import Certificate.* For those OAS member countries that have not yet established or implemented an FC Import Certificate procedure, BIS will accept an equivalent official document (*e.g.,* import license or letter of authorization) issued by the government of the importing country as supporting documentation for the export of firearms.

(b) *Obtaining the document.* (1) Applicants must request that the importer (*e.g.,* ultimate consignee or purchaser) obtain the FC Import Certificate or an equivalent official document from the government of the importing country, and that it be issued covering the quantities and types of firearms and related items that the applicant intends to export. (See Supplement No. 6 to this part for a list of the OAS member countries' authorities administering the FC Import Certificate System.) Upon receipt of the FC Import Certificate, its official equivalent, or a copy, the importer must provide the original or a certified copy of the FC Import Certificate or the original or a certified copy of the equivalent official document to the license applicant.

(2) If the government of the importing country will not issue an FC Import Certificate or its official equivalent, the applicant must supply the information described in paragraphs (c)(1) and (c)(6) through (c)(8) of this section on company letterhead.

(c) *Content of the document.* The FC Import Certificate or its official equivalent must contain the following information:

(1) Applicant's name and address. The applicant may be either the exporter, supplier, or order party.

(2) FC Import Certificate Identifier/ Number.

(3) Name of the country issuing the certificate or unique country code.

(4) Date the FC Import Certificate was issued, in international date format (*e.g.,* 24/12/12 for 24 December 2012, or 3/1/99 for 3 January 1999).

(5) Name of the agency issuing the certificate, address, telephone and facsimile numbers, signing officer name, and signature.

(6) Name of the importer, address, telephone and facsimile numbers, country of residence, representative's name if commercial or government body, citizenship, and signature.

(7) Name of the end user(s), if known and different from the importer, address, telephone and facsimile numbers, country of residence, representative's name if commercial (authorized distributor or reseller) or government body, citizenship, and signature. Note that BIS does not require the identification of each end user when the firearms and related commodities will be resold by a distributor or reseller if unknown at the time of export.

(8) Description of the commodities approved for import including a technical description and total quantity of firearms, parts and components, ammunition and parts.

Note to paragraph (c)(8): You must furnish the consignee with a detailed technical description of each commodity to be given to the government for its use in issuing the FC Import Certificate. For example, for shotguns, provide the type, barrel length, overall length, number of shots, the manufacturer's name, the country of manufacture, and the serial number for each shotgun. For ammunition, provide the caliber, velocity and force, type of bullet, manufacturer's name and country of manufacture.

(9) Expiration date of the FC Import Certificate in international date format (*e.g.,* 24/12/12) or the date the items must be imported, whichever is earlier.

(10) Name of the country of export (*i.e.,* United States).

(11) Additional information. Certain countries may require the tariff classification number, by class, under the Brussels Convention (Harmonized Tariff Code) or the specific technical description of a commodity. For example, shotguns may need to be described in barrel length, overall length, number of shots, manufacturer's name and country of manufacture. The technical description is not the Export Control Classification Number (ECCN).

(d) *Procedures for using document with license application.*—(1) *Information necessary for license application.* The license application must include the same commodities as those listed on the FC Import Certificate or the equivalent official document.

(2) *Alterations.* After an FC Import Certificate or equivalent official document is used to support the issuance of a license, no corrections, additions, or alterations may be made on the FC Import Certificate by any person. Any necessary corrections, additions, or alterations should be noted by the applicant in a separate statement on file with the applicant.

(3) *Validity period.* FC Import Certificates or equivalent official documents issued by an OAS member country will be valid until the expiration date on the Certificate or for a period of four years, whichever is shorter.

■ 9. Section 748.13 is revised to read as follows:

§ 748.13 Granting of exceptions to the support documentation requirements.

(a) *Overview.* A request for an exception to obtaining the required support documentation will be considered by BIS; however, an exception will not be granted contrary to the objectives of the U.S. export control program. A request for exception may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions. If satisfied by the evidence presented, BIS may waive the support document requirement and accept the license application for processing.

(b) *Procedure for requesting an exception.* The request for an exception must be submitted with the license application to which the request relates, and the reason(s) for requesting the exception must be described in Block 24 or referred to in Block 24. Where the request relates to more than one license application, it should be submitted with the first license application and referred to in Block 24 on any subsequent license application.

(c) *Action by BIS.*—(1) *Single transaction request.* Where a single transaction is involved, BIS will act on the request for exception at the same time as the license application with which the request is submitted. In those instances where the related license application is approved, the issuance of the license will serve as an automatic notice to the applicant that the

exception was approved. If any restrictions are placed on granting of the exception, these will appear on the approval. If the request for exception is not approved, BIS will advise the applicant.

(2) *Multiple transactions request.* Where multiple transactions are involved, BIS will advise the applicant of the action taken on the exception request. The response from BIS will contain any conditions or restrictions that BIS finds necessary to impose (including an exception termination date if appropriate). In addition, a written acceptance of these conditions or restrictions may be required from the parties to the transaction.

§ 748.14 [Removed and reserved]

■ 10. Section 748.14 is removed and reserved.

■ 11. Supplement No. 3 to part 748 is revised to read as follows:

SUPPLEMENT NO. 3 TO PART 748—STATEMENT BY ULTIMATE CONSIGNEE AND PURCHASER CONTENT REQUIREMENTS

If a statement on company letterhead will be used to meet the requirement to obtain a Statement by Ultimate Consignee and Purchaser, as described in § 748.11(a), follow the requirements described in paragraph (a) of this appendix. If Form BIS–711 will be used to meet the requirement, follow the requirements described in paragraph (b) of this appendix.

(a) *Statement on company letterhead.* Information in response to each of the following criteria must be included in the statement. If any information is unknown, that fact should be disclosed in the statement. Preprinted information supplied on the statement, including the name, address, or nature of business of the ultimate consignee or purchaser appearing on the letterhead or order form is acceptable but will not constitute evidence of either the signer's identity, the country of ultimate destination, or end use of the items described in the license application.

(1) *Paragraph 1.* One of the following certifications must be included depending on whether the statement is proffered in support of a single license application or multiple license applications:

(i) *Single.* This statement is to be considered part of a license application submitted by [name and address of applicant].

(ii) *Multiple.* This statement is to be considered a part of every license application submitted by [name and address of applicant] until four years from the date this statement is signed.

(2) *Paragraph 2.* One or more of the following certifications must be included. Note that if any of the facts related to the following statements are unknown, this must be clearly stated.

(i) The items for which a license application will be filed by [name of applicant] will be used by us as capital equipment in the form in which received in a manufacturing process in [name of country] and will not be reexported or incorporated into an end product.

(ii) The items for which a license application will be filed by [name of applicant] will be processed or incorporated by us into the following product(s) [list products] to be manufactured in [name of country] for distribution in [list name of country or countries].

(iii) The items for which a license application will be filed by [name of applicant] will be resold by us in the form in which received for use or consumption in [name of country].

(iv) The items for which a license application will be filed by [name of applicant] will be reexported by us in the form in which received to [name of country or countries].

(v) The items received from [name of applicant] will be [describe use of the items fully].

(3) *Paragraph 3.* The following two certifications must be included:

(i) The nature of our business is [possible choices include: broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc.].

(ii) Our business relationship with [name of applicant] is [possible choices include; contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.] and we have had this business relationship for [number of years].

(4) *Paragraph 4.* The final paragraph must include all of the following certifications:

(i) We certify that all of the facts contained in this statement are true and correct to the best of our knowledge and we do not know of any additional facts that are inconsistent with the above statements. We shall promptly send a replacement statement to [name of the applicant] disclosing any material change of facts or intentions described in this statement that occur after this statement has been prepared and forwarded to [name of applicant]. We acknowledge that the making of any false statement or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both, and denial, in whole or in part, of participation in U.S. exports or reexports.

(ii) Except as specifically authorized by the U.S. Export Administration Regulations, or by written approval from the Bureau of Industry and Security, we will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement:

(A) To any country not approved for export as brought to our attention by the exporter; or

(B) To any person if there is reason to believe that it will result directly or indirectly in disposition of the items contrary to the representations made in this statement or contrary to the U.S. Export Administration Regulations.

(iii) We understand that acceptance of this statement as a support document cannot be construed as an authorization by BIS to reexport or transfer (in country) the items in the form in which received even though we may have indicated the intention to reexport or transfer (in country), and that authorization to reexport (or transfer in country) is not granted in an export license on the basis of information provided in the statement, but as a result of a specific request in a license application.

(b) *Form BIS–711.* Form BIS–711 is available at *http://www.bis.doc.gov/index.php/component/rsform/form/21-request-bis-forms?task=forms.edit.* Instructions on completing Form BIS–711 are described below. The ultimate consignee and purchaser may sign a legible copy of Form BIS–711. It is not necessary to require the ultimate consignee and purchaser to sign an original Form BIS–711, provided all information contained on the copy is legible. All information must be typed or legibly printed in each appropriate Block or Box.

(1) Block 1: Ultimate Consignee. The Ultimate Consignee must be the person abroad who is actually to receive the material for the disposition stated in Block 2. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as the Ultimate Consignee.

(2) Block 2: Disposition or Use of Items by Ultimate Consignee named in Block 1. Place an (X) in ''A.,'' ''B.,'' ''C.,'' ''D.,'' and ''E.,'' as appropriate, and fill in the required information.

(3) Block 3: Nature of Business of Ultimate Consignee named in Block 1. Complete both ''A'' and ''B''. Possible choices for ''A'' include: broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc. Possible choices for ''B'' include: contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.

(4) Block 4: Additional Information. Provide any other information not appearing elsewhere on the form such as other parties to the transaction, and any other material facts that may be of value in considering license applications supported by this statement.

(5) Block 5: Assistance in Preparing Statement. Name all persons, other than employees of the ultimate consignee or purchaser, who assisted in the preparation of this form.

(6) Block 6: Ultimate Consignee. Enter the requested information and sign the statement in ink. (For a definition of ultimate consignee, see § 748.5(e) of this part.)

(7) Block 7: Purchaser. This form must be signed in ink by the Purchaser, if the Purchaser is not the same as the Ultimate Consignee identified in Block 1. (For a definition of purchaser, see § 748.5(c) of this part.)

(8) Block 8: Certification for Exporter. This Block must be completed to certify that no correction, addition, or alteration on this form was made subsequent to the signing by the Ultimate Consignee in Block 6 and Purchaser in Block 7.

Supplement No. 4 to part 748 [Removed and reserved]

■ 12. Supplement No. 4 to part 748 is removed and reserved.

PART 762—[AMENDED]

■ 13. The authority citation for part 762 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).

■ 14. Section 762.2 is amended by:

■ a. Revising paragraphs (b)(22) and (b)(24); and

■ b. Removing and reserving paragraph (b)(25), to read as follows:

§ 762.2 Records to be retained.

* * * * *

(b) * * *

(22) § 748.10, PRC End-User Statement;

* * * * *

(24) § 748.12, Firearms Convention (FC) Import Certificate;

(25) [Reserved]

* * * * *

Dated: March 5, 2015.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2015–05784 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–33– P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM15–6–000]

Annual Update of Filing Fees

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; annual update of Commission filing fees.

SUMMARY: In accordance with Commission regulations, the Commission issues this update of its filing fees. This notice provides the yearly update using data in the Commission's Financial System to calculate the new fees. The purpose of updating is to adjust the fees on the basis of the Commission's costs for Fiscal Year 2014.

DATES: *Effective Date:* April 13, 2015.

FOR FURTHER INFORMATION CONTACT: Raymond D. Johnson Jr., Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE., Room 42–66, Washington, DC 20426, 202–502–8402.

SUPPLEMENTARY INFORMATION: *Document Availability:* In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

From FERC's Web site on the Internet, this information is available in the eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

User assistance is available for eLibrary and other aspects of FERC's Web site during normal business hours. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Annual Update of Filing Fees

(Issued March 4, 2015)

The Federal Energy Regulatory Commission (Commission) is issuing this notice to update filing fees that the Commission assesses for specific services and benefits provided to identifiable beneficiaries. Pursuant to 18 CFR 381.104, the Commission is establishing updated fees on the basis of the Commission's Fiscal Year 2014 costs. The adjusted fees announced in this notice are effective April 13, 2015. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this final rule is not a major rule within the meaning of section 251 of Subtitle E of Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(2). The Commission is submitting this final rule to both houses of the United States Congress and to the Comptroller General of the United States.

The new fee schedule is as follows:

FEES APPLICABLE TO THE NATURAL GAS POLICY ACT	
1. Petitions for rate approval pursuant to 18 CFR 284.123(b)(2). (18 CFR 381.403)	$12,310
FEES APPLICABLE TO GENERAL ACTIVITIES	
1. Petition for issuance of a declaratory order (except under Part I of the Federal Power Act). (18 CFR 381.302(a))	$24,730
2. Review of a Department of Energy remedial order:.	
Amount in controversy	
$0–9,999. (18 CFR 381.303(b))	$100
$10,000–29,999. (18 CFR 381.303(b))	$600
$ 30,000 or more. (18 CFR 381.303(a))	$36,100
3. Review of a Department of Energy denial of adjustment:.	
Amount in controversy	
$0–9,999. (18 CFR 381.304(b))	$100
$10,000–29,999. (18 CFR 381.304(b))	$600
$30,000 or more. (18 CFR 381.304(a))	$18,920
4. Written legal interpretations by the Office of General Counsel. (18 CFR 381.305(a))	$7,090
FEES APPLICABLE TO NATURAL GAS PIPELINES	
1. Pipeline certificate applications pursuant to 18 CFR 284.224. (18 CFR 381.207(b))	* $1,000
FEES APPLICABLE TO COGENERATORS AND SMALL POWER PRODUCERS	
1. Certification of qualifying status as a small power production facility. (18 CFR 381.505(a))	$21,260
2. Certification of qualifying status as a cogeneration facility. (18 CFR 381.505(a))	$24,070

* This fee has not been changed.

List of Subjects in 18 CFR Part 381

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

Anton C. Porter,

Executive Director.

In consideration of the foregoing, the Commission amends Part 381, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 381—FEES

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 381.302 [Amended]

■ 2. In § 381.302, paragraph (a) is amended by removing ''$24,260'' and adding ''$24,730'' in its place.

§ 381.303 [Amended]

■ 3. In § 381.303, paragraph (a) is amended by removing ''$35,410'' and adding ''$36,100'' in its place.

§ 381.304 [Amended]

■ 4. In § 381.304, paragraph (a) is amended by removing ''$18,570'' and adding ''$18,920'' in its place.

§ 381.305 [Amended]

■ 5. In § 381.305, paragraph (a) is amended by removing ''$6,960'' and adding ''$7,090'' in its place.

§ 381.403 [Amended]

■ 6. Section 381.403 is amended by removing ''$12,070'' and adding ''$12,310'' in its place.

§ 381.505 [Amended]

■ 7. In § 381.505, paragraph (a) is amended by removing ''$20,860'' and adding ''$21,260'' in its place and by removing ''$23,610'' and adding ''$24,070'' in its place.

[FR Doc. 2015–05407 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM15–15–000; Order No. 806]

Disruptive Conduct at Commission Open Meetings

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the CFR regulations which specify the roles available to the public at the Commission's open meetings. This rule utilizes language from the Federal Communication Commission's (FCC) open meeting regulation, and the Rural Telephone Bank's open meeting regulation, to clarify that the term ''observe'' does not include disruptive behavior. The rule also uses language from the FCC's open meeting regulation to clarify that communications made or presented by unscheduled presenters will not be considered by the Commission. Finally, the rule uses language similar to the Consumer Product Safety Commission's open meeting regulation, to clarify that members of the public may use electronic audio and visual equipment to record open meetings in a non-disruptive manner. The rule imposes no new obligations on the public.

DATES: This rule will become effective April 13, 2015.

FOR FURTHER INFORMATION CONTACT:

Mark Hershfield, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–8597, *mark.hershfield@ferc.gov.*

Nathaniel Higgins, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6110, *nathaniel.higgins@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Order No. 806
Final Rule

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I. Introduction

1. By this final rule, the Federal Energy Regulatory Commission (Commission) is amending 18 CFR 375.203(b), which specifies the roles available to the public at the Commission's open meetings. This rule utilizes language from the Federal Communication Commission's (FCC) open meeting regulation, 47 CFR 0.602, and the Rural Telephone Bank's open meeting regulation, 7 CFR 1600.3, to clarify that the term ''observe'' does not include disruptive behavior. The rule also utilizes language from the FCC's open meeting regulation to clarify that communications made or presented by unscheduled presenters will not be considered by the Commission. Finally, the rule uses language similar to the Consumer Product Safety Commission's open meeting regulation, 16 CFR 1013.4, to clarify that members of the public may record open meetings in a non-disruptive manner. The rule imposes no new obligations on the public.

II. Background

2. The Commission has recently experienced multiple disruptions to its open meetings from individual protesters. The disruptions have consisted of members of the public making unscheduled statements, standing up repeatedly, walking about the room, and displaying signs.

3. The Commission's regulations outline the roles available to the public at the Commission's open meetings. Specifically, 18 CFR 375.203(b) states that ''[m]embers of the public are invited to listen and observe at open meetings.''

4. Like the Commission, other Federal agencies limit the conduct of the public at open meetings.[1] Several other agencies have regulations on open meetings that expressly address

[1] *See, e.g.,* 12 CFR 311.2, 10 CFR 9.103, and 16 CFR 4.15 (Regulations of the Federal Deposit Insurance Corporation, Nuclear Regulatory Commission, and Federal Trade Commission limiting the participation of the public to observing open meetings).

disruptive conduct by members of the public and their removal for such conduct.[2] The language of the rules of the FCC, EEOC, and the Rural Telephone Bank are particularly useful in clarifying the term ''observe'' as it appears in the Commission's regulations. The FCC, EEOC, and the Rural Telephone Bank define ''observation'' as not including disruptive conduct.[3] Furthermore, the FCC's regulation addresses documents that an unscheduled presenter might seek to deliver at an open meeting, prohibiting their entry into the FCC's official record.

5. Another related topic is possible disruption stemming from observers' use of personal electronic recording devices at open meetings. The applicable provision of the Commission's regulations, 18 CFR 375.203(b), allows members of the public to record open meetings in a non-disruptive manner.[4] Other agencies similarly permit the recording of open meetings in a non-disruptive manner.[5] The language adopted by the Consumer Product Safety Commission, stating that ''[t]o the extent their use does not interfere with the conduct of open meetings, cameras and sound-recording equipment may be used at open Commission meetings,'' is particularly succinct in making this point.

III. Discussion

6. The Commission is concerned about the impact of public disruptions on its ability to conduct open meetings. To ensure compliance with the Government in the Sunshine Act,[6] it is essential that the Commission's open meetings focus on the items listed in the posted agenda. Members of the public do not have a right to disrupt open meetings or to raise extraneous issues.[7]

7. The Commission is issuing this Final Rule to clarify that the term ''observe'' used in § 375.203(b) of its regulation, has the same meaning as the term ''observation'' in the regulations of the FCC and the Rural Telephone Bank.[8] Thus, this rule merely clarifies that the term ''observe'' as used in § 375.203(b) does not mean the right to disrupt.[9] The rule gives the Commission no new authority, and it imposes no obligations on the public that do not currently exist. The public already has an obligation to avoid disruptive conduct at the Commission's open meetings.

8. The final rule also addresses the possibility that when disruptive conduct involves the reading of unscheduled statements, those statements could trigger potential violations of the Government in the Sunshine Act notice provisions, the ex parte communications provisions of the Administrative Procedure Act, and the Commission's ex parte communications rule, 18 CFR 385.2201. Specifically, incorporating language from Section 0.602(c) of the FCC's regulations into the Commission's regulations clarifies that disruptive statements, oral or written, will not be included in the record or considered by the Commission.

9. Finally, the Commission recognizes that its existing regulations concerning recording open meetings are unduly complex and out of date. The Commission is therefore amending its regulation to clarify that seated members of the public, or seated observers, may use electronic audio and visual recording equipment to record open meetings in a non-disruptive manner. In this regard, the Commission is utilizing language similar to that used by the Consumer Product Safety Commission.

IV. Information Collection Statement

10. Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rule.[10] However, this instant Final Rule does not contain any information collection requirements. Therefore, compliance with OMB regulations is not required.

V. Environmental Analysis

11. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[11] Issuance of this Final Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act of 1969. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial, or internal administrative actions.[12] This rulemaking is exempt under that provision.

VI. Regulatory Flexibility Act

12. The Regulatory Flexibility Act of 1980 (RFA)[13] generally requires a

[2] *See, e.g.,* 47 CFR 0.602 (Federal Communication Commission defines ''observation'' as to not include ''participation or disruptive conduct by observers, and persons engaging in such conduct will be removed from the meeting''); *see also* 7 CFR 1600.3 (The Rural Telephone Bank defines ''observation'' as to not include ''participation or disruptive conduct by observers, and persons engaging in such conduct will be removed from the meeting''); *see also* 29 CFR 1612.3 (The Equal Employment Opportunity Commission defines ''public observation'' as to ''not include participation or disruptive conduct by observers'' and ''any attempted participation or disruptive conduct by observers shall be cause for removal of persons so engaged at the discretion of the presiding member of the agency); see also 17 CFR 200.410 (The Securities Exchange Commission permits the exclusion of ''any person from attendance at any meeting whenever necessary to preserve decorum, or where appropriate or necessary for health or safety reasons'') and 45 CFR 702.52 (The Commission on Civil Rights empowers the presiding Commissioner to ''exclude persons from a meeting'' and ''take all steps necessary to preserve order and decorum'').

[3] *See* 47 CFR 0.602, 29 CFR 1612.3, and 7 CFR 1600.3, respectively.

[4] 18 CFR 375.203(b)(2)(i)–(iv) .

[5] *See, e.g.,* 16 CFR 1013.4 (The Consumer Product Safety Commission provides that ''[t]o the extent their use does not interfere with the conduct of open meetings, cameras and sound-recording equipment may be used at open Commission meetings''); *see also* 18 CFR 1301.43 (The Tennessee Valley Authority permits the public to ''make reasonable use of electronic or other devices or cameras to record deliberations or actions at meetings so long as such use is not disruptive of the meetings'') and 39 CFR 3001.43 (The Postal Rate Commission regulation states that ''[m]embers of the public may not participate in open meetings. They may record the proceedings, provided they use battery-operated recording devices at their seats. Cameras may be used by observers to photograph proceedings, provided it is done from their seats and no flash or lighting equipment is used. Persons may electronically record or photograph a meeting, as long as such activity does not impede or disturb the members of the Commission in the performance of their duties, or members of the public attempting to observe, or to record or photograph, the Commission meeting'').

[6] 29 CFR 2701.

[7] The First Amendment does not provide a right to disrupt a Commission open meeting. *Cf. White* v. *City of Norwalk,* 900 F.2d 1421, 1424–1426 (9th Cir. 1990) (holding that a city ordinance allowing removal of persons who disrupt, disturb, or otherwise impede orderly conduct of council meetings is not overly broad and not a violation of First Amendment rights); *Smith-Caronia* v. *United States,* 714 A.2d 764, 765 (D.C. Cir. 1998) (upholding the constitutionality of DC Code 9–112(b)(4), which prohibits disruptive conduct within any of the Capitol Buildings). Moreover, agencies do not violate the First Amendment when they ''confine their meetings to specified subject matter.'' *Madison School Dist.* v. *Wisconsin Employment Relations Comm'n,* 429 U.S. 167, 175 n.8 (1976).

[8] While the EEOC essentially interprets ''observation'' the same way, the Commission is specifically utilizing the regulatory language of the FCC and the Rural Telephone Bank.

[9] The Commission has a comparable rule in 18 CFR 385.2102(b), which states that, ''[c]ontumacious conduct in a hearing before the Commission or a presiding officer will be grounds for exclusion of any person from such hearing and for summary suspension for the duration of the hearing by the Commission or the presiding officer.''

[10] 5 CFR 1320.12.

[11] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[12] 18 CFR 380.4(a)(1).

[13] 5 U.S.C. 601–12.

description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This Final Rule concerns an interpretation of current Commission regulations and practices. The Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is not required.

VII. Document Availability

13. In addition to publishing the full text of this document in the **Federal Register,** the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

14. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

15. User assistance is available for eLibrary and the Commission's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VIII. Effective Date

16. The Commission is issuing this rule as a Final Rule without a period for public comment. Under 5 U.S.C. 553(b)(3)(A), notice and comment procedures are unnecessary for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. . . .'' This rule merely provides the public with guidance concerning the existing regulation and reminds the general public of the roles available to the public at the Commission's open meetings. The rule will not significantly affect regulated entities or the general public.

17. These regulations are effective April 13, 2015.

List of Subjects in 18 CFR Part 375

Open Meetings.

Issued: March 9, 2015.

By the Commission.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends Part 375, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 375—THE COMMISSION

■ 1. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352

■ 2. Section 375.203 is amended by adding paragraphs (b)(1)(i) and (ii) and revising paragraph (b)(2) to read as follows:

§ 375.203 Open meetings.

* * * * *

(b) * * *

(1) * * *

(i) ''Observe'' does not include participation or disruptive conduct, and persons engaging in such conduct will be removed from the meeting.

(ii) The right of the public to observe open meetings does not alter those rules which relate to the filing of motions, pleadings, or other documents. Unless such pleadings conform to the other procedural requirements, pleadings based upon comments or discussions at open meetings, as a general rule, will not become part of the official record, will receive no consideration, and no further action by the Commission will be taken thereon.

(2) To the extent their use does not interfere with the conduct of open meetings, electronic audio and visual recording equipment may be used by a seated observer at an open meeting.

* * * * *

[FR Doc. 2015–05689 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 11 and 101

[Docket No. FDA–2011–F–0172]

Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a guidance for industry entitled ''Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments—Small Entity Compliance Guide''. The small entity compliance guide (SECG) is intended to help small entities comply with the final rule entitled ''Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments.''

DATES: The SECG will be available as of March 13, 2015. Submit either electronic or written comments on FDA guidances at any time.

ADDRESSES: Submit written requests for single copies of the SECG to the Office of Nutrition, Labeling and Dietary Supplements, Food Labeling and Standards Staff, Center for Food Safety and Applied Nutrition (HFS–305), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

Submit electronic comments on the SECG to *http://www.regulations.gov.* Submit written comments on the SECG to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Daniel Y. Reese, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2371.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 1, 2014 (79 FR 71156), we issued a final rule requiring nutrition labeling of standard menu items in restaurants and similar retail food establishments (the final rule). The final rule, which is codified at 21 CFR 101.11, is effective December 1, 2015.

We examined the economic implications of the final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612) and determined that the final rule will have a significant economic impact on a substantial number of small entities. In compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121, as amended by Pub. L. 110–28), we are making available the SECG to explain the actions that a small entity must take to comply with the rule.

We are issuing the SECG consistent with our good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents our current thinking on nutrition labeling of standard menu items in restaurants and similar retail food establishments. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This SECG refers to collections of information described in FDA's final rule that published in the **Federal Register** of December 1, 2014 (79 FR 71156), and that will be effective on December 1, 2015. As stated in the final rule, these collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). In compliance with the PRA (44 U.S.C. 3507(d)), the Agency has submitted the information collection provisions of the final rule to OMB for review. FDA will publish a document in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection provisions in this final rule. 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.

III. Comments

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

IV. Electronic Access

Persons with access to the Internet may obtain the SECG at either *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/default.htm* or *http://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: March 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05590 Filed 3–12–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, 556, and 558

[Docket No. FDA–2014–N–0002]

New Animal Drugs; Approval of New Animal Drug Applications; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during November and December 2014. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect a change of sponsorship of eight NADAs and nine ANADAs, and to make correcting amendments for a drug labeler code.

DATES: This rule is effective March 13, 2015.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during November and December 2014, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

In addition, Pennfield Oil Co., 14040 Industrial Rd., Omaha, NE 68144, has transferred ownership of, and all rights and interest in, the following approved applications to Pharmgate LLC, 161 North Franklin Turnpike, Suite 2C, Ramsey, NJ 07446:

File No.	Product name	21 CFR Cite
065–480	Chlortetracycline Soluble Powder	520.441.
138–934	PENNCHLOR SP (chlortetracycline, sulfamethazine, penicillin) Type A medicated articles	558.145.
138–935	PENNCHLOR (chlortetracycline) Type A medicated articles	558.128.
138–938	PENNOX (oxytetracycline) Type A medicated articles	558.450.
138–939	NEO–OXY (neomycin sulfate and oxytetracycline) Type A medicated articles	558.455.
140–680	TYLAN (tylosin phosphate) Type A medicated articles	558.625.
140–681	TYLAN Sulfa-G (tylosin phosphate and sulfamethazine) Type A medicated articles	558.630.
141–137	PENITRACIN (bacitracin methylenedisalicylate) 50 Type A medicated article	Not codified.
200–026	PENNOX 343 (oxytetracycline)	520.1660d.
200–154	PENNOX 200 (oxytetracycline)	558.450.
200–295	PENNCHLOR 64 (chlortetracycline)	558.128.
200–314	PENNCHLOR S (chlortetracycline)	558.140.
200–354	PENNCHLOR (chlortetracycline)/COBAN (monensin)	558.355.
200–356	PENNCHLOR (chlortetracycline)/DENAGARD (tiamulin)	558.600.

File No.	Product name	21 CFR Cite
200–357	PENNCHLOR (chlortetracycline)/BIO–COX (salinomycin)	558.550.
200–358	PENNCHLOR (chlortetracycline)/BMD (bacitracin MD)	558.76.
200–359	PENNCHLOR (chlortetracycline)/DECCOX (decoquinate)	558.195.

At this time, the regulations are being amended to reflect these changes of sponsorship. Following these changes of sponsorship, Pharmgate LLC will now be the sponsor of an approved application while Pennfield Oil Co. will no longer be the sponsor of an approved application. Also, Hikma Pharmaceuticals LLC, P.O. Box 182400, Bayader Wadi Seer, Amman, Jordan 11118, has informed FDA that it has changed its name to Hikma International Pharmaceuticals LLC. Accordingly, § 510.600 (21 CFR 510.600) is being amended to reflect these changes. In addition, FDA is amending § 510.600 and several sections of part 520 to reflect a correct drug labeler code for Akorn Animal Health, Inc. FDA is also amending the regulations in 21 CFR parts 520, 522, 556, and 558 to redesignate several sections to reflect alphabetical order and to make minor technical amendments. These corrections and technical amendments are being made to improve the accuracy of the animal drug regulations.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING NOVEMBER AND DECEMBER 2014

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR Sections	FOIA Summary	NEPA Review
200–575	Putney, Inc., One Monument Sq., suite 400, Portland, ME 04101.	Carprofen Chewable Tablets.	Original approval as a generic copy of NADA 141–111.	520.309	yes	CE[1,2]
141–232	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	SIMPLICEF (cefpodoxime proxetil) Chewable Tablets.	Supplemental approval of chewable tablet dosage form for dogs.	520.370	yes	CE[1,3]
200–512	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	TRIAMULOX (tiamulin hydrogen fumarate) Liquid Concentrate.	Original approval as a generic copy of NADA 140–916.	520.2455	yes	CE[1,2]
200–573	Putney, Inc., One Monument Sq., suite 400, Portland, ME 04101.	Dexmedetomidine HCl (dexmedetomidine hydrochloride). Injectable Solution	Original approval as a generic copy of NADA 141–267.	522.558	yes	CE[1,2]
141–068	Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201.	BAYTRIL 100 (enrofloxacin). Injectable Solution	Supplemental approval adding administration by intramuscular injection in swine and an indication for control of colibacillosis in groups or pens of weaned pigs.	522.812	yes	CE[1,4]
141–349	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	DRAXXIN 25 ..... (tulathromycin) ..... Injectable Solution	Supplemental approval for treatment of bovine respiratory disease (BRD) in suckling calves, dairy calves, and veal calves.	522.2630	yes	CE[1,4]
141–437	Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408.	OSURNIA ..... (florfenicol, terbinafine, betamethasone acetate) Otic Gel.	Original approval for the treatment of otitis externa in dogs.	524.955	yes	CE[1,3]
034–267	Intervet, Inc., 556 Morris Ave., Summit, NJ 07901.	GENTOCIN DURAFILM. (gentamicin sulfate and betamethasone). Ophthalmic Solution	Supplemental approval of additional safety information.	524.1044i	yes	CE[1,3]
141–034	Huvepharma AD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	GAINPRO ..... (bambermycins) ..... Type A medicated article.	Supplemental approval of a free-choice Type C medicated loose mineral feed without selenium for pasture cattle.	558.95	yes	CE[1,2]
200–510[5] ..	Pharmgate LLC, 161 North Franklin Turnpike, suite 2C, Ramsey, NJ 07446.	DERACIN ..... (chlortetracycline) ..... Type A medicated articles.	Original approval as a generic copy of NADA 048–761.	558.128	yes	CE[1,2]
141–258	Intervet, Inc., 556 Morris Ave., Summit, NJ 07901.	ZILMAX (zilpaterol hydrochloride) Type A medicated article.	Supplemental approval to provide for component feeding of Type C medicated feeds.	558.665	yes	CE[1,2]

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING NOVEMBER AND DECEMBER 2014—Continued

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR Sections	FOIA Summary	NEPA Review
141–276 [5] ..	Intervet, Inc., 556 Morris Ave., Summit, NJ 07901.	ZILMAX (zilpaterol hydrochloride) plus RUMENSIN (monensin) plus TYLAN (tylosin phosphate) Type C medicated feeds.	Supplemental approval to provide for component feeding of combination drug Type C medicated feeds.	558.665	yes	CE [1 6]

[1] The Agency has determined that this action is categorically excluded (CE) from the requirement to submit an environmental assessment or an environmental impact statement because it is of a type that does not have a significant effect on the human environment.
[2] CE granted under 21 CFR 25.33(a)(1).
[3] CE granted under 21 CFR 25.33(d)(1).
[4] CE granted under 21 CFR 25.33(d)(5).
[5] This application is affected by guidance for industry (GFI) #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209,'' December 2013.
[6] CE granted under 21 CFR 25.33(a)(2).

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, and 524

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, 556, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Amend § 510.600 as follows:

■ a. In the table in paragraph (c)(1), in the entry for ''Akorn Animal Health, Inc.'', in the ''Drug labeler code'' column, remove ''053599'', and in its place add ''059399'';

■ b. In the table in paragraph (c)(1), in the entry for ''Hikma Pharmaceuticals LLC'', in the ''Firm name and address'' column, remove ''Hikma Pharmaceuticals LLC'', and in its place add ''Hikma International Pharmaceuticals LLC'';

■ c. In the table in paragraph (c)(1), remove the entry for ''Pennfield Oil Co.'' and add an entry, in alphabetical order, for ''Pharmgate LLC'';

■ d. In the table in paragraph (c)(2), remove the entries for ''000008'', ''048164'', and ''053599'' and add entries, in numerical order, for ''059399'' and ''069254''; and

■ e. In the table in paragraph (c)(2), in the entry for ''059115'', in the ''Firm name and address'' column, remove ''Hikma Pharmaceuticals LLC'', and in its place add ''Hikma International Pharmaceuticals LLC''.

The additions and revisions read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Pharmgate LLC, 161 North Franklin Turnpike, suite 2C, Ramsey, NJ 07446	069254
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
059399	Akorn Animal Health, Inc., 1925 West Field Ct., suite 300, Lake Forest, IL 60045
* * * * * * *	
069254	Pharmgate LLC, 161 North Franklin Turnpike, suite 2C, Ramsey, NJ 07446

Drug labeler code	Firm name and address
*	* * * * * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§§ 520.310 and 520.312 [Redesignated as §§ 520.301 and 520.302]

■ 4. Redesignate §§ 520.310 and 520.312 as §§ 520.301 and 520.302, respectively.

§ 520.309 [Redesignated as § 520.304 and Amended]

■ 5. Redesignate § 520.309 as § 520.304 and revise newly redesignated § 520.304 by adding paragraph (b)(3) to read as follows:

§ 520.304 Carprofen.

* * * * *

(b) * * *

(3) No. 026637 for use of product described in paragraph (a)(2) of this section as in paragraph (d) of this section.

* * * * *

■ 6. In § 520.370, revise paragraphs (a) and (b) and in paragraph (c)(2), remove ''*intermedius''* and in its place add ''*pseudintermedius''* to read as follows:

§ 520.370 Cefpodoxime tablets.

(a) *Specifications.* (1) Each tablet contains cefpodoxime proxetil equivalent to 100 or 200 milligrams (mg) cefpodoxime.

(2) Each chewable tablet contains cefpodoxime proxetil equivalent to 100 or 200 mg cefpodoxime.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for uses as follows:

(1) No. 026637 for use of product in paragraph (a)(1) of this section as in paragraph (c) of this section.

(2) No. 054771 for use of products in paragraph (a) of this section as in paragraph (c) of this section.

* * * * *

§ 520.441 [Amended]

■ 7. In § 520.441, in paragraph (b)(1), remove ''048164'' and in its place add ''069254''.

■ 8. Amend § 520.1660d as follows:

■ a. In paragraph (b)(6), remove ''048164'' and in its place add ''069254''.

■ b. In paragraphs (d)(1)(ii)(A)(*3*), (d)(1)(ii)(B)(*3*), and (d)(1)(ii)(C)(*3*), revise the last sentence.

The revisions read as follows:

§ 520.1660d Oxytetracycline powder.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(A) * * *

(*3*) * * * Zero-day withdrawal for those products sponsored by Nos. 054771, 057561, 061133, and 069254.

(B) * * *

(*3*) * * * Zero-day withdrawal for those products sponsored by Nos. 054771, 057561, 061133, and 069254.

(C) * * *

(*3*) * * * Zero-day withdrawal for those products sponsored by Nos. 054771, 057561, 061133, and 069254.

* * * * *

■ 9. In § 520.2455, revise paragraphs (b)(3) and (c) to read as follows:

§ 520.2455 Tiamulin.

* * * * *

(b) * * *

(3) No. 054771 for the product described in paragraph (a)(3) of this section.

(c) *Related tolerances.* See § 556.732 of this chapter.

* * * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 10. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.246 [Amended]

■ 11. In § 522.246, in paragraph (b)(3), remove ''053599'' and in its place add ''059399''.

■ 12. In § 522.558, revise paragraphs (a) and (b) to read as follows:

§ 522.558 Dexmedetomidine.

(a) *Specifications.* Each milliliter of solution contains:

(1) 0.1 milligrams (mg) dexmedetomidine hydrochloride; or

(2) 0.5 mg dexmedetomidine hydrochloride.

(b) *Sponsors.* See sponsors in in § 510.600(c) of this chapter for use as in paragraph (c) of this section:

(1) No. 026637 for use of product described in paragraph (a)(2) of this section;

(2) No. 052483 for use of products described in paragraph (a) of this section.

* * * * *

■ 13. Amend § 522.812 as follows:

■ a. Revise paragraph (b)(2);

■ b. Remove paragraph (e)(3)(i);

■ c. Redesignate paragraphs (e)(3)(ii) and (e)(3)(iii) as paragraphs (e)(3)(i) and (e)(3)(ii), respectively; and

■ d. Revise newly redesignated paragraph (e)(3)(i).

The revisions read as follows:

§ 522.812 Enrofloxacin.

* * * * *

(b) * * *

(2) No. 055529 for use of product described in paragraph (a)(1) of this section as in paragraph (e)(1) of this section, and use of product described in paragraph (a)(2) of this section as in paragraphs (e)(2)(i)(B), (e)(2)(ii)(B), (e)(2)(iii), (e)(3)(i)(B), and (e)(3)(ii) of this section.

* * * * *

(e) * * *

(3) * * *

(i) *Amounts and indications for use.* (A) Administer, either by intramuscular or subcutaneous (behind the ear) injection, a single dose of 7.5 mg/kg of body weight for the treatment and control of swine respiratory disease (SRD) associated with *Actinobacillus pleuropneumoniae, Pasteurella multocida, Haemophilus parasuis, Streptococcus suis, Bordetella bronchiseptica,* and *Mycoplasma hyopneumoniae.*

(B) Administer, by subcutaneous (behind the ear) injection, a single dose of 7.5 mg/kg of body weight for the treatment and control of swine respiratory disease (SRD) associated with *Actinobacillus pleuropneumoniae, Pasteurella multocida, Haemophilus parasuis,* and *Streptococcus suis.*

(C) Administer, either by intramuscular or subcutaneous (behind the ear) injection, a single dose of 7.5 mg/kg of body weight for the control of colibacillosis in groups or pens of weaned pigs where colibacillosis associated with *Escherichia coli* has been diagnosed.

* * * * *

■ 14. In § 522.1222, revise paragraph (b) to read as follows:

§ 522.1222 Ketamine.

* * * * *

(b) *Sponsors.* See Nos. 000859, 026637, 054628, 054771, 059399, and 063286 in § 510.600(c) of this chapter.

* * * * *

§ 522.2474 [Amended]

■ 15. In § 522.2474, in paragraph (b), remove ''053599'' and in its place add ''059399''.

■ 16. In § 522.2630, revise paragraphs (b)(1), (b)(2), (d)(1)(ii)(A), (d)(1)(ii)(B), and (d)(1)(iii) to read as follows:

§ 522.2630 Tulathromycin.

* * * * *

(b) * * *

(1) Product described as in paragraph (a)(1) of this section for use as in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii)(A), and (d)(2) of this section.

(2) Product described as in paragraph (a)(2) of this section for use as in paragraphs (d)(1)(i), (d)(1)(ii)(B), (d)(1)(iii)(B), and (d)(2) of this section.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(A) *Beef and non-lactating dairy cattle.* For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica, Pasteurella multocida, Histophilus somni,* and *Mycoplasma bovis.* For the control of respiratory disease in cattle at high risk of developing BRD associated with *M. haemolytica, P. multocida, H. somni,* and *M. bovis.* For the treatment of infectious bovine keratoconjunctivitis (IBK) associated with *Moraxella bovis.* For the treatment of bovine foot rot (interdigital necrobacillosis) associated with *Fusobacterium necrophorum* and *Porphyromonas levii.*

(B) *Suckling calves, dairy calves, and veal calves.* For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica, Pasteurella multocida, Histophilus somni,* and *Mycoplasma bovis.*

(iii) *Limitations.* (A) Cattle intended for human consumption must not be slaughtered within 18 days from the last treatment. Do not use in female dairy cattle 20 months of age or older. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(B) Calves intended for human consumption must not be slaughtered within 22 days from the last treatment. Not for use in ruminating cattle. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

§ 522.2662 [Amended]

■ 17. In § 522.2662, in paragraph (b)(4), remove ''053599'' and in its place add ''059399''.

§ 522.2670 [Amended]

■ 18. In § 522.2670, in paragraph (b)(1), remove ''053599'' and in its place add ''059399''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 19. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 20. Add § 524.955 to read as follows:

§ 524.955 Florfenicol, terbinafine, and betamethasone acetate otic gel.

(a) *Specifications.* Each milliliter of gel contains 10 milligrams (mg) florfenicol, 10 mg terbinafine, and 1 mg betamethasone acetate.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer one dose (1 tube) per affected ear(s) and repeat administration in 7 days.

(2) *Indications for use.* For the treatment of otitis externa in dogs associated with susceptible strains of bacteria (*Staphylococcus pseudintermedius*) and yeast (*Malassezia pachydermatis*).

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 21. In § 524.1044i, revise paragraph (c)(2) to read as follows:

§ 524.1044i Gentamicin and betamethasone ophthalmic solution.

* * * * *

(c) * * *

(2) *Indications for use.* For treatment of external eye infections and inflammation.

* * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 22. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

§ 556.738 [Redesignated as § 556.732]

■ 23. Redesignate § 556.738 as § 556.732.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 24. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.76 [Amended]

■ 25. In § 558.76, in paragraph (d)(1)(iv), in the ''Limitations'' and ''Sponsor'' columns, remove ''048164'' and in its place add ''069254''.

■ 26. In § 558.95, add paragraph (d)(4)(v) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(d) * * *

(4) * * *

(v) Used as a free-choice Type C medicated loose mineral feed for pasture cattle (slaughter, stocker, and feeder cattle; and dairy and beef replacement heifers) as follows:

(A) *Specifications.*

Ingredient	International feed No.	Percent
Deflorinated phosphate (20.5% calcium, 18.5% phosphorus)	6–01–080	42.50
Sodium chloride (salt)	6–04–152	20.10
Calcium carbonate (38% calcium)	6–01–069	15.45
Corn distillers dried grains w/solubles	5–28–236	9.57
Magnesium oxide	6–02–756	5.15
Vitamin and trace mineral premix *	.....	3.72
Mineral oil	.....	1.00
Yeast (primary dehydrated yeast)	7–05–533	0.75
Bambermycins Type A article (10 g/lb)	.....	0.60
Iron oxide	6–02–431	0.50
Magnesium sulfate (67%)	6–02–758	0.32
Copper sulfate	6–01–720	0.18

Ingredient	International feed No.	Percent
Potassium sulfate (0.33%)	6–06–098	0.16

* Content of vitamin/trace mineral premix may be varied. However, they should be comparable to those used for other free-choice feeds. Formulation modifications require FDA approval prior to marketing. Ethylenediamine dihydroiodide (EDDI) should comply with FDA Compliance Policy Guides Sec. 651.100 (CPG 7125.18).

(B) *Amount per ton.* 120 grams.

(C) *Indications for use.* For increased rate of weight gain.

(D) *Limitations.* For free-choice feeding to pasture cattle (slaughter, stocker, and feeder cattle; and dairy and beef replacement heifers). Feed a non-medicated commercial mineral product for 6 weeks to stabilize consumption between 2.66 and 10.66 ounces per head per day. Feed continuously to provide 10 to 40 milligrams bambermycins per head per day. Daily bambermycins intakes in excess of 20 mg/head/day have not been shown to be more effective than 20 mg/head/day.

* * * * *

■ 27. Amend § 558.128 as follows:

■ a. In paragraph (b)(1), remove ''Nos. 054771, 048164, and 066104'' and in its place add ''Nos. 054771, 066104, and 069254'';

■ b. In paragraphs (e)(4)(ii) and (iv), in the ''Limitations'' column, remove ''048164'' wherever it occurs and in its place add ''069254'';

■ c. In paragraphs (e)(1)(i), (ii), and (iii), (e)(2)(i), (ii), (iii), and (iv), (e)(3)(i), (ii), (iii), and (iv), (e)(4)(i), (ii), (iv), (vii), and (viii), and (e)(5)(i) and (ii), in the ''Sponsor'' column, remove ''048164'' wherever it occurs and in its place in numerical order add ''069254''; and

■ d. Revise paragraphs (e)(1)(iv), (e)(4)(v), and (e)(4)(ix).

The revisions read as follows:

§ 558.128 Chlortetracycline.

* * * * *

(e) * * *

(1) * * *

Chlortetracycline amount	Indications for use	Limitations	Sponsor
*	*	*	*
(iv) 500 g/ton	Chickens: For the reduction of mortality due to *E. coli* infections susceptible to chlortetracycline.	1. Feed for 5 d. To sponsor No. 054771 under NADA 048–761 and No. 069254 under ANADA 200–510: zero withdrawal time.	054771, 069254.
		2. Feed for 5 d; withdraw 24 h prior to slaughter; do not feed to chickens producing eggs for human consumption.	012286, 054771, 066104, 069254.

* * * * * (4) * * *

Chlortetracycline amount	Indications for use	Limitations	Sponsor
*	*	*	*
(v) 500 to 4,000 g/ton	Calves, beef and nonlactating dairy cattle; treatment of bacterial enteritis caused by *E. coli* and bacterial pneumonia caused by *P. multocida* susceptible to chlortetracycline.	Feed continuously for not more than 5 days to provide 10 mg/lb body weight per day. To sponsor No. 054771 under NADA 046–699: 24-h withdrawal time. To sponsor No. 054771 under NADA 048–761 and No. 069254 under ANADA 200–510: Zero withdrawal time.	054771 069254
*	*	*	*
(ix) 350 mg/head/day	1. Beef cattle: For control of bacterial pneumonia associated with shipping fever complex caused by *Pasteurella* spp. susceptible to chlortetracycline.	Withdraw 48 h prior to slaughter. To sponsor No. 054771 under NADA 046–699: 48-h withdrawal time. To sponsor No. 054771 under NADA 048–761 and No. 069254 under ANADA 200–510: Zero withdrawal time.	012286, 054771, 066104, 069254.
	2. Beef cattle (under 700 lb): For control of active infection of anaplasmosis caused by *A. marginale* susceptible to chlortetracycline.	Withdraw 48 h prior to slaughter. To sponsor No. 054771 under NADA 046–699: 48-h withdrawal time. To sponsor No. 054771 under NADA 048–761 and No. 069254 under ANADA 200–510: zero withdrawal time.	012286, 054771, 066104, 069254.

* * * * *

§ 558.140 [Amended]

■ 28. In § 558.140, in paragraph (b)(1), remove ''048164'' and in its place add ''069254''.

§ 558.145 [Amended]

■ 29. In § 558.145, in paragraph (a)(2), remove ''048164'' and in its place add ''069254''.

§ 558.195 [Amended]

■ 30. In § 558.195, in paragraph (e)(2)(iv), in the ''Limitations'' and ''Sponsor'' columns, remove ''048164'' and in its place add ''069254''.

§ 558.355 [Amended]

■ 31. In § 558.355, in paragraph (f)(1)(xiv)(*b*), remove ''048164'' and in its place add ''069254''.

§ 558.450 [Amended]

■ 32. Amend § 558.450 as follows:
■ a. In paragraph (a)(2), remove ''048164'' and in its place add ''069254'';
■ b. In paragraphs (d)(2)(iii), (d)(2)(iv), and (d)(4)(ii), in the ''Limitations'' column, remove ''048164'' wherever it occurs and in its place add ''069254''; and
■ c. In paragraphs (d)(1)(i), (ii), (iii), and (iv), (d)(2)(i), (ii), (iii), and (iv), (d)(3)(i) and (ii), (d)(4)(i), (ii), (iii), (iv), and (v), and (d)(5)(i), (ii), and (iii), in the ''Sponsor'' column, remove ''048164'' and in its place add ''069254''.

§ 558.455 [Amended]

■ 33. Amend § 558.455 as follows:
■ a. In paragraph (b), remove ''Nos. 048164 and 066104'' and in its place add ''Nos. 066104 and 069254''; and
■ b. In paragraphs (e)(1)(i), (ii), (iii), and (iv), (e)(2)(i), (ii), (iii), and (iv), (e)(3)(i) and (ii), and (e)(4)(i), (ii), (iii), (iv), (v), and (vi), in the ''Sponsor'' column, remove ''048164'' and in its place in numerical order add ''069254''.

§ 558.550 [Amended]

■ 34. In § 558.550, in paragraphs (b)(3) and (d)(1)(xvi)(*c*), remove ''048164'' and in its place add ''069254''.

§ 558.600 [Redesignated as § 558.612 and Amended]

■ 35. Redesignate § 558.600 as § 558.612 and amend newly redesignated § 558.612 as follows:
■ a. In paragraph (c), remove ''§ 556.738'' and in its place add ''§ 556.732''; and
■ b. In paragraph (e)(1)(iii), in the ''Limitations'' and ''Sponsor'' columns, remove ''048164'' and in its place in numerical order add ''069254''.

§ 558.615 [Redesignated as § 558.600]

■ 36. Redesignate § 558.615 as § 558.600.

§ 558.625 [Amended]

■ 37. In § 558.625, in paragraph (b)(5), remove ''048164'' and in its place add ''069254''.

§ 558.630 [Amended]

■ 38. In § 558.630, in paragraph (b)(2), remove ''No. 054771'' and in its place add ''Nos. 054771 and 069254''.

■ 39. Amend § 558.665 as follows:
■ a. Revise paragraphs (d)(1) and (e)(1);
■ b. Redesignate paragraph (d)(2) as paragraph (d)(4); and
■ c. Add paragraphs (d)(2), (d)(3), (e)(7), and (e)(8).

The revisions and additions read as follows:

§ 558.665 Zilpaterol.

* * * * *

(d) * * *

(1) Labeling shall bear the following caution statements: ''Zilpaterol hydrochloride is not for use in animals intended for breeding. Do not allow horses or other equines access to feed containing zilpaterol. Do not use in veal calves.''

(2) Labeling of Type A medicated articles and Type B medicated feeds used to manufacture complete Type C medicated feeds shall bear the caution statements in paragraph (d)(3) of this section.

(3) Labeling of complete Type C medicated feeds shall bear the following caution statements: ''Not to be fed to cattle in excess of 90 mg zilpaterol/head/day in complete feed. If pen consumption of complete feed exceeds 26.5 lb/head/day (90 percent dry matter basis), zilpaterol should not be fed in complete feed.''

* * * * *

(e) * * *

Zilpaterol in grams/ton	Combination grams/ton	Indications for use	Limitations	Sponsor
(1) 6.8		Cattle fed in confinement for slaughter: For increased rate of weight gain, improved feed efficiency, and increased carcass leanness in cattle fed in confinement for slaughter during the last 20 to 40 days on feed.	Feed continuously as the sole ration during the last 20 to 40 days on feed to provide 60 to 90 mg/head/day. Withdrawal period: 3 days.	000061
*	*	* * *	*	*
(7) 6.8 to 24		Cattle fed in confinement for slaughter: For increased rate of weight gain, improved feed efficiency, and increased carcass leanness in cattle fed in confinement for slaughter during the last 20 to 40 days on feed.	Feed continuously to cattle during the last 20 to 40 days on feed to provide 60 mg zilpaterol hydrochloride per head per day. Withdrawal period: 3 days.	000061
(8) 6.8 to 24	Monensin 10 to 40, plus tylosin 8 to 10.	Cattle fed in confinement for slaughter: For increased rate of weight gain, improved feed efficiency, and increased carcass leanness in cattle fed in confinement for slaughter during the last 20 to 40 days on feed; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii;* and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium* (*Actinomyces*) *pyogenes*.	Feed continuously to cattle during the last 20 to 40 days on feed to provide 60 mg zilpaterol hydrochloride per head per day. See paragraphs §§ 558.355(d) and 558.625(c). Monensin and tylosin as provided by No. 000986 in § 510.600(c) of this chapter. Withdrawal period: 3 days.	000061

Dated: March 9, 2015.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9713]

RIN 1545–BL46; 1545–BM60

Reporting for Premium; Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to information reporting by brokers for bond premium and acquisition premium. This document also contains final and temporary regulations relating to information reporting by brokers for transactions involving debt instruments and options, including the reporting of original issue discount (OID) on tax-exempt obligations, the treatment of certain holder elections for reporting a taxpayer's adjusted basis in a debt instrument, and transfer reporting for section 1256 options and debt instruments. The regulations in this document provide guidance to brokers and payors and to their customers. The text of the temporary regulations in this document also serves as the text of the proposed regulations (REG–143040–14) set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective date:* These regulations are effective on *March 13, 2015.*

Applicability dates: For the dates of applicability, see §§ 1.6045–1(m)(2)(ii)(B), 1.6045–1T(n)(11)(i)(A), 1.6045–1T(n)(11)(i)(B), 1.6045A–1T(e)(1), 1.6045A–1T(f), 1.6049–9(a), and 1.6049–10T(c).

FOR FURTHER INFORMATION CONTACT: Pamela Lew of the Office of the Associate Chief Counsel (Financial Institutions and Products) at (202) 317–7053 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Section 1.6049–9 of the final regulations in this document requires a payor to report amortizable bond premium on taxable and tax-exempt debt instruments acquired on or after January 1, 2014, and acquisition premium on taxable debt instruments acquired on or after January 1, 2014. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of interest (including OID) each year. In addition, because this information is used to report a taxpayer's adjusted basis in a debt instrument under section 6045(g), this information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of gain or loss upon the sale of a debt instrument. The burden for the collection of information contained in § 1.6049–9 will be reflected in the burdens on Form 1099–INT (OMB control number 1545–0112) and Form 1099–OID (OMB control number 1545–0117) when revised to request the additional information in the regulations.

Section 1.6049–10T of the temporary regulations in this document requires a payor to report OID and acquisition premium on tax-exempt obligations acquired on or after January 1, 2017. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of tax-exempt interest each year for alternative minimum tax and other purposes. In addition, because this information is used to report a taxpayer's adjusted basis in a debt instrument under section 6045(g), this information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of gain or loss upon the sale of a tax-exempt obligation. The burden for the collection of information contained in § 1.6049–10T will be reflected in the burden on Form 1099–OID (OMB control number 1545–0117) when revised to request the additional information in the regulations.

Upon the transfer of a covered security, section 6045A and § 1.6045A–1 require the transferring broker to provide to the transferee broker a transfer statement containing certain information relating to the security. This transfer statement generally provides the transferee broker the information needed to determine a customer's adjusted basis and whether any gain or loss with respect to the security is long-term, short-term, or ordinary as required by section 6045(g). Prior to the issuance of § 1.6045A–1T in this document, a broker did not have to provide a transfer statement for a section 1256 option. In addition, a broker did not have to provide the last date on or before the transfer date that the broker made an adjustment for a particular item relating to a debt instrument. Section 1.6045A–1T, however, now requires a broker to transfer this information for a section 1256 option transferred on or after January 1, 2016, and for a debt instrument transferred on or after June 30, 2015.

The collection of information contained in § 1.6045A–1 relating to the furnishing of information in connection with the transfer of securities has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. The collection of information in § 1.6045A–1T and the cross-reference notice of proposed rulemaking under § 1.6045A–1 is necessary to allow brokers that effect sales of transferred section 1256 options and debt instruments that are covered securities to determine and report the adjusted basis of these securities in compliance with section 6045(g). This collection of information is required to comply with the provisions of section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)) (the Act). The collection of information contained in § 1.6045A–1T and the cross-reference notice of proposed rulemaking under § 1.6045A–1 is an increase in the total annual burden under control number 1545–2186. The likely respondents are brokers transferring section 1256 options and debt instruments that are covered securities.

Estimated total annual reporting burden is 3,333 hours.

Estimated average annual burden per respondent is 2 hours.

Estimated average burden per response is 4 minutes.

Estimated number of respondents is 7,500.

Estimated total frequency of responses is 200,000.

The collection of information is required to comply with the provisions of section 403 of the Act.

The holder of a debt instrument is permitted to make a number of elections that affect how basis is computed. To minimize the need for reconciliation between information reported by a broker to both a customer and the IRS and the amounts reported on the customer's tax return, a broker is required to take into account certain specified elections, including the election under § 1.1272–3 to treat all interest as OID and the election under section 1276(b)(2) to accrue market discount on a constant yield method, in reporting information to the customer. A customer, therefore, must provide certain information concerning an election to the broker in a written notification. A written notification includes a writing in electronic format. See § 1.6045–1(n)(5).

The collection of information contained in § 1.6045–1(n)(5) relating to the furnishing of information by a

customer to a broker in connection with the sale or transfer of a debt instrument that is a covered security has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. Under § 1.6045–1T(n)(11)(i)(A) of the temporary regulations in this document, unlike the rule in current § 1.6045–1(n)(5) adopted in 2013, a broker must not take into account the election under § 1.1272–3 in reporting a customer's adjusted basis in a debt instrument. Therefore, a customer is no longer required to notify the broker that the customer has made or revoked an election under § 1.1272–3. This change represents a decrease in the total annual burden under OMB control number 1545–2186. In addition, under § 1.6045–1T(n)(11)(i)(B), a broker must take into account the election under section 1276(b)(2) unless the customer timely notifies the broker that the customer has not make the election. The temporary regulations reverse the assumption in current § 1.6045–1(n)(5) adopted in 2013. Because the section 1276(b)(2) election results in a more taxpayer-favorable result than the default ratable method for accruing market discount in most cases, it is anticipated that more customers will want to use this method and these customers will no longer need to notify their brokers that they have made the election. As a result, this change represents a decrease in the total annual burden under OMB control number 1545–2186.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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 section 6103.

Background

Section 6045 of the Internal Revenue Code (Code) generally requires a broker to report gross proceeds upon the sale of a security. Section 6045 was amended by section 403 of the Act to require the reporting of adjusted basis for a covered security and whether any gain or loss upon the sale of the security is long-term or short-term. In addition, the Act added section 6045A of the Code, which requires certain information to be reported in connection with a transfer of a covered security to another broker, and section 6045B of the Code, which requires an issuer of a specified security to file a return relating to certain actions that affect the basis of the security. Section 6049 of the Code requires the reporting of interest payments (including accruals of OID treated as payments).

On November 25, 2011, the Treasury Department and the IRS published in the **Federal Register** (76 FR 72652) proposed regulations (REG–102988–11) relating to information reporting by brokers, transferors, and issuers of securities under sections 6045, 6045A, and 6045B for debt instruments, options, and securities futures contracts (the 2011 proposed basis reporting regulations). On April 18, 2013, the Treasury Department and the IRS published in the **Federal Register** (TD 9616 at 78 FR 23116) final regulations under sections 6045, 6045A, and 6045B (the 2013 final basis reporting regulations). A number of commenters on the 2011 proposed basis reporting regulations requested that the rules for reporting interest income associated with a debt instrument acquired at a premium be conformed to the rules regarding basis reporting for these debt instruments. Accordingly, TD 9616 also contained temporary regulations relating to information reporting for bond premium and acquisition premium under section 6049 (the 2013 temporary interest reporting regulations). A notice of proposed rulemaking cross-referencing the 2013 temporary interest reporting regulations also was published in the **Federal Register** on April 18, 2013 (REG–154563–12 at 78 FR 23183) (the 2013 proposed interest reporting regulations).

No written comments were received on the 2013 proposed interest reporting regulations. No public hearing was requested or held. These final regulations adopt the provisions of the 2013 proposed interest reporting regulations with certain clarifications and one conforming change for acquisition premium. These final regulations also remove the corresponding 2013 temporary interest reporting regulations.

After the publication of the 2013 final basis reporting regulations in the **Federal Register**, the Treasury Department and the IRS received written comments on certain provisions of the 2013 final basis reporting regulations. In response to these written comments, this document contains final and temporary regulations under sections 6045 and 6045A relating to certain aspects of the 2013 final basis reporting regulations, as discussed in this preamble.

Explanation of Provisions

A. Final Regulations for Reporting Bond Premium and Acquisition Premium

Under section 171, a taxpayer may elect to amortize bond premium on a taxable debt instrument and must amortize bond premium on a tax-exempt debt instrument. In general, a taxpayer amortizes bond premium by offsetting the qualified stated interest allocable to an accrual period by the amount of the bond premium allocable to the accrual period. This offset occurs when the taxpayer takes the qualified stated interest into account under the taxpayer's regular method of accounting. For example, the offset occurs when a cash method taxpayer receives a payment of qualified stated interest. *See* section 171(e) and § 1.171–2. As a result, only the portion of qualified stated interest that is not offset by the amortized bond premium is treated as interest for federal income tax purposes. A taxpayer's basis in a debt instrument acquired with bond premium is reduced by amortized bond premium. For purposes of section 6045, a broker is required to report the adjusted basis of a taxable debt instrument that is a covered security and that is acquired with bond premium by presuming that the taxpayer has elected to amortize bond premium unless the taxpayer notifies the broker in writing that the taxpayer does not want to amortize bond premium. *See* § 1.6045–1(n)(5) of the 2013 final basis reporting regulations.

Under section 1272(a)(7) and § 1.1272–2, a taxpayer who purchases a debt instrument with acquisition premium is required to reduce the amount of OID includible in income each year by the amount of acquisition premium allocable to the taxable year. In general, the amount of acquisition premium allocable to a taxable year is determined using a ratable method, although a taxpayer may elect under § 1.1272–3 to determine the amount of acquisition premium allocable to a taxable year based on a constant yield method. *See* § 1.1272–2(b)(5). A taxpayer's basis in a taxable debt instrument purchased with acquisition premium is increased by the amount of OID included in income by the taxpayer. A taxpayer's basis in a tax-exempt debt instrument purchased with acquisition premium is increased by the amount of OID that accrues in accordance with section 1272(a), including section 1272(a)(7). For purposes of section 6045, a broker

currently is required to report the adjusted basis of a debt instrument that is a covered security using the ratable method for acquisition premium, unless the taxpayer notifies the broker in writing that the taxpayer has elected to determine the amount of acquisition premium allocable to a taxable year based on a constant yield method. *See* § 1.6045–1(n)(5) of the 2013 final basis reporting regulations. However, as explained in Part B.2.a in this preamble, under these final regulations, for a debt instrument acquired on or after January 1, 2015, a broker must use the ratable method to determine the amount of acquisition premium allocable to a taxable year for purposes of basis reporting under section 6045, regardless of any election under § 1.1272–3.

Under section 6049(a), the Secretary may prescribe regulations to implement the reporting of interest payments, which includes the determination of the amount of a payment that is reportable interest. Similarly, under section 6049(a) the Secretary may prescribe by regulations how to determine the amount reportable as OID.

Section 1.6049–9T of the 2013 temporary interest reporting regulations was issued by the Treasury Department and the IRS in response to comments suggesting that the rules under section 6049 for reporting interest income associated with a debt instrument acquired at a premium be conformed to the rules under section 6045 for basis reporting for these debt instruments. Section 6045 generally requires a broker to report on an information return, such as a Form 1099–B, the adjusted basis of a debt instrument that is a covered security, including basis adjustments attributable to amortized bond premium or acquisition premium. *See* § 1.6045–1(n) of the 2013 final basis reporting regulations. However, prior to the issuance of § 1.6049–9T, interest income (including OID) on a debt instrument acquired at a premium was reported under section 6049 without adjustment for amortized bond premium or acquisition premium. Consequently, a customer generally could not reconcile the interest income reported to the customer on Form 1099–INT or Form 1099–OID, whichever was applicable, with the adjusted basis reported to the customer on Form 1099–B upon the sale of the debt instrument. The Treasury Department and the IRS issued the 2013 temporary interest reporting regulations to coordinate the information reporting for income and basis. Under section 1.6049–9T of the 2013 temporary interest reporting regulations, a broker generally is required to report to a customer any amortized bond premium and acquisition premium on a debt instrument that is a covered security. The amount reported may either be a gross number for both stated interest and amortized bond premium (or OID and amortized acquisition premium) or a net number that reflects the offset of the stated interest (or OID) by the amortized bond premium (or amortized acquisition premium).

No comments were received on the 2013 proposed interest reporting regulations and the final regulations in this document generally adopt the provisions of the 2013 temporary interest reporting regulations. However, as explained in the final paragraph of this Part A in this preamble, the final regulations contain a change for the reporting of acquisition premium for a debt instrument acquired on or after January 1, 2015, to conform to the change in this document for reporting basis adjustments for acquisition premium under section 6045.

Under these final regulations, for purposes of section 6049, a broker is required to presume that a customer has elected to amortize bond premium on taxable debt instruments unless the broker has been notified that the customer does not want the broker to take into account the election or has revoked the election. This presumption applies only to the information reported by the broker to its customer. Thus, a customer that chooses not to make the section 171 election may report interest on the customer's income tax return unadjusted for bond premium because the information reporting rules do not change the substantive rules affecting amortizable bond premium (or any of the other rules pertaining to OID or acquisition premium). If a broker is required to report amounts reflecting amortization of bond premium, the final regulations allow a broker to report either a gross amount for both stated interest and amortized bond premium or a net amount of stated interest that reflects the offset of the stated interest payment by the amount of amortized bond premium allocable to the payment.

In addition, under these final regulations, unlike the 2013 temporary interest reporting regulations, a broker must report OID adjusted for acquisition premium based on the ratable method. Under these final regulations, for a debt instrument acquired on or after January 1, 2015, even if a customer has made an election to amortize acquisition premium based on a constant yield under § 1.1272–3, a broker must not take the election into account for reporting acquisition premium. This change conforms the rules for reporting OID with the rules for reporting adjustments to basis attributable to acquisition premium described in section B.2.a of this preamble. *See* § 1.6045–1T(n)(11)(i)(A). As in the 2013 temporary interest reporting regulations, the final regulations allow a broker to report either a gross amount for both OID and acquisition premium, or a net amount of OID that reflects the offset of the OID by the amount of amortized acquisition premium allocable to the OID.

B. Final and Temporary Regulations Relating to Basis and Transfer Reporting

After the publication of the 2013 final basis reporting regulations, commenters recommended a number of changes to the 2013 final basis reporting regulations. Upon consideration of these comments, the Treasury Department and the IRS have decided to make the following changes to the 2013 final basis reporting regulations and to add broker reporting for OID on tax-exempt obligations under section 6049.

1. Request for Delayed Effective Date for Options on Certain Foreign Debt Instruments

Under the 2013 final basis reporting regulations, if a debt instrument requires a payment of either interest or principal in a currency other than the U.S. dollar or if the debt instrument is issued by a non-U.S. issuer, a broker is required to report the debt instrument's basis only if the instrument is acquired on or after January 1, 2016. *See* § 1.6045–1(n)(2)(ii)(D) and (G). The 2013 final basis reporting regulations delayed the applicability date for these types of debt instruments to address commenters' concerns that it would take extra time to build the systems to account for the complexity of these debt instruments (for example, brokers would be required to track and retain on a daily basis foreign exchange rates for translation purposes) and, in some cases, a lack of publicly available information.

Under the 2013 final basis reporting regulations, a broker is required to report gross proceeds and basis for certain options on a debt instrument granted or acquired on or after January 1, 2014. *See* § 1.6045–1(m). The 2013 final basis reporting regulations apply to an option on a debt instrument that requires a payment of either interest or principal in a currency other than the U.S. dollar or an option on a debt instrument issued by a non-U.S. issuer. Because a broker is not required to report basis for these types of debt instruments until January 1, 2016, one commenter requested a delay in the applicability date for reporting gross

proceeds and basis for these types of options. The commenter stated that the data collection and computation difficulties related to the underlying debt instruments also exist for options on these types of debt instruments. Responding to this comment, the final regulations in this document delay until January 1, 2016, the applicability date for reporting gross proceeds and basis for options on debt instruments that provide for one or more payments denominated in a foreign currency and options on debt instruments issued by non-U.S. issuers.

2. Certain Debt Elections Relating to Broker Basis Reporting

Under the 2013 final basis reporting regulations, for purposes of reporting adjusted basis to a customer, a broker must take into account only the debt-related elections specified in § 1.6045–1(n)(4). If an election is not specified in § 1.6045–1(n)(4), a broker may not take the election into account for reporting adjusted basis to a customer. In general, a broker must take into account a specified election if a customer timely notifies the broker that the customer has made the election. Two of the specified elections are the election to treat all interest as OID under § 1.1272–3 and the election to accrue market discount based on a constant yield under section 1276(b)(2).

a. Election To Treat All Interest as OID

Under § 1.1272–3, a customer may elect to treat all interest on a debt instrument, adjusted by any amortizable bond premium or acquisition premium, as OID. If this election is made, the amount of interest (including any adjustment) that accrues during a period is based on a constant yield. This election is made on a debt instrument by debt instrument basis; however, if made, the election may affect other debt instruments with amortizable bond premium or market discount held by the customer even if the debt instrument is held in a separate account with the broker or any other broker.

One commenter on the 2013 final basis reporting regulations indicated that it was extremely difficult to program the election given its effects on other debt instruments. Another commenter argued that the results of the election could mostly be achieved by a combination of other debt elections that the brokers also must support. Also, according to the commenters, the types of customers who receive Forms 1099–B, such as individuals, partnerships, or S corporations, rarely make the election to treat all interest as OID.

In consideration of the comments received and the burden that the rule in the 2013 final basis reporting regulations would impose, these temporary and proposed regulations provide that a broker may not take into account the election under § 1.1272–3 when computing basis. The temporary and proposed regulations supersede the 2013 final basis reporting regulations relating to the broker's treatment of the election under § 1.1272–3.

In general, the amount of acquisition premium allocable to a taxable year is determined using a ratable method, unless the taxpayer elects under § 1.1272–3 to determine the amount of acquisition premium allocable to a taxable year based on a constant yield method. *See* § 1.1272–2(b)(4) and (5). As noted in the final paragraph in Part A in this preamble, to conform the rules for reporting OID with the rules for reporting adjustments to basis attributable to acquisition premium, a broker must report acquisition premium for purposes of section 6049 on the ratable method even if a customer has made the election under § 1.1272–3 to use a constant yield method.

The temporary regulations apply to a debt instrument acquired on or after January 1, 2015. A broker may, however, rely on the temporary regulations for a debt instrument acquired on or after January 1, 2014, and before January 1, 2015.

b. Constant Yield Election for Market Discount

Under section 1276(b)(2), a customer may elect to accrue market discount on a constant yield method rather than a ratable method. The election may be made on a debt instrument by debt instrument basis and must be made for the earliest taxable year for which the customer is required to determine accrued market discount. The election may not be revoked once it has been made.

The 2011 proposed basis reporting regulations attempted to simplify broker reporting by requiring brokers to compute accrued market discount by assuming that a customer had made an election under section 1276(b)(2) to use a constant yield method. The use of a constant yield method to determine accruals of market discount backloads market discount and is therefore more taxpayer favorable than the use of a ratable method in most cases. A number of commenters to the 2011 proposed basis reporting regulations indicated a desire by brokers to support debt instrument election choices made by their customers rather than rely on assumptions provided in the regulations. In response to these comments, the 2013 final basis reporting regulations instructed brokers to assume that a customer did not make an election to determine accrued market discount using a constant yield method unless the broker received timely notification from the customer that the election had been or would be made.

After the 2013 final basis reporting regulations were published, the majority of commenters reconsidered their initial objections to the 2011 proposed basis reporting regulations requirement to use a constant yield method to determine accrued market discount. These commenters indicated that the use of the constant yield method would generally result in a more favorable tax result for most Form 1099–B recipients. The commenters therefore requested that the broker assumption for calculating accrued market discount be changed so that brokers will assume that a customer has made the election unless the customer timely notifies the broker otherwise. The Treasury Department and the IRS agree with the recommendation that brokers should assume the constant yield method for accruing market discount. Accordingly, the temporary regulations supersede the assumption in the 2013 final debt reporting regulations and provide that for a debt instrument acquired on or after January 1, 2015, brokers are required to assume that a customer has elected to determine accrued market discount using a constant yield method unless the customer notifies the broker otherwise. A customer that does not want to use a constant yield method to determine accrued market discount must, by the end of the calendar year in which the customer acquired the debt instrument in an account with the broker, notify the customer's broker in writing that the customer wants the broker to use the ratable method to determine accrued market discount.

3. Transfer Reporting

a. Section 1256 Options

Under § 1.6045A–1(a)(1)(vi) of the 2013 final basis reporting regulations, a transferring broker is not required to provide a transfer statement for the transfer of a section 1256 option. In response to the 2013 final basis reporting regulations, a number of commenters stated that brokers often treat the transfer of a section 1256 option in the same manner as transfers of equities or debt instruments and do not treat the transferred section 1256 option contract as being novated. Thus, commenters stated that a transfer statement, as provided for by section

6045A, is necessary to ensure that a receiving broker has all relevant data required to properly report information for section 1256 options.

In response to these comments, these temporary and proposed regulations supersede the exception for section 1256 options in the 2013 final basis reporting regulations and extend transfer reporting to section 1256 options. Because the 2013 final basis reporting regulations explicitly instruct brokers not to send transfer statements for section 1256 options, it is understood that brokers may need some additional time to modify their systems to generate the required transfer statements. The temporary regulations therefore provide that a transfer statement is required for the transfer of a section 1256 option that occurs on or after January 1, 2016. The temporary regulations also list the data specific to section 1256 options that must be provided in addition to the data required for the transfer of a non-section 1256 option.

b. Debt Instruments

Under § 1.6045A–1 of the 2013 final basis reporting regulations, brokers are required to provide to a receiving broker certain information relating to a transfer of a debt instrument that is a covered security. The preamble to the 2013 final basis reporting regulations indicated that the information required to be provided included the date through which the transferor broker made adjustments. However, several commenters on the 2013 final basis reporting regulations noted that this item of information was not included in the list of information required to be provided in the 2013 final basis reporting regulations. The temporary and proposed regulations correct this omission by adding the date through which the transferring broker made adjustments to the list of information required to be provided upon the transfer of a debt instrument that is a covered security. This change applies to a transfer that occurs on or after June 30, 2015.

4. Reporting of OID on a Tax-Exempt Obligation

The 2013 final basis reporting regulations require a broker to report the adjusted basis for a debt instrument that is a covered security, including a tax-exempt obligation. However, under Notice 2006–93 (2006–2 CB 798), for purposes of section 6049, a broker is not required to report OID on tax-exempt obligations until further guidance is issued.

Several commenters on the 2013 final basis reporting regulations pointed out that the section 6045 rules now require a broker to compute the OID on a tax-exempt obligation to properly report adjusted basis at the time of a transfer, sale, or other disposition of a tax-exempt obligation. These commenters requested that, similar to what was done in § 1.6049–9T for amortizable bond premium and acquisition premium on a debt instrument that is a covered security, reporting of OID under section 6049 be coordinated with reporting of basis for tax-exempt obligations.

To align the rules and improve consistency between OID reporting and basis reporting, § 1.6049–10T of the temporary regulations in this document provides that a payor must report under section 6049 the daily portions of OID on a tax-exempt obligation. The daily portions of OID are determined as if section 1272 and § 1.1272–1 applied to a tax-exempt obligation. A payor must determine whether a tax-exempt obligation was issued with OID and the amount that accrues for each relevant period. In addition, OID on a tax-exempt obligation is determined without regard to the de minimis rule in section 1273(a)(3) and § 1.1273–1(d). Because the temporary regulations require the reporting of OID, payors also must report amortized acquisition premium (which offsets OID) on a tax-exempt obligation. A broker may report either a gross amount for both OID and amortized acquisition premium, or a net amount of OID that reflects the offset of the OID by the amount of amortized acquisition premium allocable to the OID. To provide payors with time to adapt their systems to report this information, the temporary regulations apply to a tax-exempt obligation acquired on or after January 1, 2017.

Applicability Dates

The final regulations under section 6049 apply to a debt instrument that is a covered security (that is, a debt instrument described in § 1.6045–1(a)(15)(i)(C) acquired on or after January 1, 2014, or a debt instrument described in § 1.6045–1(a)(15)(i)(D) acquired on or after January 1, 2016). The temporary regulations under section 6049 apply to a tax-exempt obligation acquired on or after January 1, 2017. The temporary regulations under section 6045A apply to a transfer of a section 1256 option that occurs on or after January 1, 2016, and to a transfer of a debt instrument that occurs on or after June 30, 2015. The temporary regulations under section 6045 apply to a debt instrument acquired on or after January 1, 2015. The final regulations under section 6045 apply to an option on a debt instrument that provides for one or more payments denominated in a foreign currency or a debt instrument issued by a non-U.S. issuer if the option is granted or acquired on or after January 1, 2016.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that the final regulations in this document will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. It is anticipated that the requirements in the final regulations in this document will fall only on financial services firms with annual receipts greater than the $38.5 million threshold and, therefore, on no small entities.

In addition, any economic impact is expected to be minimal because a broker already is required to determine the amortization of bond premium and acquisition premium for purposes of determining and reporting a customer's adjusted basis on Form 1099–B under section 6045. The information provided to a customer on Form 1099–INT or Form 1099–OID, whichever is applicable, generally will allow a customer to reconcile the interest information reported to the customer with the adjusted basis information reported to the customer on Form 1099–B. Moreover, any effect on small entities by the rules in the final regulations flows from section 6049 of the Code and section 403 of the Act.

Therefore, because the final regulations in this document will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required.

For the applicability of the Regulatory Flexibility Act to the other regulations in this document, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding the final regulations in this document were submitted to the Chief Counsel for

Advocacy of the Small Business Administration for comment on their impact on small businesses. No comments were received. In addition, the proposed regulations accompanying the temporary regulations in this document have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Pamela Lew, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.6049–9T and adding entries for §§ 1.6045–1T, 1.6045A–1T, 1.6049–9, and 1.6049–10T in numerical order to read in part as follows:

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

Section 1.6045–1T also issued under 26 U.S.C. 6045(g). * * *

Section 1.6045A–1T also issued under 26 U.S.C. 6045A(a). * * *

Section 1.6049–9 also issued under 26 U.S.C. 6049(a). * * *

Section 1.6049–10T also issued under 26 U.S.C. 6049(a). * * *

■ **Par. 2.** Section 1.6045–1 is amended by:

■ 1. Revising paragraph (m)(2)(ii).

■ 2. Adding a sentence at the end of paragraph (n)(4)(iv).

■ 3. Adding a sentence at the end of paragraph (n)(5)(i).

■ 4. Adding paragraph (n)(11).

The revision and additions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(m) * * *

(2) * * *

(ii) *Delayed effective date for certain options*—(A) Notwithstanding paragraph (m)(2)(i) of this section, if an option, stock right, or warrant is issued as part of an investment unit described in § 1.1273–2(h), paragraph (m) of this section applies to the option, stock right, or warrant if it is acquired on or after January 1, 2016.

(B) Notwithstanding paragraph (m)(2)(i) of this section, if the property referenced by an option (that is, the property underlying the option) is a debt instrument that is issued by a non-U.S. person or that provides for one or more payments denominated in, or determined by reference to, a currency other than the U.S. dollar, paragraph (m) of this section applies to the option if it is granted or acquired on or after January 1, 2016.

* * * * *

(n) * * *

(4) * * *

(iv) * * * However, see § 1.6045–1T(n)(11)(i)(A) for a debt instrument acquired on or after January 1, 2014.

* * * * *

(5) * * *

(i) * * * However, see § 1.6045–1T(n)(11) for the treatment of an election described in paragraph (n)(4)(iii) of this section (election to accrue market discount based on a constant yield) and an election described in paragraph (n)(4)(iv) of this section (election to treat all interest as OID).

* * * * *

(11) [Reserved]. For further guidance, see § 1.6045–1T(n)(11).

* * * * *

■ **Par. 3.** Section 1.6045–1T is amended by revising paragraphs (h) through (p) to read as follows:

§ 1.6045–1T Returns of information of brokers and barter exchanges (temporary).

* * * * *

(h) through (n)(10) [Reserved]. For further guidance, see § 1.6045–1(h) through (n)(10).

(11) *Additional rules for certain holder elections*—(i) *In general.* For purposes of § 1.6045–1, the rules in this paragraph (n)(11) apply notwithstanding any other rule in § 1.6045–1(n).

(A) *Election to treat all interest as OID.* A broker must report the information required under § 1.6045–1(d) without taking into account any election described in § 1.6045–1(n)(4)(iv) (the election to treat all interest as OID in § 1.1272–3). As a result, for example, a broker must determine the amount of any acquisition premium taken into account each year for purposes of § 1.6045–1 in accordance with § 1.1272–2(b)(4). This paragraph (n)(11)(i)(A) applies to a debt instrument acquired on or after January 1, 2015. A broker may, however, rely on this paragraph (n)(11)(i)(A) for a debt instrument acquired on or after January 1, 2014, and before January 1, 2015.

(B) *Election to accrue market discount based on a constant yield.* A broker must report the information required under § 1.6045–1(d) by assuming that a customer has made the election described in § 1.6045–1(n)(4)(iii) (the election to accrue market discount based on a constant yield). However, if a customer notifies a broker in writing that the customer does not want the broker to take into account this election, the broker must report the information required under § 1.6045–1(d) without taking into account this election. The customer must provide this notification to the broker by the end of the calendar year in which the customer acquired the debt instrument in an account with the broker. This paragraph (n)(11)(i)(B) applies to a debt instrument acquired on or after January 1, 2015.

(ii) *Expiration date.* The applicability of this paragraph (n)(11) expires on or before *March 12, 2018.*

(o) through (p) [Reserved]. For further guidance, see § 1.6045–1(o) through (p).

* * * * *

■ **Par. 4.** Section 1.6045A–1 is amended by removing paragraph (a)(1)(vi) and adding paragraphs (e) and (f) to read as follows:

§ 1.6045A–1 Statements of information required in connection with transfers of securities.

* * * * *

(e) *Section 1256 options.* [Reserved.] For further guidance, see § 1.6045A–1T(e).

(f) *Additional information required for a debt instrument.* [Reserved.] For further guidance, see § 1.6045A–1T(f).

■ **Par. 5.** Section 1.6045A–1T is added to read as follows:

§ 1.6045A–1T Statements of information required in connection with transfers of securities (temporary).

(a) through (d) [Reserved.] For further guidance, see § 1.6045A–1(a) through (d).

(e) *Section 1256 options*—(1) *In general.* A transferor of an option described in § 1.6045–1(m)(3) (section 1256 option) is required to furnish to the receiving broker a transfer statement for a transfer that occurs on or after January 1, 2016. The transfer statement must include the information described in § 1.6045A–1(b) and paragraph (e)(2) of this section for a section 1256 option that is a covered security or in § 1.6045A–1(b) for a section 1256 option that is a noncovered security.

(2) *Additional information required for a section 1256 option.* In addition to the information required in § 1.6045A–1(b), the following information is

required for a transfer of a section 1256 option that is a covered security:

(i) The original basis of the option; and

(ii) The fair market value of the option as of the end of the prior calendar year.

(f) *Additional information required for a debt instrument.* In addition to the information required in § 1.6045A–1(b)(3) for a transfer of a debt instrument that is a covered security, the transferor must provide the last date on or before the transfer date that the transferor made an adjustment for a particular item (for example, the last date on or before the transfer date that bond premium was amortized). This paragraph (f) applies to a transfer that occurs on or after June 30, 2015.

(g) *Expiration date.* The applicability of this section expires on or before March 12, 2018.

■ **Par. 6.** Section 1.6049–5 is amended by adding a sentence after the third sentence in paragraph (f) to read as follows:

§ 1.6049–5 Interest and original issue discount subject to reporting after December 31, 1982.

* * * * *

(f) * * * However, see § 1.6049–9 for the reporting of premium for a debt instrument acquired on or after January 1, 2014. * * *

* * * * *

■ **Par. 7.** Section 1.6049–9 is added to read as follows:

§ 1.6049–9 Premium subject to reporting for a debt instrument acquired on or after January 1, 2014.

(a) *General rule.* Notwithstanding § 1.6049–5(f), for a debt instrument acquired on or after January 1, 2014, if a broker (as defined in § 1.6045–1(a)(1)) is required to file a statement for the debt instrument under § 1.6049–6, the broker generally must report any bond premium (as defined in § 1.171–1(d)) or acquisition premium (as defined in § 1.1272–2(b)(3)) for the calendar year. This section, however, only applies to a debt instrument that is a covered security as defined in § 1.6045–1(a)(15).

(b) *Reporting of bond premium amortization.* Unless a broker has been notified in writing in accordance with § 1.6045–1(n)(5) that a customer does not want to amortize bond premium under section 171, the broker must report the amount of any amortizable bond premium allocable to a stated interest payment made to the customer during the calendar year. See §§ 1.171–2 and 1.171–3 to determine the amount of amortizable bond premium allocable to a stated interest payment. Instead of reporting a gross amount for both stated interest and amortizable bond premium, a broker may report a net amount of stated interest that reflects the offset of the stated interest payment by the amount of amortizable bond premium allocable to the payment. In this case, the broker must not report the amortizable bond premium as a separate item. This paragraph (b) also applies to amortizable bond premium on a tax-exempt obligation, which is required to be amortized under section 171.

(c) *Reporting of acquisition premium amortization.* A broker must report the amount of any acquisition premium amortization that reduces the amount of original issue discount includible in income by the customer during a calendar year. For a debt instrument acquired on or after January 1, 2015, a broker must use the rules in § 1.1272–2(b)(4) to determine the amount of acquisition premium amortization. However, for a debt instrument acquired on or after January 1, 2014, and before January 1, 2015, if a customer timely notifies the broker in accordance with § 1.6045–1(n)(5), a broker may use the rules in § 1.1272–3 to determine the amount of acquisition premium amortization. Instead of reporting a gross amount for both original issue discount and acquisition premium amortization, a broker may report a net amount of original issue discount that reflects the offset of the original issue discount includible in income by the customer for the calendar year by the amount of acquisition premium allocable to the original issue discount. In this case, the broker must not report the acquisition premium amortization as a separate item. See § 1.6049–10T for the reporting of acquisition premium on a tax-exempt obligation.

§ 1.6049–9T [Removed]

■ **Par. 8.** Section 1.6049–9T is removed.

■ **Par. 9.** Section 1.6049–10T is added to read as follows:

§ 1.6049–10T Reporting of original issue discount on a tax-exempt obligation (temporary).

(a) *In general.* For purposes of section 6049, a payor (as defined in § 1.6049–4(a)(2)) of original issue discount (OID) on a tax-exempt obligation (as defined in section 1288(b)(2)) is required to report the daily portions of OID on the obligation as if the daily portions of OID that accrued during a calendar year were paid to the holder (or holders) of the obligation in the calendar year. The amount of the daily portions of OID that accrues during a calendar year is determined as if section 1272 and § 1.1272–1 applied to a tax-exempt obligation. Notwithstanding any other rule in section 6049 and the regulations thereunder, a payor must determine whether a tax-exempt obligation was issued with OID and the amount of OID that accrues for each relevant period. As prescribed by section 1288(b)(1), OID on a tax-exempt obligation is determined without regard to the de minimis rules in section 1273(a)(3) and § 1.1273–1(d).

(b) *Acquisition premium.* A payor is required to report acquisition premium amortization on a tax-exempt obligation in accordance with the rules in § 1.6049–9(c) as if section 1272 applied to a tax-exempt obligation. See paragraph (a) of this section to determine the amount of OID allocable to an accrual period.

(c) *Effective/applicability date.* This section applies to a tax-exempt obligation acquired on or after January 1, 2017.

(d) *Expiration date.* The applicability of this section expires on or before March 12, 2018.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: February 19, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2015–05648 Filed 3–12–15; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in April 2015 and interest assumptions under the asset allocation regulation for valuation dates in the second quarter of 2015. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective April 1, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@PBGC.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulations are also published on PBGC's Web site (*http://www.pbgc.gov*).

The interest assumptions in Appendix B to Part 4044 are used to value benefits for allocation purposes under ERISA section 4044. PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for April 2015 and updates the asset allocation interest assumptions for the second quarter (April through June) of 2015.

The second quarter 2015 interest assumptions under the allocation regulation will be 2.71 percent for the first 20 years following the valuation date and 2.78 percent thereafter. In comparison with the interest assumptions in effect for the first quarter of 2015, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.18 percent in the select rate, and a decrease of 0.34 percent in the ultimate rate (the final rate).

The April 2015 interest assumptions under the benefit payments regulation will be 0.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for March 2015, these interest assumptions represent an increase of 0.25 percent in the immediate annuity rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during April 2015, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE–EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 258, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	* *		*		*	
258	4–1–15	5–1–15	0.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 258, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	* *		*		*	
258	4–1–15	5–1–15	0.75	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for April–June 2015, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *		*	*	*		*
April–June 2015	0.0271	1–20	0.0278	>20	N/A	N/A

Issued in Washington, DC, on this 6th day of March 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–05780 Filed 3–12–15; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0966]

Drawbridge Operation Regulation; Mokelumne River, East Isleton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the California Department of Transportation highway drawbridge across the Mokelumne River, mile 3.0, at East Isleton, CA. The deviation is necessary to allow the bridge owner to perform structural repair work to the bridge. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective without actual notice from March 13, 2015 through 10 p.m. on May 29, 2015. For the purposes of enforcement, actual notice will be used from 5 a.m. on March 2, 2015, until March 13, 2015.

ADDRESSES: The docket for this deviation, [USCG–2014–0966], is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: California Department of Transportation has requested a temporary change to the operation of the California Department of Transportation highway drawbridge across the Mokelumne River, mile 3.0, at East Isleton, CA. The drawbridge navigation span provides approximately 7 feet vertical clearance above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.175(a), the draw opens on signal from November 1 through April 30 from 9 a.m. to 5 p.m.; and from May 1 through October 31 from 6 a.m. to 10 p.m., except that during the following periods the draw need only open for recreational vessels on the hour, 20 minutes past the hour, and 40 minutes past the hour: Saturdays, 10 a.m. until 2 p.m.; Sundays, 11 a.m. until 6 p.m.; and Memorial Day, Fourth of July and Labor Day 11 a.m. until 6 p.m. At all other times the drawbridge shall open on signal if at least 4 hours notice is given. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 5 a.m. on March 2, 2015 to 10 p.m. on May 29, 2015, due to replacement of bridge deck and rehabilitation of the bridge control house. This temporary deviation has been coordinated with the waterway users. Caltrans work plan and dates have been tailored to produce the least possible impacts to waterway traffic, land traffic, businesses and potential flood response plans, while allowing the work to be performed, to ensure dependable future operation of the drawbridge. Vessels able to pass through the drawbridge in the closed position may do so at any time. The drawbridge will not be able to open for emergencies. Alternative paths for recreational vessel traffic are available via Little Potato Slough and Georgiana Slough. Alternative paths for land traffic are also available. The Coast Guard will inform waterway users of this temporary deviation via our Local and Broadcast Notices to Mariners, to minimize resulting navigational impacts.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 27, 2015.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2015–05745 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0076]

RIN 1625–AA00

Safety Zone; Tuscaloosa Regional Air Show; Black Warrior River; Tuscaloosa, AL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the waters of the Black Warrior River in Tuscaloosa, AL. This action is necessary for the safeguard of participants and spectators, including all crews, vessels, and persons on

navigable waters during the Tuscaloosa Regional Air Show. Entry into or transiting in this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Mobile or a designated representative.

DATES: This rule is effective on March 26–29, 2015, from 11:30 a.m. until 5 p.m. each day.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0076. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Stanley A. Tarrant, Sector Mobile, Waterways Management Division, U.S. Coast Guard; telephone 251–441–5940, email *Stanley.A.Tarrant@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

APA Administrative Procedures Act
BNM Broadcast Notice to Mariners
COTP Captain of the Port
DHS Department of Homeland Security
FAA Federal Aviation Administration
FR Federal Register
LNM Local Notice to Mariners
NEPA National Environmental Policy Act
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive the necessary information from The City of Tuscaloosa of their intentions to conduct an air show on March 26–29, 2015 over a portion of the Black Warrior River, in Tuscaloosa, AL until January 29, 2015. The City of Tuscaloosa informed Coast Guard Sector Mobile that a Federal Aviation Administration (FAA) rule prohibits all vessel traffic and persons within the exclusion area where the air craft will be flying overhead and therefore, requested a safety zone to keep all vessels out of the exclusion area that crosses over the Black Warrior River. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to public interest because immediate action is needed to protect persons and vessels from the safety hazards associated with the planned event. Additionally, delaying the safety zone for the NPRM process would unnecessarily interfere with the Tuscaloosa Regional Air Show flight schedule, compliance with federal regulations enforced by the FAA, and potential contractual obligations.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, 1 which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones.

The City of Tuscaloosa plans to conduct an air show for the public, over a portion of the Black Warrior River in Tuscaloosa, AL on March, 26–29, 2015 between the hours of 11:30 a.m. and 5 p.m. each day.

The hazards associated with the air show poses safety hazards to both vessels and mariners while airplanes fly over the Black Warrior River, in Tuscaloosa, AL. The (Captain of the Port) COTP Mobile is establishing a temporary safety zone encompassing the waters of the Black Warrior River between Mile Marker (MM) 335.8 to MM 336.3, in Tuscaloosa, AL, to protect persons and vessels, during the air show.

The COTP anticipates minimal impact on vessel traffic due to this regulation. However, this safety zone is deemed necessary for the protection of life and property within the COTP Mobile zone.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone encompassing the waters of the Black Warrior River between MM 335.8 to MM 336.3, in Tuscaloosa, AL. This temporary rule will protect the safety of life and property in this area. Entry into or transiting in this zone is prohibited to all vessels, mariners, and persons unless specifically authorized by the COTP Mobile or a designated representative. The COTP may be contacted by telephone at 251–441–5976.

The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners (BNM) of changes in the effective period for the safety zone. This rule will be enforced from March 26–29, 2015 at 11:30 a.m. until 5 p.m. each day.

BNMs will be used to inform waterway users of the exact enforcement times and any changes in this safety zone or its enforcement prior to the Tuscaloosa Regional Air Show.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The safety zone listed in this rule will restrict vessel traffic from entering or transiting in a small portion of the Black Warrior River, in Tuscaloosa, AL. The effect of this regulation will not be significant for several reasons: (1) This rule will only affect vessel traffic for a short duration; (2) vessels may request permission from the COTP to transit through the safety zone; and (3) impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through BNMs. These notifications will allow the public to plan operations around the affected area.

2. Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in the affected portions of the Black Warrior River during the Tuscaloosa Regional Air Show. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The zone is limited in size, is of short duration and vessel traffic may request permission from the COTP Mobile or a designated representative to enter or transit through the zone.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone on a waterway during the Tuscaloosa Regional Air Show and is not expected to result in any significant adverse environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph (34)(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a categorical exclusion determination will be made available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T08–0076 to read as follows:

§ 165.T08–0076 Safety Zone; Tuscaloosa Regional Air Show; Black Warrior River; Tuscaloosa, AL.

(a) *Location.* The following area is a safety zone: all waters encompassing the waters of the Black Warrior River between MM 335.8 to MM 336.3, in Tuscaloosa, AL.

(b) *Effective dates and enforcement period.* This rule is effective on March 26–29, 2015, from 11:30 a.m. until 5:00 p.m. each day.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the zone must request permission from the Captain of the Port Mobile or a designated representative. They may be contacted on VHF–FM channels 16 or by telephone at 251–441–5976.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Mobile or designated representative.

(d) *Informational broadcasts.* The Captain of the Port Mobile or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the safety zone or the planned schedule.

Dated: February 2, 2015.

S. Walker,

Captain, U.S. Coast Guard, Captain of the Port Mobile.

[FR Doc. 2015–05744 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR PART 165

[Docket No. USCG–2015–0130]

RIN 1625–AA00

Safety Zone; St. Patrick's Day Fireworks, Manitowoc River, Manitowoc, Wisconsin

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Manitowoc River in Manitowoc, Wisconsin. This safety zone is intended to restrict vessels from a portion of the Manitowoc River due to a fireworks display. This safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the fireworks display.

DATES: This rule is effective and will be enforced from 6 p.m. until 8:30 p.m. on March 13, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0130. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On December 24, 2014, the Coast Guard published an NPRM in the **Federal Register** which listed safety zones corresponding to annual marine events in the Sector Lake Michigan zone (79 FR 77415). This NPRM included the safety zone for the St. Patrick's Day Fireworks in Manitowoc, WI (the subject of this TFR). After the 30 day comment period for the NPRM closed, the Coast Guard published a corresponding Final Rule on February 18, 2015 (80 FR 8536).

Because the Manitowoc St. Patrick's Day Fireworks would occur within 30 days of the Final Rule's publication, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3), for making this rule effective less than 30 days after publication in the **Federal Register**. Waiting for a 30 day notice period to run would be impracticable, unnecessary, and contrary to the public interest because it would inhibit the Coast Guard's ability to protect vessels from the hazards associated with the Manitowoc St. Patrick's Day Fireworks on March 13, 2015, which are discussed further below.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On March 13, 2015, the City of Manitowoc is expected to hold its annual St. Patrick's Day fireworks display. This fireworks display will be launched from the shore of the Manitowoc River. The Captain of the Port Lake Michigan has determined that this fireworks display will pose a significant risk to public safety and property. Such hazards include falling and/or flaming debris.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this safety zone is necessary to ensure the safety of persons and vessels during the fireworks display on the shore of the Manitowoc River. This zone is effective and will be enforced from 6 p.m. until 8:30 p.m. on March 13, 2015. The safety zone will encompass all waters of the Manitowoc River within a 200 foot radius of an approximate launch position at 44°05.492′ N, 087°39.332′ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or her designated on-scene representative. The Captain of the Port or her designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for only one day. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the affected portion of the Manitowoc River on March 13, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of this zone, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination for this zone have been previously completed and are available via *http://www.regulations.gov* under Docket Number USCG–2014–1001. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0130 to read as follows:

§ 165.T09–0130 Safety Zone; St. Patrick's Day Fireworks, Manitowoc River, Manitowoc, Wisconsin.

(a) Location. All waters of the Manitowoc River within a 200 foot radius of an approximate launch position at 44°05.492′ N, 087°39.332′ W (NAD 83).

(b) Effective and enforcement period. This zone is effective and will be enforced from 6 p.m. until 8:30 p.m. on March 13, 2015.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or her designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or her designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or her on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or her on-scene representative.

Dated: March 2, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–05814 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0109]

Drawbridge Operation Regulations; Hackensack River, Jersey City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Port Authority Trans-Hudson (PATH) railroad bridge across the Hackensack River, mile 3.0, at Jersey City, New Jersey. This deviation is necessary to allow the bridge owner to replace rails and ties at the bridge. This deviation allows the bridge to remain closed on Saturday and Sunday for twenty six consecutive weekends.

DATES: This deviation is effective from April 4, 2015 through September 27, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0109] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Joe M. Arca, Project Officer, First Coast Guard District, telephone (212) 514–4336, *joe.m.arca@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The PATH railroad bridge across the Hackensack River, mile 3.0, at Jersey City, New Jersey, has a vertical clearance in the closed position of 40 feet at mean high water and 45 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.723.

The waterway is transited by seasonal recreational vessels and commercial vessels of various sizes.

The bridge owner, Port Authority Trans-Hudson (PATH), requested a temporary deviation from the normal operating schedule to facilitate structural repairs, replacement of the rails and ties, at the bridge.

Under this temporary deviation, the PATH railroad bridge may remain in the closed position for twenty six weekends, between 12:01 a.m. on Saturdays through 12:01 a.m. on Mondays from April 4, 2015 through September 27, 2015.

There are no alternate routes for vessel traffic; however, the vertical clearance at the bridge is 40 feet at mean high water and 45 feet at mean low water, which should allow most vessels that normally transit this bridge to pass under the closed draws during this repair period. The bridge may be opened in the event of an emergency.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridges so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 23, 2015.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2015–05809 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0098]

RIN 1625–AA00

Safety Zone; State Route 520 Bridge Construction, Lake Washington; Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Washington around the east span of the State Route 520 Bridge in Seattle, Washington for the construction of the new bridge. The safety zone is necessary to ensure the safety of the maritime public and workers involved in the bridge construction. The safety zone will prohibit any person or vessel from

entering or remaining in the safety zone unless authorized by the Captain of the Port or his Designated Representative.

DATES: This rule is effective without actual notice from March 13, 2015 until May 30, 2015. For the purposes of enforcement, actual notice will be used from the date the rule was signed, February 18, 2015, until March 13, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0098. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email BM2 Ryan Griffin, Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone (206) 217–6323, email *SectorPugetSoundWWM@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable as delayed promulgation may result in injury or damage to the maritime public, vessel crews, the vessels themselves, and the facilities prior to conclusion of a notice and comment period.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date until 30 days after publication would be contrary to public interest, as this delay would eliminate the safety zone's effectiveness and usefulness in protecting persons, property, and the safe navigation of maritime traffic before 30 days have elapsed.

B. Basis and Purpose

Coast Guard Captains of the Port are granted authority to establish safety and security zones in 33 CFR 1.05–1(f) for safety and environmental purposes, described in 33 CFR part 165.

The State Route 520 Bridge is the longest floating bridge in the world that has a span of 1.4 miles across Lake Washington and is supported by 33 pontoons.

The State Route 520 Bridge is being replaced, and those efforts include upgrading the bridge's floating pontoons for larger ones. During the bridge replacement project, construction barges will occasionally need to block the waterway that runs beneath the east span of the bridge. As a result, the Coast Guard is establishing a temporary safety zone which is necessary to ensure the safety of the maritime public and workers involved in the bridge construction.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone which encompasses all waters within 100 yards of the east span of the State Route 520 Bridge, located on Lake Washington at the following point: 47°38′16.4″ N, 122°14′31.4″ W.

Vessels wishing to enter the zone must request permission for entry by contacting the Joint Harbor Operations Center at 206–217–6001. Once permission for entry is granted vessels must proceed at a minimum speed for safe navigation.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the affected waterway during the period mentioned. This safety zone will not have a significant economic impact on a substantial number of small entities because the zone established in this rule is limited in size and duration.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3State Route 520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a 100 yard temporary safety zone around the east span of the State Route 520 Bridge. The rule will prevent any vessel from approaching within 100 yards of the east span during periods of construction with permission of the Captain of the Port. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–283 to read as follows:

§ 165.T13–283 Safety Zone; State Route 520 Bridge, Lake Washington; Seattle, WA.

(a) *Location.* The following areas are designated as a safety zone: All waters within 100 yards of the east span of the State Route 520 Bridge, located on Lake Washington at the following point: 47°38′16.4″ N, 122°14′31.4″ W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, vessels wishing to enter the zone must request permission for entry by contacting the Joint Harbor Operation Center at 206–217–6001. Once permission for entry is granted vessels must proceed at a minimum speed for safe navigation.

(c) *Dates.* This rule will be enforced on days during which construction operations occur, from 3 a.m. to 11 a.m., or until the construction barge has departed from the waterway under the east span, starting on February 18, 2015, until May 30, 2015.

Dated: February 18, 2015.

M. W. Raymond,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2015–05741 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0123; FRL–9922–71–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Amendments to Gasoline Vapor Recovery Requirements for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Illinois Environmental Protection Agency (IEPA) on January 17, 2014, concerning the state's gasoline vapor recovery requirements. The

revision phases out the Stage II vapor recovery (Stage II) program requirements in the Illinois portion of the Chicago ozone nonattainment area (NAA) as a component of the Illinois ozone SIP. To be consistent with the repeal of the Stage II program requirements, the SIP revision also includes amendments to the state's permitting regulations applicable to storage tanks and fuel dispensing, including repealing the Stage I vapor recovery (Stage I) registration provisions due to overlapping Federal notification requirements and state tracking systems for gasoline dispensing operations. Finally, the SIP revision includes other clarifying and clean-up amendments at 35 Ill. Adm. Code Parts 201, 218, and 219. The submittal also includes a demonstration under section 110(l) of the Clean Air Act (CAA) that shows there are no emissions impacts associated with the removal of the program. A proposed rule approving IEPA's submittal was published in the **Federal Register** on October 17, 2014.

DATES: This final rule is effective on April 13, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0123. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo, Mobile Source Program Manager, at (312) 886–6061, before visiting the Region 5 office.

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

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

I. What is being addressed by this document?
II. What is our response to comments received on the notice of proposed rulemaking?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews.

I. What is being addressed by this document?

On October 17, 2014, EPA published proposed (79 FR 62378) and direct final (79 FR 62352) rules approving revisions to the Illinois ozone SIP submitted on January 17, 2014, concerning the State's Stage II vapor recovery program requirements in Illinois. The rules also included amendments to 35 Ill. Adm. Code Parts 201, 218, and 219 to make necessary updates and to be consistent with the repeal of the Stage II program standards. A full list of the regulatory changes submitted by Illinois for EPA approval included:

- Revisions to 35 Ill. Adm. Code 201.146 and 201.302 adopted at 38 Ill. Reg. 1005, effective December 23, 2013.
- Revisions to 35 Ill. Adm. Code 218.112, 218.583, and 218.586 adopted at 38 Ill. Reg. 1032, effective December 23, 2013.
- Revisions to 35 Ill. Adm. Code 219.105, 219.112, and 218.583 adopted at 38 Ill. Reg. 1061, effective December 23, 2013.

EPA subsequently received adverse comments on the direct final rule and withdrew it on December 10, 2014 (79 FR 73202). The proposal was not withdrawn and remained in effect. In this action we are responding to the comments and taking final action to approve Illinois' SIP revision request submitted on January 17, 2004.

II. What is our response to comments received on the notice of proposed rulemaking?

EPA only received one adverse comment on the October 17, 2014, proposed approval of this Illinois rule. We are responding to the commenter who disagreed with our action.

Comment. The commenter notes that the CAA section 110(l) demonstration submitted by Illinois is flawed and the commenter claims that there are in fact significant emission reduction losses resulting from the removal of the Stage II program requirements in Illinois. The commenter further claims that the increased emissions represent a significant environmental, health and safety risk.

Response

The commenter's primary argument that Illinois' 110(l) demonstration is ''flawed'' is not directly supported in the comments submitted to EPA. The commenter does not provide any specific information outlining how or why he believes the state's 110(l) demonstration is unsound, or how approving the state's action would represent a significant environmental, health and safety risk. The state's SIP submittal, on the other hand, included an extensive analysis using state specific data demonstrating that beginning in 2014, on-board refueling vapor recovery (ORVR) systems alone would start providing greater reductions in refueling emissions than the simultaneous use of ORVR and Stage II in the Chicago ozone NAA. The commenter submitted only general calculations deriving the increase in refueling emissions, but the methodology and data used for calculating the stated emissions impacts are unexplained and appear to be based on incomplete assumptions that on their own are not acceptable for SIP demonstration purposes as they do not use state specific information, including vehicle miles traveled, fuel Reid vapor pressure, meteorological data, and vehicle population. Further, the commenter's calculations do not take into consideration the incompatibility issue between some Stage II systems and ORVR systems that is being addressed through the state's Stage II decommissioning process. EPA has provided guidance to states on how the compatibility factor should be incorporated into SIP revisions for Stage II programs. Specifically, EPA issued guidance including a document entitled ''Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures,'' EPA457/B–12–001 (August 7, 2012). IEPA's calculations are consistent with EPA guidance and take the compatibility factor into account. After considering the commenter's concerns and re-examining Illinois' SIP submittal, including the state's responses to similar issues raised by the commenter during the state's rule development process, EPA continues to find that IEPA's modeling demonstration supports phasing out the state's Stage II vapor recovery systems and complies with the CAA section 110(l) ''anti-backsliding'' provisions.

III. What action is EPA taking?

EPA is approving the revisions to the Illinois ozone SIP submitted on January 17, 2014, concerning the State's Stage II vapor recovery program standards in Illinois. EPA is also approving amendments to 35 Ill. Adm. Code Parts

201, 218, and 219 to make necessary updates and to be consistent with the repeal of the Stage II program standards. EPA finds that the revisions will not interfere with any applicable requirement concerning attainment, reasonable further progress or any other applicable CAA requirement.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 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).)

List of Subjects in 40 CFR Part 52

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

Dated: January 30, 2015.

Bharat Mathur,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.720 is amended by adding paragraph (c)(203) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(203) On January 17, 2013, the Illinois Environmental Protection Agency submitted a request to phase out Stage II vapor recovery standards at 35 Ill. Adm. Code 218.586 and to make other related revisions to 35 Ill. Adm. Code Parts 201, 218, and 219.

(i) *Incorporation by reference.*

(A) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter a: Permits and General Provisions, Part 201, Permits and General Provisions, Subpart C: Prohibitions, Section 201.146, Exemptions from State Permit Requirements, and Subpart K: Records and Reports, Section 201.302, Reports, effective December 23, 2013.

(B) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 218, Organic Material Emission Standards and Limitations for the Chicago Area, Subpart A: General Provisions, Section 218.112, Incorporations by Reference, Subpart Y: Gasoline Distribution, Section 218.583, Gasoline Dispensing Operations—Storage Tank Filling Operations and Section 218.586, Gasoline Dispensing Operations—Motor Vehicle Fueling Operations, effective December 23, 2013.

(C) Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 219, Organic Material Emission Standards and Limitations for the Metro East Area, Subpart A: General Provisions, Section 219.105, Test Methods and Procedures, and Section 219.112, Incorporations by Reference, Subpart Y: Gasoline Distribution, Section 219.583, Gasoline Dispensing Operations—Storage Tank Filling Operations, effective December 23, 2013.

[FR Doc. 2015–05649 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

[EPA–HQ–OECA–2014–0551; FRL–9922–62–OECA]

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correcting amendment.

SUMMARY: The Environmental Protection Agency (EPA) published a document in the **Federal Register** on November 6, 2014. That document included the correct mailing and hand delivery addresses for the Environmental Appeals Board, but inadvertently failed to omit the incorrect addresses. This amendment deletes the incorrect addresses.

DATES: Effective on March 13, 2015.

FOR FURTHER INFORMATION CONTACT: Ammie Roseman-Orr, Environmental Appeals Board, U.S. Environmental Protection Agency, William Jefferson Clinton Building East, Room 3332, 1200 Pennsylvania Ave. NW., Mail Code 1103M, Washington DC 20460, phone number (202) 233–0122 or by email at *roseman-orr.ammie@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The rule amendment published on November 6, 2014 (79 FR 65897), corrected the mailing and hand delivery addresses for the Environmental Appeals Board in § 22.5(a) to reflect the Board's relocation. The rule also revised § 22.30(a)(1) by adding a reference to the corrected addresses in § 22.5(a). This amendment, however, inadvertently did not omit the Board's incorrect addresses in the second and third sentences of § 22.30(a)(1).

Need for Correction

As published on November 6, 2014 (79 FR 65897), the final regulation contains an error which may prove to be misleading and is in need of clarification.

List of Subjects in 40 CFR Part 22

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Water pollution control.

Dated: February 19, 2015.

Nanci E. Gelb,

Acting Assistant Administrator, Office of Administration and Resources Management.

Accordingly, 40 CFR part 22 is corrected by making the following correcting amendment:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 7 U.S.C. 136(l); 15 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 300g–3(g), 6912, 6925, 6928, 6991e and 6992d; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

§ 22.30 [Corrected]

■ 2. In § 22.30, paragraph (a)(1) is amended by removing the second and third sentences.

[FR Doc. 2015–05438 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 411, 413 and 414

[CMS–1614–CN]

RIN 0938–AS13

Medicare Program; Quality Incentive Program; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on November 6, 2014 entitled ''End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies.''

DATES: This correction is effective on March 13, 2015.

FOR FURTHER INFORMATION CONTACT: Tamyra Garcia, (410) 786–0856.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014–26182 of November 6, 2014 (79 FR 66120), there were technical and typographical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction document are effective as if they had been included in the document published on November 6, 2014. Accordingly, the corrections are effective March 13, 2015.

II. Summary of Errors

On page 66184 of the preamble, we have determined that there were errors in the performance standard, achievement threshold, and benchmark values presented in the Numerical Values for the Performance Standards for the Payment Year (PY) 2017 End-Stage Renal Disease (ESRD) Quality Incentive Program (QIP) Clinical Measures Using the Most Recently Available Data table for PY 2017 of the ESRD QIP (Table 23). Specifically, the numerical values published for the Standardized Readmission Ratio clinical measure were calculated using only 6 months of data from calendar year 2013 instead of the full 12 months, as specified under our finalized policy (79 FR 66183). Therefore, we are publishing this technical correction to ensure that these numerical standards align with the finalized policies for the PY 2017 ESRD QIP.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons; therefore, in the notice.

Since this rule correction is simply correcting technical and typographical errors in the preamble, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule, it is unnecessary to follow the notice and comment procedure in this instance. Therefore, we believe that we have good cause to forego notice and a period for comment.

IV. Correction of Errors

In FR Doc. 2014–26182 of November 6, 2014 (79 FR 66120) make the following corrections:

1. On page 66184, in Table 23 ''Numerical Values for the Performance Standards for the PY 2017 ESRD QIP Clinical Measures Using the Most

Recently Available Data''; in the fifth row titled ''Standardized Readmission Ratio'' remove the existing values and add the following values in their place:

Measure	Performance standard	Achievement threshold	Benchmark
Standardized Readmission Ratio	0.648	1.261	0.998

Dated: March 6, 2015.

C'Reda Weeden,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2015–05766 Filed 3–12–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 18

Official Symbol, Logo and Seal

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The U.S. Department of Health and Human Services (HHS) is adopting final regulations containing a description of its official symbol, logo, and seal.

DATES: This rule is effective April 13, 2015 without further action.

FOR FURTHER INFORMATION CONTACT: Gloria Barnes, Office of the Assistant Secretary for Public Affairs (*gloria.barnes@hhs.gov*).

SUPPLEMENTARY INFORMATION: HHS is adopting regulations (45 CFR part 18) describing its official logo and seal. HHS has developed a symbol, logo, and seal that signifies the authoritativeness of the item or document to which it is affixed as an official endorsement of HHS. Pursuant to 5 U.S.C. 553(b)(A), notice and comment are not required because this rule only impacts HHS' procedure and practice. In addition, pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive notice and comment as unnecessary, because this rule is non-controversial and merely describes HHS' official symbol, logo, and seal.

HHS previously published a Direct Final Rule on April 14, 2014 (79 FR 20801). In response, HHS received two public comments. Among other things, both comments argued that the rule violated the First Amendment. The commenters argued that restrictions in the Direct Final Rule violated the First Amendment by not including exceptions for certain uses of the seal (*e.g.,* for illustrative purposes by the media). HHS withdrew this rule on June 4, 2014 (79 FR 32170). HHS is now publishing a Final Rule that merely describes the Department's symbol, seal, and logo.

Executive Order No. 12866

This rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, review by the Office of Management and Budget is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided by the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This rule does not contain any collections of information subject to the Paperwork Reduction Act.

List of Subjects in 45 CFR Part 18

Seals and insignia.

For the reasons set out in the preamble, HHS adds Part 18 to Title 45, Subtitle A, subchapter A of the Code of Federal Regulations as follows:

Subtitle A—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter A—GENERAL ADMINISTRATION

PART 18—OFFICIAL SYMBOL, LOGO, AND SEAL

Sec.

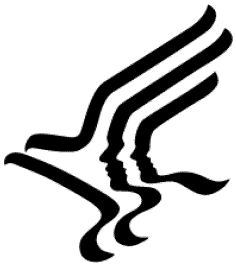
18.1 Description of the Symbol, Logo, and Seal.

Authority: 42 U.S.C. 3505 and 5 U.S.C. 301.

§ 18.1 Description of the Symbol, Logo, and Seal.

(a) The Departmental Symbol (Symbol) of the Department of Health and Human Services (HHS) is the key element in Department identification. It represents the American People sheltered in the wing of the American Eagle, suggesting the Department's concern and responsibility for the welfare of the people. This Symbol is the visual link which connects the graphic communications of all components and programs of the Department. It is the major design component for the Department Identifiers — the Department Logo, Seal, and Signatures.

(b) The Symbol is described as follows: The outline of an American Eagle, facing left, with one of its wings stretched upward and the other wing pointed downward, is flanked on its right side by two outlines of the profile of a human head, both of which are located in between the eagle's wings. One of the profile outlines is smaller than the other and is nestled in the larger outline.



(c) The HHS Departmental Logo (Logo) incorporates the Symbol and is described as follows: From the tip of the outstretched wing of the American Eagle in symbol to the tip of the other, downward-facing wing, the words, ''DEPARTMENT OF HEALTH & HUMAN SERVICES • USA'' form a circular arc. The official colors of the Logo are either Black or Reflex Blue. Reflex Blue RGB Numbers: 0/0/153 (R0, G0, B153)

(d) The HHS Departmental Seal (Seal) incorporates the Symbol and is described as follows: Starting from the tip of the downward-facing wing of the American Eagle in the HHS symbol and forming a complete circle clockwise around the HHS symbol, the words, ''DEPARTMENT OF HEALTH & HUMAN SERVICES • USA •'' are printed, surrounded by a border composed of a solid inner ring at the base of the text and a triangular, scalloped edge at the top of the text. The

official colors of the Seal are Reflex Blue and Gold [Reflex Blue RGB Numbers: 0/0/153 (R0, G0, B153); Reflex Gold RGB Numbers: 254/252/1 (R254, G252, B1)]. The Seal may also appear in Reflex Blue or Black.

(e) The HHS Departmental symbol, logo, and seal shall each be referred to as an HHS emblem and shall collectively be referred to as HHS emblems.

Dated: March 4, 2015.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2015–05536 Filed 3–12–15; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 27 and 37

[Docket OST–2006–23985]

RIN 2105–AE15

Transportation for Individuals With Disabilities; Reasonable Modification of Policies and Practices

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Department is revising its rules under the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act of 1973, as amended (section 504), specifically to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities.

DATES: This rule is effective July 13, 2015.

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590, Room W96–488, 202–493–0308, *jill.laptosky@dot.gov*. For questions related to transit, you may contact Bonnie Graves, Office of Chief Counsel, Federal Transit Administration, same address, Room E56–306, 202–366–0944, *bonnie.graves@dot.gov;* and, for rail, Linda Martin, Office of Chief Counsel, Federal Railroad Administration, same address, Room W31–304, 202–493–6062, *linda.martin@dot.gov*.

SUPPLEMENTARY INFORMATION: This final rule concerning reasonable modification of transportation provider policies and practices is based on a notice of proposed rulemaking (NPRM) issued February 27, 2006 (71 FR 9761). The NPRM also concerned several other subjects, most notably nondiscriminatory access to new and altered rail station platforms. The Department issued a final rule on these other subjects on September 19, 2011 (76 FR 57924).

Executive Summary

I. Purpose of the Regulatory Action

This final rule is needed to clarify that public transportation entities are required to make reasonable modifications/accommodations to their policies, practices, and procedures to ensure program accessibility. While this requirement is not a new obligation for public transportation entities receiving Federal financial assistance (see section 504 of the Rehabilitation Act), including the National Passenger Railroad Corporation (Amtrak), courts have identified an unintended gap in our Americans with Disabilities Act (ADA) regulations. This final rule will fill in the gap. The real-world effect will be that the nature of an individual's disability cannot preclude a public transportation entity from providing full access to the entity's service unless some exception applies. For example, an individual using a wheelchair who needs to access the bus will be able to board the bus even though sidewalk construction or snow prevents the individual from boarding the bus from the bus stop; the operator of the bus will need to slightly adjust the boarding location so that the individual using a wheelchair may board from an accessible location.

Reasonable modification/accommodation requirements are a fundamental tenet of disability nondiscrimination law—for example, they are an existing requirement for recipients of Federal assistance and are contained in the U.S. Department of Justice's (DOJ) ADA rules for public and private entities, the U.S. Department of Transportation's (DOT) ADA rules for passenger vessels, and DOT rules under the Air Carrier Access Act. In addition, section 504 has long been interpreted by the courts to require recipients of Federal financial assistance—virtually all public transportation entities subject to this final rule—to provide reasonable accommodations by making changes to policies, practices, and procedures if needed by an individual with a disability to enable him or her to participate in the recipient's program or activity, unless providing such accommodations are an undue financial and administrative burden or constitute a fundamental alteration of the program or activity. Among the Department's legal authorities to issue this rulemaking are section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101–12213.

II. Summary of the Major Provisions of the Regulatory Action

Public entities providing designated public transportation (*e.g.,* fixed route, demand-responsive, and ADA complementary paratransit) service will need to make reasonable modifications/accommodations to policies and practices to ensure program accessibility subject to several exceptions. These exceptions include when the modification/accommodation would cause a direct threat to the health or safety of others, would result in a fundamental alteration of the service, would not actually be necessary in order for the individual with a disability to access the entity's service, or (for recipients of Federal financial assistance) would result in an undue financial and administrative burden. Appendix E of this final rule provides specific examples of requested modifications that public transportation entities typically would not be required to grant for one or more reasons.

Public entities providing designated public transportation service will need to implement their own processes for making decisions and providing reasonable modifications under the ADA to their policies and practices. In many instances, entities already have compliant processes in place. This final rule does not prescribe the exact processes entities must adopt or require DOT approval of the processes. However, DOT reserves the right to review an entity's process as part of its normal oversight. *See* 49 CFR 37.169.

III. Costs and Benefits

The Department estimates that the costs associated with this final rule will be minimal for two reasons. First, modifications to policies, practices, and procedures, if needed by an individual with a disability to enable him or her to participate in a program or activity, are

already required by other Federal law that applies to recipients of Federal financial assistance. Since virtually every entity subject to this final rule receives Federal financial assistance, each entity should already be modifying its policies, practices, and procedures when necessary. Second, the reasonable modification/accommodation requirements contained in this final rule are not very different from the origin-to-destination requirement already applicable to complementary paratransit service, as required by current DOT regulations at 49 CFR 37.129(a) and as described in its implementing guidance.

The Reasonable Modification NPRM

Through amendments to the Department's ADA regulations at 49 CFR 37.5 and 37.169, the NPRM proposed that transportation entities, including, but not limited to, public transportation entities required to provide complementary paratransit service, must make reasonable modifications to their policies and practices to avoid discrimination on the basis of disability and ensure program accessibility. Making reasonable modifications to policies and practices is a fundamental tenet of disability nondiscrimination law, reflected in a number of DOT (*e.g.,* 49 CFR 27.11(c)(3), 14 CFR 382.7(c)) and DOJ (*e.g.,* 28 CFR 35.130(b)(7)) regulations. Moreover, since at least 1979, section 504 has been interpreted to require recipients of Federal financial assistance to provide reasonable accommodations to program beneficiaries. See, *e.g., Alexander* v. *Choate,* 469 U.S. 287 (1985); *Southeastern Community College* v. *Davis,* 442 U.S. 397 (1979). In accordance with these decisions of the U.S. Supreme Court (*e.g., Choate* and *Davis*), the obligation to modify policies, practices, and procedures is a longstanding obligation under section 504, and the U.S. Department of Justice, which has coordination authority for section 504 pursuant to Executive Order 12250, is in agreement with this interpretation.

However, as the NPRM explained, DOT's ADA regulations do not include language specifically requiring regulated parties to make reasonable modifications to policies and practices. The Department, when drafting 49 CFR part 37, intended that § 37.21(c) would incorporate the DOJ provisions on this subject, by saying the following:

> Entities to which this part applies also may be subject to ADA regulations of the Department of Justice (28 CFR parts 35 or 36, as applicable). The provisions of this part shall be interpreted in a manner that will make them consistent with applicable Department of Justice regulations.

Under this language, provisions of the DOJ regulations concerning reasonable modifications of policies and practices applicable to public entities, such as 28 CFR 35.130(b)(7), could apply to public entities regulated by DOT, while provisions of DOJ regulations on this subject applicable to private entities (*e.g.,* 28 CFR 36.302) could apply to private entities regulated by DOT. A 1997 court decision appeared to share the Department's intention regarding the relationship between DOT and DOJ requirements (*Burkhart* v. *Washington Area Metropolitan Transit Authority,* 112 F.3d 1207 (D.C. Cir. 1997)).

However, more recent cases that addressed the issue directly held that, in the absence of a DOT regulation explicitly requiring transportation entities to make reasonable modifications, transportation entities were not obligated to make such modifications under the ADA. The leading case on this issue was *Melton* v. *Dallas Area Rapid Transit (DART),* 391 F.3d 669 (5th Cir. 2004); *cert. denied* 125 S. Ct. 2273 (2005). In this case, the court upheld DART's refusal to pick up a paratransit passenger with a disability in a public alley behind his house, rather than in front of his house (where a steep slope allegedly precluded access by the passenger to DART vehicles). The DART argued that paratransit operations are not covered by DOJ regulations. ''Instead,'' as the court summarized DART's argument, ''paratransit services are subject only to Department of Transportation regulations found in 49 CFR part 37. The Department of Transportation regulations contain no analogous provision requiring reasonable modification to be made to paratransit services to avoid discrimination.'' 391 F.3d at 673.

The court essentially adopted DART's argument, noting that the permissive language of § 37.21(c) (''may be subject'') did not impose coverage under provisions of DOJ regulations which, by their own terms, provided that public transportation programs were ''not subject to the requirements of [28 CFR part 35].'' *See* 391 F.3d at 675. ''It is undisputed,'' the court concluded

> that the Secretary of Transportation has been directed by statute to issue regulations relating specifically to paratransit transportation. Furthermore, even if the Secretary only has the authority to promulgate regulations relating directly to transportation, the reasonable modification requested by the Meltons relates specifically to the operation of DART's service and is, therefore, exempt from the [DOJ] regulations in 28 CFR Part 35.

Id. Two other cases, *Boose* v. *Tri-County Metropolitan Transportation District of Oregon,* 587 F.3d 997 (9th Cir. 2009) and *Abrahams* v. *MTA Long Island Bus,* 644 F.3d 110 (2d Cir. 2011), subsequently agreed with *Melton.*

Because the Department believed that, as in all other areas of disability nondiscrimination law, making reasonable modifications to policies and practices is a crucial element of nondiscriminatory and accessible service to people with disabilities, we proposed to fill the gap the courts had identified in our regulations. Consequently, the 2006 NPRM proposed amending the DOT rules to require that transportation entities, both fixed route and paratransit, make reasonable modifications in the provisions of their services when doing so is necessary to avoid discrimination or to provide program accessibility to services.

In § 37.5, the general nondiscrimination section of the ADA rule, the Department proposed to add a paragraph requiring all public entities providing designated public transportation to make reasonable modifications to policies and practices where needed to avoid discrimination on the basis of disability or to provide program accessibility to services. The language was based on DOJ's requirements and, like the DOJ regulation, would not require a modification if doing so would fundamentally alter the nature of the entity's service.

The NPRM also proposed to place parallel language in a revised § 37.169, replacing an obsolete provision related to over-the-road buses. Under the proposal, in order to deny a request for a modification, the head of a public entity providing designated public transportation services would have had to make a written determination that a needed reasonable modification created a fundamental alteration or undue burden. The entity would not have been required to seek DOT approval for the determination, but DOT could review the entity's action (*e.g.,* in the context of a complaint investigation or compliance review) as part of a determination about whether the entity had discriminated against persons with disabilities. In the case where the entity determined that a requested modification created a fundamental alteration or undue burden, the entity would be obligated to seek an alternative solution that would not create such an undue burden or fundamental alteration.

The ADA and part 37 contain numerous provisions requiring transportation entities to ensure that persons with disabilities can access and

use transportation services on a nondiscriminatory basis. Some of these provisions relate to the acquisition of vehicles or the construction or alteration of transportation facilities. Others concern the provision of service by public and private entities, in modes ranging from public demand-responsive service for the general public to private over-the-road buses. Still others concern the provision of complementary paratransit service.

In all of these cases, public transportation entities are likely to put policies and procedures in place to carry out applicable requirements. In order to achieve the objectives of the underlying requirements in certain individual cases, entities may need to depart from these otherwise acceptable policies. This final rule concerns the scope of situations in which such departures—*i.e.,* reasonable modifications—are essential. The underlying provisions of the rule describe the ''bottom line'' of what transportation entities must achieve. This reasonable modification rule describes how transportation entities get to that ''bottom line'' in individual situations where entities' normal procedures do not achieve the intended result.

As comments to the NPRM made clear, an important concern of transportation entities is that the DOT final rule makes it possible to understand clearly what modifications are expected; in other words, which requested modifications would be ''reasonable'' and which would not. For example, in the fixed route context, we believe that stopping a bus a short distance from a bus stop sign to allow a wheelchair user to avoid an obstacle to boarding using a lift (*e.g.,* a utility repair, a snowdrift) would generally be reasonable. Establishing a ''flag stop'' policy that allowed a passenger to board a bus anywhere, without regard to bus stop locations, would not. In the complementary paratransit context, the Department would expect, in many circumstances, that drivers would provide assistance outside a vehicle where needed to overcome an obstacle, but drivers would not have to provide personal services that extend beyond the doorway into a building to assist a passenger. Appendix E to this final rule addresses issues of this kind in greater detail.

In addition to the ''modification of policies'' language from the DOJ ADA rules, there are other features of those rules that are not presently incorporated in the DOT ADA rules (*e.g.,* pertaining to auxiliary aids and services). The NPRM sought comment on whether it would be useful to incorporate any additional provisions from the DOJ rules into Part 37.

Comments to the NPRM

The Department received over 300 comments on the reasonable modification provisions of the NPRM. These comments were received during the original comment period, a public meeting held in August 2010, and a reopened comment period at the time of that meeting. The comments were polarized, with almost all disability community commenters favoring the proposal and almost all transit industry commenters opposing it.

The major themes in transit industry comments opposing the proposal were the following. Many transit industry commenters opposed the application of the concept of reasonable modification to transportation, and a few commenters argued that it was not the job of transit entities to surmount barriers existing in communities. Many transit commenters said that the rule would force them to make too many individual, case-by-case decisions, making program administration burdensome, leading to pressure to take unreasonable actions, creating the potential for litigation, and making service slower and less reliable. Some of these commenters also objected to the proposal that the head of an entity, or his designee, would be required to make the decision that a requested modification was a fundamental alteration or would result in an undue burden, and provide a written decision to the requestor, stating this requirement would take substantial staff time to complete. Many commenters provided examples or, in some cases, extensive lists, of the kinds of modifications they had been asked or might be asked to make, many of which they believed were unreasonable. A number of commenters said the rule would force paratransit operators to operate in a door-to-door mode, eliminating, as a practical matter, the curb-to-curb service option. A major comment from many transit industry sources was that reasonable modification would unreasonably raise the costs of providing paratransit. Per-trip costs would rise, various commenters said, because of increased dwell time at stops, the need for additional personnel (*e.g.,* an extra staff person on vehicles to assist passengers), increased insurance costs, lower service productivity, increased need for training, or preventing providers from charging fees for what they would otherwise view as premium service. Some of these commenters attached numbers to their predictions of increased costs (*e.g.,* the costs of paratransit would rise from 22–50 percent, nationwide costs would rise by $1.89–2.7 billion), though, with few exceptions, these numbers appeared to be based on extrapolations premised on assumptions about the requirements of the NPRM that were contrary to the language of the NPRM's regulatory text and preamble or on no analysis at all.

Commenters opposed to the proposal also raised safety issues, again principally in the context of paratransit. Making some reasonable modifications would force drivers to leave vehicles, commenters said. This could result in other passengers being left alone, which could expose them to hazards. Drivers leaving a vehicle would have to turn off the vehicle's engine, resulting in no air conditioning or heating for other passengers in the time the driver was outside the vehicle. The driver could be exposed to injury outside the vehicle (*e.g.,* from a trip and fall).

A smaller number of commenters also expressed concern about the application of the reasonable modification concept to fixed route bus service. Some commenters said that the idea of buses stopping at other than a designated bus stop was generally unsafe and burdensome, could cause delays, and impair the clarity of service. A number of these commenters appeared to believe that the NPRM could require transit entities to stop anywhere along a route where a person with a disability was flagging a bus down, which they said would be a particularly burdensome practice.

Commenters also made legal arguments against the proposal. Some commenters supported the approach taken by the court in *Melton*. Others said that the Department lacks statutory authority under the ADA to require reasonable modification or that reasonably modifying paratransit policies and practices would force entities to exceed the ''comparable'' service requirements of the statute. Some of these commenters said that the proposal would push entities too far in the direction of providing individualized, human service-type transportation, rather than mass transit. A number of commenters also said that it was good policy to maintain local option for entities in terms of the service they provide. Others argued that the proposed action was inconsistent with statutes or Executive Orders related to unfunded mandates and Federalism.

A variety of commenters—in both the disability community and transportation industry—noted that a significant number of paratransit operators already either provide door-to-door service as

their basic mode of service (some commenters said as many as 50 percent of paratransit operators provide door-to-door service) or follow what, in effect, is curb-to-curb with reasonable modification approach for paratransit, or allowed fixed route buses flexibility in terms of where they stop. Some of these commenters said that transit operators imposed conditions on the kind of modifications that could be made (*e.g.,* drivers could only leave the vehicle for a limited time or distance).

In some cases, commenters said, while they use their discretion to make the kinds of modifications the NPRM proposed, they wanted these actions to remain discretionary, rather than being the subject of a Federal mandate. A smaller number of commenters asked for additional guidance on expectations under a reasonable modification rule or for clarification of an enforcement mechanism for the proposed requirement.

Disability community commenters were virtually unanimous in supporting the proposal, saying that curb-to-curb paratransit service was often inadequate for some people with disabilities, who, in some circumstances, could not make use of ADA-mandated paratransit service. For example, medical oxygen users should not have to use part of their supply waiting at the curb for a vehicle; blind passengers may need wayfinding assistance to get to or from a vehicle; or bad weather may make passage to or from a vehicle unduly difficult for wheelchair users. Some disability community commenters supported the inclusion in the rule of various other provisions of the DOJ ADA regulations (*e.g.,* with respect to auxiliary aids and services).

DOT Response to Comments

Reasonable modification is a central concept of disability nondiscrimination law, based on the principle that it is essential for entities to consider individuals with disabilities as individuals, not simply as members of a category. The concept recognizes that entities may have general policies, legitimate on their face, that prevent nondiscriminatory access to entities' service, programs, or facilities by some individuals with disabilities under some circumstances. The concept calls on entities to make individual exceptions to these general policies, where needed to provide meaningful, nondiscriminatory access to services, programs, or facilities, unless making such an exception would require a fundamental alteration of an entity's programs.

Reasonable modification requirements are part of existing requirements for recipients of Federal financial assistance, DOJ ADA rules for public and private entities, DOT ADA rules for passenger vessels, and DOT rules under the Air Carrier Access Act. In none of these contexts has the existence of a reasonable modification requirement created a significant obstacle to the conduct of the wide variety of public and private functions covered by these rules. Nor has it led to noticeable increases in costs. At this point, surface transportation entities are the only class of entities not explicitly covered by an ADA regulatory reasonable modification requirement. Having reviewed the comments to this rulemaking, the Department has concluded that commenters failed to make a persuasive case that there is legal justification for public transportation entities to be treated differently than other transportation entities. Further, per the analysis above, section 504 requires entities receiving Federal financial assistance to make reasonable accommodations to policies and practices when necessary to provide nondiscriminatory access to services. This existing requirement applies to nearly all public transportation entities.

As stated in the NPRM, DOT recognizes that not all requests by individuals with disabilities for modifications of transportation provider policies are, in fact, reasonable. The NPRM recognized three types of modifications that would not create an obligation for a transportation provider to agree with a request: (1) Those that would fundamentally alter the provider's program, (2) those that would create a direct threat, as defined in 49 CFR 37.3, as a significant risk to the health or safety of others, and (3) those that are not necessary to enable an individual to receive the provider's services. The NPRM provided some examples of modifications that should be or need not be granted. Commenters from both the disability community and the transit industry provided a vastly larger set of examples of modifications that they had encountered or believed either should or should not be granted.

To respond to commenters' concerns that, given the wide variety of requests that can be made, it is too difficult to make the judgment calls involved, the Department has created an Appendix E to its ADA regulation that lists examples of types of requests that we believe, in most cases, either will be reasonable or not. This guidance recognizes that, given the wide variety of circumstances with which transportation entities and passengers deal, there may be some generally reasonable requests that could justly be denied in some circumstances, and some requests that generally need not be granted that should be granted in other circumstances. In addition, we recognize that no list of potential requests can ever be completely comprehensive, since the possible situations that can arise are far more varied than can be set down in any document. That said, we hope that this Appendix will successfully guide transportation entities' actions in a substantial majority of the kinds of situations commenters have called to our attention, substantially reducing the number of situations in which from-scratch judgment calls would need to be made, and will provide an understandable framework for transportation entities' thinking about specific requests not listed. Of course, as the Department learns of situations not covered in the Appendix, we may add to it.

The Department wants again to make clear that, as stated in the preamble to the last rulemaking:

> [the] September 2005 guidance concerning origin-to-destination service remains the Department's interpretation of the obligations of ADA complementary paratransit providers under existing regulations. As with other interpretations of regulatory provisions, the Department will rely on this interpretation in implementing and enforcing the origin-to-destination requirement of part 37. 76 FR 57924, 57934 (Sept. 19, 2011).

Thus, achieving the objective of providing origin-to-destination service does not require entities to make door-to-door service their basic mode of service provision. It remains entirely consistent with the Department's ADA rule to provide ADA complementary paratransit in a curb-to-curb mode. When a paratransit operator does so, however, it would need to make exceptions to its normal curb-to-curb policy where a passenger with a disability makes a request for assistance beyond curb-to-curb service that is needed to provide access to the service and does not result in a fundamental alteration or direct threat to the health or safety of others. Given the large number of comments on this issue, and to further clarify the Department's position on this, we have added a definition of ''origin-to-destination'' in part 37.

As commenters noted, a significant number of paratransit operators already follow an origin-to-destination policy that addresses the needs of passengers that require assistance beyond the curb in order to use the paratransit service. This fact necessarily means that these providers can and do handle individual

requests successfully. When a significant number of complementary paratransit systems already do essentially what this rule requires, or more, it is difficult to argue that it cannot be done without encountering insuperable problems.

To respond to commenters' concerns about an asserted onerous review process of requested modifications, the Department has removed the requirement that a response to a request be in writing, and is amending the complaint procedure in 49 CFR 27.13, and then mirroring that provision in a new section 37.17, to ensure it applies not just to recipients of Federal funds but to all designated public transportation entities. A person who is denied a modification may file a complaint with the entity, but the process would be the same as with any other complaint, so no separate complaint procedure is listed in 37.169.

With respect to fixed route bus service, the Department's position—elaborated upon in Appendix E—is that transportation providers are not required to stop at nondesignated locations. That is, a bus operator would not have to stop and pick up a person who is trying to flag down the bus from a location unrelated to or not in proximity to a designated stop, regardless of whether or not that person has a disability. On the other hand, if a person with a disability is near a bus stop, but cannot get to the precise location of the bus stop sign (*e.g.,* because there is not an accessible path of travel to that precise location) or cannot readily access the bus from the precise location of the bus stop sign (*e.g.,* because of construction, snow, or a hazard that makes getting onto the lift from the area of the bus stop sign too difficult or dangerous), then it is consistent both with the principle of reasonable modification and with common sense to pick up that passenger a modest distance from the bus stop sign. Doing so would not fundamentally alter the service or cause significant delays or degradation of service.

While it is understandable that commenters opposed to reasonable modification would support the outcome of *Melton* and cases that followed, it is important to understand that the reasoning of these cases is based largely on the proposition that, in the absence of a DOT ADA regulation, transportation entities could not be required to make reasonable modifications on the basis of DOJ requirements, standing alone. This final rule will fill the regulatory gap that *Melton* identified. While *Melton* stated that there was a gap in coverage with respect to public transportation and paratransit, as § 37.5(f) notes, private entities that were engaged in the business of providing private transportation services have always been obligated to provide reasonable modifications under title III of the ADA. Further, as stated above, reasonable accommodation is a requirement under section 504 of the Rehabilitation Act of 1973.

We do not agree with commenters who asserted that reasonable modification goes beyond the concept of comparable complementary paratransit found in the ADA, going too far in the direction of individualized, human services transportation, rather than mass transit. To the contrary, complementary paratransit remains a shared-ride service that must meet regulatory service criteria. Nothing in this final rule changes that. What the final rule does make clear is that in providing complementary paratransit service, transit authorities must take reasonable steps, even if case-by-case exceptions to general procedures, to make sure that eligible passengers can actually get to the service and use it for its intended purpose. ADA complementary paratransit remains a safety net for individuals with disabilities who cannot use accessible fixed route service. Adhering rigidly to policies that deny access to this safety net is inconsistent with the nondiscrimination obligations of transportation entities. Because transportation entities would not be required to make any modifications to their general policies that would fundamentally alter their service, the basic safety net nature of complementary paratransit service remains unchanged.

By the terms of the Unfunded Mandates Reform Act of 1995, as amended, requirements to comply with nondiscrimination laws, including those pertaining to disability, are not unfunded mandates subject to the provisions of the Act. 2 U.S.C. 1503. As a practical matter, for the vast majority of transportation entities subject to the DOT ADA regulation who receive FTA or other DOT financial assistance, compliance with any DOT regulations is, to a significant degree, a funded mandate. For both these reasons, comments suggesting that the proposal would impose an unfunded mandate were incorrect.

With respect to federalism, State and local governments were consulted about the rule, both by means of the opportunity to comment on the NPRM and a public meeting. Transportation authorities—many of which are likely to be State and local entities—did participate extensively in the rulemaking process, as the docket amply demonstrates. As stated previously, transportation industry commenters prefer to use their discretion to make the kinds of modifications the NPRM proposed, rather than being subject to a Federal mandate. These entities continue to have the discretion to grant or deny requests for reasonable modification, albeit in the context of Appendix E.

The effects of the final rule on fixed route service are quite modest, and comments did not assert the contrary. The issue of the cost impact of the reasonable modification focused almost exclusively on ADA complementary paratransit. There was little in the way of allegations that making exceptions to usual policies would increase costs in fixed route service.

In looking at the allegations of cost increases on ADA complementary paratransit, the Department stresses that all recipients of Federal financial assistance—which includes public transportation entities of complementary paratransit service—are already required to modify policies, practices, and procedures if needed by an individual with a disability to enable him or her to participate in the recipient's programs or activities, and this principle has been applied by Federal agencies and the courts accordingly. However, to provide commenters with a fuller response to their comments, the Department would further make three primary points. First, based on statements on transportation provider Web sites and other information, one-half to two-thirds of transit authorities already provide either door-to-door service as their basic mode of service or provide what amounts to curb-to-curb service with assistance beyond the curb as necessary in order to enable the passenger to use the service. The rule would not require any change in behavior, or any increase in costs, for these entities. Second, the effect of providing paratransit service in a door-to-door, or curb-to-curb, with reasonable modification, mode on per-trip costs is minimal. In situations where arrangements for reasonable modification are made in advance, which would be a significant portion of all paratransit modification requests, per-trip costs could even be slightly lower. The concerns expressed by commenters that per-trip costs would escalate markedly appear not to be supported by the data. Third, there could be cost increases, compared to current behavior, for paratransit operators that do not comply with existing origin-to-destination

requirements of the rule. Suppressing paratransit ridership by preventing eligible individuals from using the service or making the use of the service inconvenient saves money for entities. Conversely, making service more usable, and hence more attractive, could increase usage. Because of the operating cost-intensive nature of paratransit service, providing service to more people tends to increase costs. The Department estimated that increased costs from increased ridership stemming from improved service could amount to $55 million per year nationwide for those public transportation entities who are not in compliance with the current DOT origin-to-destination regulations.

This estimate would be at the upper end of the range of possible ridership-generated cost increases, since it is not clear that transportation entities with a strict curb-to-curb policy never provide modifications to their service. Analysts made the assumption that transportation agencies with curb-to-curb policies did not make modifications when modifications were not mentioned on the entities' Web sites. Disability community commenters suggested that, as a practical matter, transportation entities often provide what amounts to modifications even if their formal policies do not call for doing so.

In addition, it should be emphasized that transportation entities who comply with the existing rule's origin-to-destination requirement will not encounter ridership-related cost increases. In an important sense, any paratransit operation that sees an increase in ridership when this rule goes into effect are experiencing increased costs at this time because of their unwillingness to comply with existing requirements over the past several years.

Provisions of the Final Rule

In amendments to 49 CFR part 27 (the Department's section 504 rule) and part 37 (the Department's ADA rule for most surface transportation), the Department is incorporating specific requirements to clarify that public transportation entities are required to modify policies, practices, procedures that are needed to ensure access to programs, benefits, and services.

With regard to the Department's section 504 rule at 49 CFR part 27, we are revising the regulation to specifically incorporate the preexisting reasonable accommodation requirement recognized by the U.S. Supreme Court (see, *e.g., Choate* and *Davis*). The revised section 27.7 will clarify that recipients of Federal financial assistance are required to provide reasonable accommodations to policies, practices, or procedures when the accommodations are necessary to avoid discrimination on the basis of disability unless making the modifications (1) would fundamentally alter the nature of the service, program, or activity, or (2) would result in undue financial and administrative burdens.

With regard to the Department's ADA regulations in part 37, we are revising the regulation to further clarify this requirement and to fill in the gap identified by the courts. Under our revised part 37 regulations, public transportation entities may deny requests for modifications to their policies and practices on one or more of the following grounds: Making the modifications (1) would fundamentally alter the nature of the service, program, or activity, (2) would result in a direct threat to the health or safety of others, or (3) without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose. Please note that under our section 504 regulations at part 27, there is an undue financial and administrative burden defense, which is not relevant to our ADA regulations at part 37.

This final rule revises section 37.169, which focuses on the reasonable modification obligations of public entities providing designated public transportation, including fixed route, demand-responsive, and complementary paratransit service. The key requirement of the section is that these types of transportation entities implement their own processes for making decisions on and providing reasonable modifications to their policies and practices. In many cases, agencies are handling requests for modifications during the paratransit eligibility process, customer service inquiries, and through the long-existing requirement in the Department's section 504 rule for a complaint process. Entities will need to review existing procedures and conform them to the new rule as needed. The Department is not requiring that the process be approved by DOT, and the shape of the process is up to the transportation provider, but it must meet certain basic criteria. The DOT can, however, review an entity's process as part of normal program oversight, including compliance reviews and complaint investigations.

First, the entity must make information about the process, and how to use it, readily available to the public, including individuals with disabilities. For example, if a transportation provider uses printed media and a Web site to inform customers about bus and paratransit services, then it must use these means to inform people about the reasonable modification process. Of course, like all communications, this information must be provided by means accessible to individuals with disabilities.[1]

Second, the process must provide an accessible means by which individuals with disabilities can request a reasonable modification/accommodation. Whenever feasible, requests for modifications should be made in advance. This is particularly appropriate where a permanent or long-term condition or barrier is the basis for the request (*e.g.,* difficulty in access to a paratransit vehicle from the passenger's residence; the need to eat a snack on a rail car to maintain a diabetic's blood sugar levels; lack of an accessible path of travel to a bus stop, resulting in a request to have the bus stop a short distance from the bus stop location). In the paratransit context, it may often be possible to consider requests of this kind in conjunction with the eligibility process. The request from the individual with a disability should be as specific as possible and include information on why the requested modification is needed in order to allow the individual to use the transportation provider's services.

Third, the process must also provide for those situations in which an advance request and determination is not feasible. The Department recognizes that these situations are likely to be more difficult to handle than advance requests, but responding to them is necessary. For example, a passenger who uses a wheelchair may be able to board a bus at a bus stop near his residence but may be unable to disembark due to a parked car or utility repair blocking the bus boarding and alighting area at the stop near his destination. In such a situation, the transit vehicle operator would have the front-line responsibility for deciding whether to grant the on-the-spot request, though it would be consistent with the rule for the operator to call his or her supervisor for guidance on how to proceed.

Further, section 37.169 states three grounds on which a transportation provider could deny a requested modification. These grounds apply both to advance requests and on-the-spot requests. The first ground is that the request would result in a fundamental alteration of the provider's services (*e.g.,* a request for a dedicated vehicle in

[1] *See* 28 CFR 35.160(b)(1).

paratransit service, a request for a fixed route bus to deviate from its normal route to pick up someone). The second ground is that fulfilling a request for a modification would create a direct threat to the health or safety of others (*e.g.,* a request that would require a driver to engage in a highly hazardous activity in order to assist a passenger, such as having to park a vehicle for a prolonged period of time in a no-parking zone on a high-speed, high-volume highway that would expose the vehicle to a heightened probability of being involved in a crash). Third, the requested modification would not be necessary to permit the passenger to use the entity's services for their intended purpose in a nondiscriminatory fashion (*e.g.,* the modification might make transportation more convenient for the passenger, who could nevertheless use the service successfully to get where he or she is going without the modification). Appendix E provides additional examples of requested modifications that transportation entities usually would not be required to grant for one or more of these reasons.

Where a transportation provider has a sound basis, under this section, for denying a reasonable modification request, the entity would still need to do all it could to enable the requester to receive the services and benefits it provides (*e.g.,* a different work-around to avoid an obstacle to transportation from the one requested by the passenger). Transportation agencies that are Federal recipients are required to have a complaint process in place. The Department has added a new section 37.17 that extends the changes made to 49 CFR 27.13 to all public and private entities that provide transportation services, regardless of whether the entity receives Federal funds.

By requiring entities to implement a local reasonable modification process, the Department intends decisions on individual requests for modification to be addressed at the local level. The Department does not intend to use its complaint process to resolve disagreements between transportation entities and individuals with disabilities about whether a particular modification request should have been granted. However, if an entity does not have the required process, it is not being operated properly (*e.g.,* the process is inaccessible to people with disabilities, does not respond to communications from prospective complainants), it is not being operated in good faith (*e.g.,* virtually all complaints are routinely rejected, regardless of their merits), or in any particular case raising a Federal interest, DOT agencies may intervene and take enforcement action.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), DOT Regulatory Policies and Procedures, and Executive Order 13563 (Improving Regulation and Regulatory Review)

This final rule is not significant for purposes of Executive Orders 12866 and 13563 and the Department of Transportation's Regulatory Policies and Procedures. Therefore, it has not been reviewed by the Office of Management and Budget under Executive Order 12866 and Executive Order 13563. The costs of this rulemaking are expected to be minimal for two reasons. First, modifications to policies, practices, and procedures, if needed by an individual with a disability to enable him or her to participate in a program or activity, are already required by other Federal law that applies to recipients of Federal financial assistance. Since virtually every entity subject to this final rule receives Federal financial assistance, each entity should already be modifying its policies, practices, and procedures when necessary. Second, the reasonable modification/accommodation requirements contained in this final rule are not very different from the origin-to-destination requirement already applicable to complementary paratransit service, as required by current DOT regulations at 49 CFR 37.129(a) and as described in its implementing guidance. However, the Department recognizes that it is likely that some regulated entities are not complying with the current section 504 requirements and origin-to-destination regulation. In those circumstances only, the Department estimates that increased costs from increased ridership stemming from improved service could amount to $55 million per year nationwide for those public transportation entities who are not in compliance with the current DOT origin-to-destination regulations and section 504 requirements. Those costs are not a cost of this rule, but rather a cost of coming into compliance with current law.

Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This final rule does not include any provision that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various level of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. Therefore, the rule does not have federalism impacts sufficient to warrant the preparation of a Federalism Assessment.

Executive Order 13084 (Consultation and Coordination With Indian Tribal Governments)

The final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084. Because this final rule does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule may affect actions of some small entities (*e.g.,* small paratransit operations). However, the bulk of paratransit operators are not small entities, and the majority of all paratransit operators already appear to be in compliance. There are not significant cost impacts on fixed route service at all, and the number of small grantees who operate fixed route systems is not large. Since operators can provide service in a demand-responsive mode (*e.g.,* route deviation) that does not require the provision of complementary paratransit, significant financial impacts on any given operator are unlikely.

Paperwork Reduction Act

This rule imposes no new information reporting or recordkeeping necessitating clearance by the Office of Management and Budget.

National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing

procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, ''[p]romulgation of rules, regulations, and directives.'' 23 CFR 771.117(c)(20). The purpose of this rulemaking is to provide that transportation entities are required to make reasonable modifications/accommodations to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

There are a number of other statutes and Executive Orders that apply to the rulemaking process that the Department considers in all rulemakings. However, none of them is relevant to this rule. These include the Unfunded Mandates Reform Act (which does not apply to nondiscrimination/civil rights requirements), Executive Order 12630 (concerning property rights), Executive Order 12988 (concerning civil justice reform), and Executive Order 13045 (protection of children from environmental risks).

List of Subjects

49 CFR Part 27

Administrative practice and procedure, Airports, Civil rights, Highways and roads, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 37

Buildings and facilities, Buses, Civil rights, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, the Department of Transportation amends 49 CFR parts 27 and 37, as follows:

PART 27—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 1. The authority citation for part 27 is revised to read as follows:

Authority: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); 49 U.S.C. 5332.

■ 2. Amend § 27.7 by adding a new paragraph (e) to read as follows:

§ 27.7 Discrimination prohibited.

* * * * *

(e) *Reasonable accommodations.* A recipient shall make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability unless the recipient can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden. For the purposes of this section, the term reasonable accommodation shall be interpreted in a manner consistent with the term ''reasonable modifications'' as set forth in the Americans with Disabilities Act title II regulations at 28 CFR 35.130(b)(7), and not as it is defined or interpreted for the purposes of employment discrimination under title I of the ADA (42 U.S.C. 12111–12112) and its implementing regulations at 29 CFR part 1630.

■ 3. Revise § 27.13 to read as follows:

§ 27.13 Designation of responsible employee and adoption of complaint procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of complaint procedures.* A recipient shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures shall meet the following requirements:

(1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the recipient's Web site;

(2) The procedures must be accessible to and usable by individuals with disabilities;

(3) The recipient must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant by a means that will result in documentation of the response.

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

■ 4. The authority citation for part 27 continues to read as follows:

Authority: 42 U.S.C. 12101–12213; 49 U.S.C. 322.

■ 5. In § 37.3, add a definition of ''Origin-to-destination service'' in alphabetical order to read as follows:

§ 37.3 Definitions.

* * * * *

Origin-to-destination service means providing service from a passenger's origin to the passenger's destination. A provider may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode. When an ADA paratransit operator chooses curb-to-curb as its primary means of providing service, it must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in in a fundamental alteration or direct threat.

* * * * *

■ 6. Amend § 37.5 by revising paragraph (h) and adding paragraph (i) to read as follows:

§ 37.5 Nondiscrimination.

* * * * *

(h) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

(i) *Public and private entity distinctions.*— (1) *Private entity–private transport.* Private entities that are primarily engaged in the business of transporting people and whose operations affect commerce shall not discriminate against any individual on the basis of disability in the full and equal enjoyment of specified transportation services. This obligation includes, with respect to the provision of transportation services, compliance with the requirements of the rules of the Department of Justice concerning

eligibility criteria, making reasonable modifications, providing auxiliary aids and services, and removing barriers (28 CFR 36.301–36.306).

(2) *Private entity–public transport.* Private entities that provide specified public transportation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

(3) *Public entity–public transport.* Public entities that provide designated public transportation shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability or to provide program accessibility to their services, subject to the limitations of § 37.169(c)(1)–(3). This requirement applies to the means public entities use to meet their obligations under all provisions of this part.

(4) In choosing among alternatives for meeting nondiscrimination and accessibility requirements with respect to new, altered, or existing facilities, or designated or specified transportation services, public and private entities shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate to the needs of individuals with disabilities.

■ 7. Add § 37.17 to read as follows:

§ 37.17 Designation of responsible employee and adoption of complaint procedures.

(a) *Designation of responsible employee.* Each public or private entity subject to this part shall designate at least one person to coordinate its efforts to comply with this part. (b) *Adoption of complaint procedures.* An entity shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 27, 38 and 39. The procedures shall meet the following requirements:

(1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the entity's Web site;

(2) The procedures must be accessible to and usable by individuals with disabilities;

(3) The entity must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response.

■ 8. Add § 37.169 to read as follows:

§ 37.169 Process to be used by public entities providing designated public transportation service in considering requests for reasonable modification.

(a)(1) A public entity providing designated public transportation, in meeting the reasonable modification requirement of § 37.5(g)(1) with respect to its fixed route, demand responsive, and complementary paratransit services, shall respond to requests for reasonable modification to policies and practices consistent with this section.

(2) The public entity shall make information about how to contact the public entity to make requests for reasonable modifications readily available to the public through the same means it uses to inform the public about its policies and practices.

(3) This process shall be in operation no later than July 13, 2015.

(b) The process shall provide a means, accessible to and usable by individuals with disabilities, to request a modification in the entity's policies and practices applicable to its transportation services.

(1) Individuals requesting modifications shall describe what they need in order to use the service.

(2) Individuals requesting modifications are not required to use the term ''reasonable modification'' when making a request.

(3) Whenever feasible, requests for modifications shall be made and determined in advance, before the transportation provider is expected to provide the modified service, for example, during the paratransit eligibility process, through customer service inquiries, or through the entity's complaint process.

(4) Where a request for modification cannot practicably be made and determined in advance (*e.g.,* because of a condition or barrier at the destination of a paratransit or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel of the entity shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with the entity's management before making a determination to grant or deny the request.

(c) Requests for modification of a public entity's policies and practices may be denied only on one or more of the following grounds:

(1) Granting the request would fundamentally alter the nature of the entity's services, programs, or activities;

(2) Granting the request would create a direct threat to the health or safety of others;

(3) Without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose.

(d) In determining whether to grant a requested modification, public entities shall be guided by the provisions of Appendix E to this Part.

(e) In any case in which a public entity denies a request for a reasonable modification, the entity shall take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by the entity.

(f)(1) Public entities are not required to obtain prior approval from the Department of Transportation for the process required by this section.

(2) DOT agencies retain the authority to review an entity's process as part of normal program oversight.

■ 9. Add a new Appendix E to Part 37 to read as follows:

Appendix E to Part 37—Reasonable Modification Requests

A. This appendix explains the Department's interpretation of §§ 37.5(g) and 37.169. It is intended to be used as the official position of the Department concerning the meaning and implementation of these provisions. The Department also issues guidance by other means, as provided in § 37.15. The Department also may update this appendix periodically, provided in response to inquiries about specific situations that are of general relevance or interest.

B. The Department's ADA regulations contain numerous requirements concerning fixed route, complementary paratransit, and other types of transportation service. Transportation entities necessarily formulate policies and practices to meet these requirements (*e.g.,* providing fixed route bus service that people with disabilities can use to move among stops on the system, providing complementary paratransit service that gets eligible riders from their point of origin to their point of destination). There may be certain situations, however, in which the otherwise reasonable policies and practices of entities do not suffice to achieve the regulation's objectives. Implementing a fixed route bus policy in the normal way may

not allow a passenger with a disability to access and use the system at a particular location. Implementing a paratransit policy in the usual way may not allow a rider to get from his or her origin to his or her destination. In these situations, subject to the limitations discussed below, the transportation provider must make reasonable modifications of its service in order to comply with the underlying requirements of the rule. These underlying provisions tell entities the end they must achieve; the reasonable modification provision tells entities how to achieve that end in situations in which normal policies and practices do not succeed in doing so.

C. As noted above, the responsibility of entities to make requested reasonable modifications is not without some limitations. There are four classes of situations in which a request may legitimately be denied. The first is where granting the request would fundamentally alter the entity's services, programs, or activities. The second is where granting the request would create a direct threat to the health or safety of others. The third is where without the requested modification, the individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose. The fourth, which applies only to recipients of Federal financial assistance, is where granting the request would cause an undue financial and administrative burden. In the examples that follow, these limitations are taken into account.

D. The examples included in this appendix are neither exhaustive nor exclusive. Transportation entities may need to make determinations about requests for reasonable modification that are not described in this appendix. Importantly, reasonable modification applies to an entities' own policies and practices, and not regulatory requirements contained in 49 CFR parts 27, 37, 38, and 39, such as complementary paratransit service going beyond ¾ mile of the fixed route, providing same day complementary paratransit service, etc.

Examples

1. Snow and Ice. Except in extreme conditions that rise to the level of a direct threat to the driver or others, a passenger's request for a paratransit driver to walk over a pathway that has not been fully cleared of snow and ice should be granted so that the driver can help the passenger with a disability navigate the pathway. For example, ambulatory blind passengers often have difficulty in icy conditions, and allowing the passenger to take the driver's arm will increase both the speed and safety of the passenger's walk from the door to the vehicle. Likewise, if snow or icy conditions at a bus stop make it difficult or impossible for a fixed route passenger with a disability to get to a lift, or for the lift to deploy, the driver should move the bus to a cleared area for boarding, if such is available within reasonable proximity to the stop (see Example 4 below).

2. Pick Up and Drop Off Locations with Multiple Entrances. A paratransit rider's request to be picked up at home, but not at the front door of his or her home, should be granted, as long as the requested pick-up location does not pose a direct threat. Similarly, in the case of frequently visited public places with multiple entrances (*e.g.,* shopping malls, employment centers, schools, hospitals, airports), the paratransit operator should pick up and drop off the passenger at the entrance requested by the passenger, rather than meet them in a location that has been predetermined by the transportation agency, again assuming that doing so does not involve a direct threat.

3. Private Property. Paratransit passengers may sometimes seek to be picked up on private property (*e.g.,* in a gated community or parking lot, mobile home community, business or government facility where vehicle access requires authorized passage through a security barrier). Even if the paratransit operator does not generally have a policy of picking up passengers on such private property, the paratransit operator should make every reasonable effort to gain access to such an area (*e.g.,* work with the passenger to get the permission of the property owner to permit access for the paratransit vehicle). The paratransit operator is not required to violate the law or lawful access restrictions to meet the passenger's requests. A public or private entity that unreasonably denies access to a paratransit vehicle may be subject to a complaint to the U.S. Department of Justice or U.S. Department of Housing and Urban Development for discriminating against services for persons with disabilities.

4. Obstructions. For fixed route services, a passenger's request for a driver to position the vehicle to avoid obstructions to the passenger's ability to enter or leave the vehicle at a designated stop location, such as parked cars, snow banks, and construction, should be granted so long as positioning the vehicle to avoid the obstruction does not pose a direct threat. To be granted, such a request should result in the vehicle stopping in reasonably close proximity to the designated stop location. Transportation entities are not required to pick up passengers with disabilities at nondesignated locations. Fixed route operators would not have to establish flag stop or route-deviation policies, as these would be fundamental alterations to a fixed route system rather than reasonable modifications of a system. Likewise, subject to the limitations discussed in the introduction to this appendix, paratransit operators should be flexible in establishing pick up and drop off points to avoid obstructions.

5. Fare Handling. A passenger's request for transit personnel (*e.g.,* the driver, station attendant) to handle the fare media when the passenger with a disability cannot pay the fare by the generally established means should be granted on fixed route or paratransit service (*e.g.,* in a situation where a bus passenger cannot reach or insert a fare into the farebox). Transit personnel are not required to reach into pockets or backpacks in order to extract the fare media.

6. Eating and Drinking. If a passenger with diabetes or another medical condition requests to eat or drink aboard a vehicle or in a transit facility in order to avoid adverse health consequences, the request should be granted, even if the transportation provider has a policy that prohibits eating or drinking. For example, a person with diabetes may need to consume a small amount of orange juice in a closed container or a candy bar in order to maintain blood sugar levels.

7. Medicine. A passenger's request to take medication while aboard a fixed route or paratransit vehicle or in a transit facility should be granted. For example, transit agencies should modify their policies to allow individuals to administer insulin injections and conduct finger stick blood glucose testing. Transit staff need not provide medical assistance, however, as this would be a fundamental alteration of their function.

8. Boarding Separately From Wheelchair. A wheelchair user's request to board a fixed route or paratransit vehicle separately from his or her device when the occupied weight of the device exceeds the design load of the vehicle lift should generally be granted. (Note, however, that under § 37.165(b), entities are required to accommodate device/user loads and dimensions that exceed the former ''common wheelchair'' standard, as long as the vehicle and lift will accommodate them.)

9. Dedicated vehicles or special equipment in a vehicle. A paratransit passenger's request for special equipment (*e.g.,* the installation of specific hand rails or a front seat in a vehicle for the passenger to avoid nausea or back pain) can be denied so long as the requested equipment is not required by the Americans with Disabilities Act or the Department's rules. Likewise, a request for a dedicated vehicle (*e.g.,* to avoid residual chemical odors) or a specific type or appearance of vehicle (*e.g.,* a sedan rather than a van, in order to provide more comfortable service) can be denied. In all of these cases, the Department views meeting the request as involving a fundamental alteration of the provider's service.

10. Exclusive or Reduced Capacity Paratransit Trips. A passenger's request for an exclusive paratransit trip may be denied as a fundamental alteration of the entity's services. Paratransit is by nature a shared-ride service.

11. Outside of the Service Area or Operating Hours. A person's request for fixed route or paratransit service may be denied when honoring the request would require the transportation provider to travel outside of its service area or to operate outside of its operating hours. This request would not be a reasonable modification because it would constitute a fundamental alteration of the entity's service.

12. Personal Care Attendant (PCA). While PCAs may travel with a passenger with a disability, transportation agencies are not required to *provide* a personal care attendant or personal care attendant services to meet the needs of passengers with disabilities on paratransit or fixed route trips. For example, a passenger's request for a transportation entity's driver to remain with the passenger who, due to his or her disability, cannot be left alone without an attendant upon reaching his or her destination may be denied. It would be a fundamental alteration of the driver's function to provide PCA services of this kind.

13. Intermediate Stops. The Department views granting a paratransit passenger's request for a driver to make an intermediate stop, where the driver would be required to wait, as optional. For example, a passenger with a disability arranges to be picked up at a medical facility and dropped off at home. On the way, the passenger with a disability wishes to stop by a pharmacy and requests that the driver park outside of the pharmacy, wait for the passenger to return, and then continue the ride home. While this can be a very useful service to the rider, and in some cases can save the provider's time and money (by scheduling and providing a separate trip to and from the drug store), such a stop in the context of a shared ride system is not required. Since paratransit is, by its nature, a shared ride system, requests that could disrupt schedules and inconvenience other passengers could rise to the level of a fundamental alteration.

14. Payment. A passenger's request for a fixed route or paratransit driver to provide the transit service when the passenger with a disability cannot or refuses to pay the fare may be denied. If the transportation agency requires payment to ride, then to provide a free service would constitute a fundamental alteration of the entity's service.

15. Caring for Service Animals. A paratransit or fixed route passenger's request that the driver take charge of a service animal may be denied. Caring for a service animal is the responsibility of the passenger or a PCA.

16. Opening Building Doors. For paratransit services, a passenger's request for the driver to open an exterior entry door to a building to provide boarding and/or alighting assistance to a passenger with a disability should generally be granted as long as providing this assistance would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.[1] Note that a request for ''door-through-door'' service (*i.e.,* assisting the passenger past the door to the building) generally would not need to be granted because it could rise to the level of a fundamental alteration.

17. Exposing Vehicle to Hazards. If the passenger requests that a vehicle follow a path to a pick up or drop off point that would expose the vehicle and its occupants to hazards, such as running off the road, getting stuck, striking overhead objects, or reversing the vehicle down a narrow alley, the request can be denied as creating a direct threat.

18. Hard-to-Maneuver Stops. A passenger may request that a paratransit vehicle navigate to a pick-up point to which it is difficult to maneuver a vehicle. A passenger's request to be picked up in a location that is difficult, but not impossible or impracticable, to access should generally be granted as long as picking up the passenger does not expose the vehicle to hazards that pose a direct threat (*e.g.,* it is unsafe for the vehicle and its occupants to get to the pick-up point without getting stuck or running off the road).

19. Specific Drivers. A passenger's request for a specific driver may be denied. Having a specific driver is not necessary to afford the passenger the service provided by the transit operator.

20. Luggage and Packages. A passenger's request for a fixed route or paratransit driver to assist with luggage or packages may be denied in those instances where it is not the normal policy or practice of the transportation agency to assist with luggage or packages. Such assistance is a matter for the passenger or PCA, and providing this assistance would be a fundamental alteration of the driver's function.

21. Request to Avoid Specific Passengers. A paratransit passenger's request not to ride with certain passengers may be denied. Paratransit is a shared-ride service. As a result, one passenger may need to share the vehicle with people that he or she would rather not.

22. Navigating an Incline, or Around Obstacles. A paratransit passenger's request for a driver to help him or her navigate an incline (*e.g.,* a driveway or sidewalk) with the passenger's wheeled device should generally be granted. Likewise, assistance in traversing a difficult sidewalk (*e.g.,* one where tree roots have made the sidewalk impassible for a wheelchair) should generally be granted, as should assistance around obstacles (*e.g.,* snowdrifts, construction areas) between the vehicle and a door to a passenger's house or destination should generally be granted. These modifications would be granted subject, of course, to the proviso that such assistance would not cause a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

23. Extreme Weather Assistance. A passenger's request to be assisted from his or her door to a vehicle during extreme weather conditions should generally be granted so long as the driver leaving the vehicle to assist would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. For example, in extreme weather (*e.g.,* very windy or stormy conditions), a person who is blind or vision-impaired or a frail elderly person may have difficulty safely moving to and from a building.

24. Unattended Passengers. Where a passenger's request for assistance means that the driver will need to leave passengers aboard a vehicle unattended, transportation agencies should generally grant the request as long as accommodating the request would not leave the vehicle unattended or out of visual observation for a lengthy period of time, both of which could involve direct threats to the health or safety of the unattended passengers. It is important to keep in mind that, just as a driver is not required to act as a PCA for a passenger making a request for assistance, so a driver is not intended to act as a PCA for other passengers in the vehicle, such that he or she must remain in their physical presence at all times.

25. Need for Return Trip Assistance. A passenger with a disability may need assistance for a return trip when he or she did not need that assistance on the initial trip. For example, a dialysis patient may have no problem waiting at the curb for a ride to go to the dialysis center, but may well require assistance to the door on his or her return trip because of physical weakness or fatigue. To the extent that this need is predictable, it should be handled in advance, either as part of the eligibility process or the provider's reservations process. If the need arises unexpectedly, then it would need to be handled on an ad hoc basis. The paratransit operator should generally provide such assistance, unless doing so would create a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

26. Five-Minute Warning or Notification of Arrival Calls. A passenger's request for a telephone call 5 minutes (or another reasonable interval) in advance or at time of vehicle arrival generally should be granted. As a matter of courtesy, such calls are encouraged as a good customer service model and can prevent ''no shows.'' Oftentimes, these calls can be generated through an automated system. In those situations where automated systems are not available and paratransit drivers continue to rely on hand-held communication devices (*e.g.,* cellular telephones) drivers should comply with any State or Federal laws related to distracted driving.

27. Hand-Carrying. Except in emergency situations, a passenger's request for a driver to lift the passenger out of his or her mobility device should generally be denied because of the safety, dignity, and privacy issues implicated by hand-carrying a passenger. Hand-carrying a passenger is also a PCA-type service which is outside the scope of driver duties, and hence a fundamental alteration.

Issued this 6th day of March, 2015, at Washington, DC, under authority delegated in 49 CFR 1.27(a).

Kathryn B. Thomson,

General Counsel.

[FR Doc. 2015–05646 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–9X–P

[1] Please see guidance issued on this topic. U.S. Department of Transportation, *Origin-to-Destination Service,* September 1, 2005, *available at http://www.fta.dot.gov/12325_3891.html* (explaining that, ''the Department does not view transit providers' obligations as extending to the provision of personal services. . . . Nor would drivers, for lengthy periods of time, have to leave their vehicles unattended or lose the ability to keep their vehicles under visual observation, or take actions that would be clearly unsafe . . .'').

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 131119976–5119–02]

RIN 0648–BD79

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Marine Corps Training Exercises at Brant Island Bombing Target and Piney Island Bombing Range, USMC Cherry Point Range Complex, North Carolina

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

ACTION: Final rule.

SUMMARY: Upon application from the U.S. Marine Corps (Marine Corps), NMFS is issuing regulations per the Marine Mammal Protection Act (MMPA) to govern the unintentional taking of marine mammals, incidental to training operations at the Brant Island Bombing Target (BT–9) and Piney Island Bombing Range (BT–11) located within the Marine Corps' Cherry Point Range Complex in Pamlico Sound, North Carolina from March 2015 to March 2020. These regulations allow NMFS to issue a Letter of Authorization (LOA) for the incidental take of marine mammals during the Marine Corps' specified activities and timeframes, set forth the permissible methods of taking, set forth other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and set forth requirements pertaining to the monitoring and reporting of the incidental take.

DATES: Effective March 13, 2015 through March 12, 2020.

ADDRESSES: An electronic copy of the application, our 2015 Environmental Assessment, the Marine Corps' 2009 Environmental Assessment, and our Finding of No Significant Impact (FONSI) are available on the following Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*. The public may also view documents cited in this final rule, by appointment, during regular business hours at 1315 East West Highway, Silver Spring, MD, 20910.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, National Marine Fisheries Service, Office of Protected Resources, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Executive Summary

This regulation, under the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*), establishes a framework for authorizing the take of marine mammals incidental to the Marine Corps' military training operations at the Brant Island Bombing Target (BT–9) and Piney Island Bombing Range (BT–11) located within the Marine Corps' Cherry Point Range Complex in Pamlico Sound, North Carolina.

The Marine Corps conducts military training to meet its statutory responsibility to organize, train, equip, and maintain combat-ready forces. The Marine Corps training activities include air-to-ground weapons delivery, weapons firing, and water-based training occurring at the BT–9 and BT–11 bombing targets located within the Marine Corps' Cherry Point Range Complex in Pamlico Sound, North Carolina. The Marine Corps' training activities are military readiness activities under the MMPA as defined by the National Defense Authorization Act for Fiscal Year 2004 (NDAA; Public Law 108–136).

Purpose and Need for this Regulatory Action

NMFS received an application from the Marine Corps requesting 5-year regulations and one 5-year Letter of Authorization to take marine mammals, specifically bottlenose dolphins (*Tursiops truncatus*), by harassment, injury, and mortality incidental to training operations at BT–9 and BT–11 bombing targets. NMFS has determined that these operations, which constitute a military readiness activity, have the potential to cause behavioral disturbance and injury to marine mammals.

Section 101(a)(5)(A) of the MMPA directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice and public comment, the agency makes certain findings and issues regulations.

This regulation would establish a framework to authorize the take of marine mammals incidental to the Marine Corps' training exercises through NMFS' issuance of one 5-year Letter of Authorization to the Marine Corps, which would contain mitigation, monitoring, and reporting requirements.

Legal Authority for the Regulatory Action

Section 101(a)(5)(A) of the MMPA and our implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing the 5-year regulations and subsequent Letter of Authorization. In the case of military readiness activities, such as those proposed to be conducted by the Marine Corps, the specified geographical region and small numbers provisions of section 101(a)(5)(A) do not apply.

Summary of Major Provisions Within the Final Regulation

The following provides a summary of some of the major provisions within this rulemaking for the Marine Corps' training exercises at Brant Island Bombing Target—BT–9 and Piney Island Bombing Range—BT–11 in Pamlico Sound, North Carolina. First, this final rulemaking authorizes take by harassment and injury only; it does not authorize take by mortality. Second, NMFS has determined that the Marine Corps' adherence to the proposed mitigation, monitoring, and reporting measures would achieve the least practicable adverse impact on the affected marine mammals. These measures include:

- Required pre- and post-exercise monitoring of the training areas to detect the presence of marine mammals during training exercises.
- Required monitoring of the training areas during active training exercises with required suspensions/delays of training activities if a marine mammal enters within any of the designated mitigation zones.
- Required reporting of stranded or injured marine mammals in the vicinity of the BT–9 and BT–11 bombing targets located within the Marine Corps' Cherry Point Range Complex in Pamlico Sound, North Carolina to the NMFS Marine Mammal Stranding Network.
- Required research on a real-time acoustic monitoring system to automate detection of bottlenose dolphins in the training areas.

Cost and Benefits

This final rule, specific only to the Marine Corps' training activities in BT–9 and BT–11 bombing targets, is not significant under Executive Order 12866–Regulatory Planning and Review.

Availability of Supporting Information

In 2009, the Marine Corps prepared an Environmental Assessment (EA) titled, ''Environmental Assessment MCAS Cherry Point Range Operations,'' in accordance with the National Environmental Policy Act (NEPA; 42

U.S.C. 4321 *et seq.*) and the regulations published by the Council on Environmental Quality. The EA is available at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*. In 2009, the Marine Corps issued a Finding of No Significant Impact (FONSI) for its activities, which is also available at the same internet address.

After evaluating the Marine Corps' application and the 2009 EA, NMFS determined that there were changes to the proposed action (*i.e.,* increased ammunitions levels) and new environmental impacts (*i.e.,* the use of revised thresholds for estimating potential impacts on marine mammals from explosives) not addressed in the 2009 EA. In 2015, NMFS conducted a new analysis per NEPA, augmenting the information contained in the Marine Corps' 2009 EA, on the issuance of a MMPA rulemaking and subsequent LOA. In February 2015, NMFS determined that the issuance of this regulation and subsequent LOA would not have a significant effect on the quality of the human environment and issued a FONSI. In February 2015, the Marine Corps issued a new FONSI for their activities under the MMPA regulations and subsequent LOA.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA directs the Secretary to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice and public review, NMFS makes certain findings and issues regulations.

NMFS shall grant authorization for the incidental takings if the agency finds that the total taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the authorization for incidental takings must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring, and reporting of such taking.

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.''

The National Defense Authorization Act of 2004 (NDAA; Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated earlier and amended the definition of harassment as it applies to a ''military readiness activity'' to read as follows: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On January 28, 2013, NMFS received an application from the Marine Corps requesting a rulemaking and subsequent Letter of Authorization for the take of marine mammals incidental to training exercises conducted at Brant Island Bombing Target (BT–9) and Piney Island Bombing Range (BT–11) bombing targets at the USMC Cherry Point Range Complex located within Pamlico Sound, North Carolina.

On March 29, 2013, per the regulations at 50 CFR 216.104(b)(1)(i), NMFS began the public review process by publishing a Notice of Receipt in the **Federal Register** (78 FR 19224). After the close of the public comment period and review of comments, NMFS published a proposed rule in the **Federal Register** on July 15, 2014 (79 FR 41373) to authorize the take of marine mammals per the Marine Corps' training activities and solicited public comments.

The Marine Corps would conduct weapons delivery training exercises (air-to-surface and surface-to-surface) at the two water-based bombing targets located within the Cherry Point Range Complex in North Carolina. The military readiness activities would occur between March 2015 and March 2020, year-round, day or night. The Marine Corps proposes to use small arms, large arms, bombs, rockets, grenades, and pyrotechnics for the air-to-surface and surface-to-surface training exercises, which qualify as military readiness activities. NMFS anticipates that take, by Level B (behavioral) and Level A harassment of individuals of Atlantic bottlenose dolphin (*Tursiops truncatus*) would result from the training exercises.

The regulations would establish a framework for authorizing incidental take in a 5-year Letter of Authorization (LOA) which would authorize the take of Atlantic bottlenose dolphins (*Tursiops truncatus*) by Level A and Level B (behavioral) harassment only.

NMFS has issued three one-year Incidental Harassment Authorizations to the Marine Corps under section 101(a)(5)(D) of the MMPA for the conduct of similar training exercises from 2010 to 2014 (75 FR 72807, November 26, 2010; 77 FR 87, January 3, 2012; and 78 FR 42042, July 15, 2013). The Marine Corps' last Incidental Harassment Authorization expired in 2014.

NMFS is committed to the use of the best available science in its decision making. NMFS uses an adaptive, transparent process that allows for both timely scientific updates and public input into agency decisions regarding the use of acoustic research and thresholds. NMFS is currently in the process of re-evaluating acoustic thresholds based on the best available science, as well as how NMFS applies these thresholds under the MMPA to all activity types. This re-evaluation could potentially result in changes to the acoustic thresholds or their application as they apply to future Marine Corps training activities at BT–9 and BT–11. However, it is important to note that while changes in acoustic thresholds may affect the enumeration of ''takes,'' they do not necessarily change the evaluation of population level effects or the outcome of the negligible impact analysis. In addition, while acoustic criteria may also inform mitigation and monitoring decisions, the Marine Corps will implement an adaptive management program that will address new information allowing for the modification of mitigation and/or monitoring measures as appropriate.

Description of the Specified Activity

Overview

The Marine Corps must meet its statutory responsibility to organize, train, equip, and maintain combat-ready Marine Corps forces at the BT–9 and BT–11 bombing targets in Pamlico Sound, North Carolina. The bombing targets provide unique training environments and are of vital importance to the readiness of Marine Corps forces.

The types of ordnances proposed for use at the BT–9 and BT–11 bombing targets include gun ammunition (small and large arms), rockets, grenades, bombs, and pyrotechnics. Training for any activity may occur year-round, day or night, with no seasonal restrictions. Active sonar is not a component of these specified training exercises.

Dates and Duration

The Marine Corps' activities would occur between March 2015 and March 2020. Each type of training exercise described in more detail later in this rule may occur year-round, day or night. Approximately 15 percent of the activities would occur at night.

NMFS notes that the proposed rule in the **Federal Register** (79 FR 41373, July 15, 2014) discussed that the Marine Corps' activities would occur in a five-year period between September 2014 and September 2019. Although the dates have changed between the proposed rule and the final rule, the underlying analysis occurs on an annual basis and accounts for seasonal variation (winter and spring) over a five-year span.

Location of Proposed Activities

The Marine Corps administers and uses the BT–9 and BT–11 bombing targets (See Figure 1), located at the convergence of the Neuse River and Pamlico Sound, North Carolina, for the purpose of training military personnel in the skill of ordnance delivery by aircraft and small watercraft.

The BT–9 area is a water-based bombing target and mining exercise area located approximately 52 kilometers (km) (32.3 miles (mi)) northeast of Marine Air Corps Station Cherry Point. The U.S. Army Corps of Engineers, Wilmington District has defined a danger zone (prohibited area) by a 6 statute-mile (sm) diameter boundary around BT–9 (33 CFR 334.420). This restriction prohibits non-military vessels within the designated area. The BT–9 target area ranges in depth from 1.2 to 6.1 meters (m) (3.9 to 20 feet (ft)), with the shallow areas concentrated along the Brandt Island Shoal. The target itself consists of three ship hulls grounded on Brant Island Shoals, located approximately 4.8 km (3.0 mi) southeast of Goose Creek Island.

The BT–11 area encompasses a total of 50.6 square kilometers (km^2) (19.5 square miles (mi^2)) on Piney Island located in Carteret County, NC. The target prohibited area, at a radius of 1.8 sm, is roughly centered on Rattan Bay and includes approximately 9.3 km^2 (3.6 mi^2) of water and water depths range from 0.3 m (1.0 ft) along the shoreline to 3.1 m (10.1 ft) in the center of Rattan Bay. Water depths in the center of Rattan Bay range from approximately 2.4 to 3 m (8 to 10 ft) with bottom depths ranging from 0.3 to 1.5 m (1 to 5 ft) adjacent to the shoreline of Piney Island. The BT–11 in-water, stationary target consists of a barge and patrol boat located in roughly the center of Rattan Bay. The Marine Corps also use on an intermittent basis for strafing at water- and land-based targets, a second danger zone, with an inner radius of 1.8 sm and outer radius of 2.5 sm and also roughly centered on Rattan Bay.

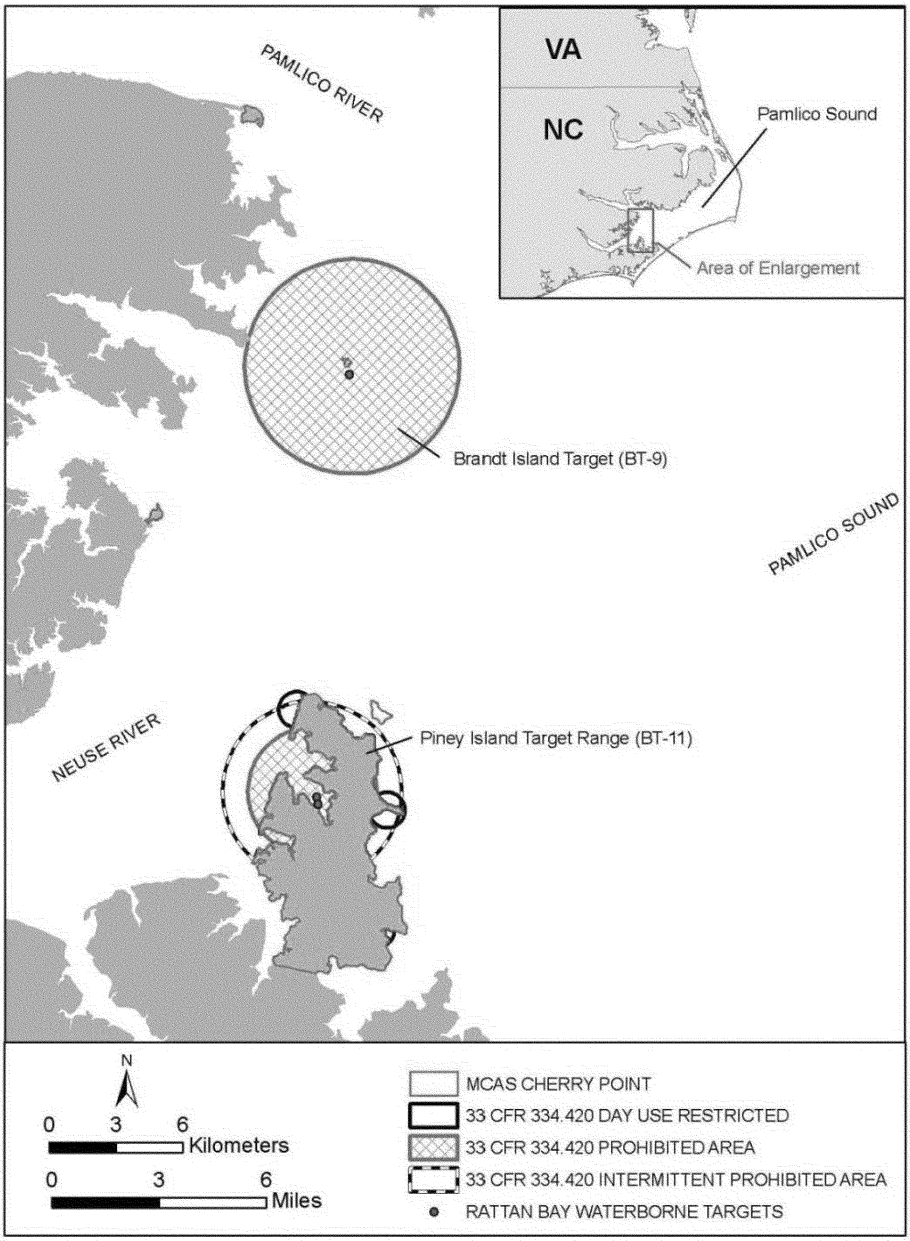


Figure 1. Brant Island Bombing Target (BT-9) and Piney Island Bombing Range (BT-11) bombing targets at the USMC Cherry Point Range Complex located within Pamlico Sound, North Carolina.

The Marine Corps conducts all inert and live-fire exercises at BT–9 and BT–11 so that all ammunition and other ordnances strike and/or fall on the land or water-based targets or within the existing danger zones or water restricted areas. The Marine Corps would close danger zones to the public on an intermittent or full-time basis for hazardous operations such as target practice and ordnance firing. They also prohibit or limit public access to water restricted areas to provide security for government property and/or to protect the public from the risks of injury or damage that could occur from the government's use of that area (33 CFR 334.2). Surface danger zones are designated areas of rocket firing, target practice, or other hazardous operations (33 CFR 334.420). The surface danger zone (prohibited area) for BT–9 is a 4.8 km (3.0 mi) radius centered on the south side of Brant Island Shoal. The surface danger zone for BT–11 is a 2.9 km (1.8 mi) radius centered on a barge target in Rattan Bay.

Detailed Description of the Activities

The following sections describe the training activities that have the potential to affect marine mammals present within the BT–9 and BT–11 bombing targets. These activities fall into two categories based on the ordnance delivery method: (1) Surface-to-surface gunnery exercises; and (2) air-to-surface bombing exercises.

Surface-to-Surface Exercises

Gunnery exercises are the only category of surface-to-surface activity currently conducted within BT–9 or BT–11. Surface-to-surface gunnery firing exercises typically involve Special Boat Team personnel firing munitions from a machine gun and 40 mm grenade

launchers at a water-based target or throwing concussion grenades into the water (*e.g.,* not at a specific target) from a small boat. The number and type of boats used depend on the unit using the boat and the particular training mission. These include: small unit river craft, combat rubber raiding craft, rigid hull inflatable boats, and patrol craft. These boats may use inboard or outboard, diesel or gasoline engines with either propeller or water jet propulsion systems.

The Marine Corps propose to use a maximum of six boats ranging in size from 7.3 to 26 m (24 to 85 ft) to conduct surface-to-surface firing activities. Each boat would travel between 0 to 20 knots (kts) (0 to 23 miles per hour (mph)) with an average of two vessels to approach and engage the intended targets. The boats typically travel in linear paths and do not operate erratically.

Boat sorties would occur in all seasons and the number of sorties conducted at each range may vary from year to year based on training needs and worldwide operational tempo. The majority of boat sorties at BT–9 originate from Marine Corps Air Station Cherry Point's boat docks, but they may also originate from the State Port in Morehead City, NC, Marine Corps Base Camp Lejeune, and U.S. Coast Guard Station Hobucken in Pamlico Sound. The majority of boat sorties at BT–11 originate from launch sites within the range complex.

There is no specific schedule associated with the use of BT–9 or BT–11 by the small boat teams. However, the Marine Corps schedules the exercises for 5-day blocks with exercises at various times throughout the year. Variables such as deployment status, range availability, and completion of crew-specific training requirements influence the exercise schedules. Table 1 in this document outlines the number of surface-to-surface exercises that occurred between 2011 and 2013 by bombing target area.

TABLE 1—COUNTS OF SURFACE-TO-SURFACE SORTIES CONDUCTED IN CALENDAR YEARS 2011, 2012, AND 2013 IN BT–9 AND BT–11

Year	BT–9	BT–11
2011	223	105
2012	322	106
2013	87	62

The direct-fire gunnery exercises (*i.e.,* all targets are within the line of sight of the military personnel) at BT–9 would typically use 7.62 millimeter (mm) or .50 caliber (cal) machine guns; 40 mm grenade machine guns; or G911 concussion hand grenades. The proposed exercises at BT–9 are usually live-fire exercises. At times, Marine Corps personnel would use blanks (inert ordnance) so that the boat crews could practice ship-handling skills during training without being concerned with the safety requirements involved with live weapons.

The Marine Corps estimates that it could conduct up to approximately 354 vessel-based sorties annually at BT–9. This estimate includes the highest number of sorties conducted during 2010 through 2013 (322) plus an additional 10 percent increase (32) in sorties to account for interannual variation based on future training needs and worldwide operational tempo.

The direct-fire gunnery exercises at BT–11 would include the use of small arms, large arms, bombs, rockets, and pyrotechnics. All munitions fired within the BT–11 range are non-explosive with the exception of the small explosives in the single charges. No live firing occurs at BT–11. The Marine Corps estimates that it could conduct up to approximately 117 vessel-based sorties annually at BT–11. This estimate includes the highest number of sorties conducted during 2010 through 2013 (106) plus an additional 10 percent increase (11) in sorties to account for interannual variation based on future training needs and worldwide operational tempo.

Air-to-Surface Exercises

Air-to-surface training exercises involve fixed-, rotary-, or tilt-wing aircraft firing munitions at targets on the water's surface or on land (as in the case of BT–11). There are four types of air-to-surface activities conducted within BT–9 and BT–11. They include: Mine laying, bombing, gunnery, or rocket exercises. Table 2 in this document outlines the number of air-to-surface exercises that occurred in 2011, 2012, and 2013 by bombing target area.

TABLE 2—COUNTS OF AIR-TO-SURFACE EXERCISES CONDUCTED IN CALENDAR YEARS 2011, 2012, AND 2013 IN BT–9 AND BT–11

Year	BT–9	BT–11
2011	1,554	4,251
2012	842	11,706
2013	407	1,177
Total	2,803	17,134

The Marine Corps estimates that it could conduct up to approximately 1,709 air-based based sorties annually at BT–9. This estimate includes the highest number of sorties conducted during 2010 through 2013 (1,554) plus an additional 10 percent increase (155) in sorties to account for interannual variation based on future training needs and worldwide operational tempo.

For the BT–11 area, the Marine Corps estimates that it could conduct up to approximately 12,877 air-based based sorties annually. This estimate includes the highest number of sorties conducted during 2010 through 2013 (11,706) plus an additional 10 percent increase (1,171) in sorties to account for interannual variation based on future training needs and worldwide operational tempo.

The following sections provide more detail on each exercise type that the Marine Corps proposes to conduct from 2015 through 2020.

Mine Laying Exercises: Aircraft With Inert Shapes

Mine laying exercises are simulations only, meaning that mine detonations would not occur during training. These exercises, regularly conducted at the BT–9 bombing target, involve the use of fixed-wing aircraft (F/A–18F Hornet Strike Fighter, P–3 Orion, or P–8 Poseidon) flying undetected to the target area using either a low- or high-altitude tactical flight pattern. When the aircraft reaches the target area, the pilot would deploy a series of inert mine shapes in an offensive or defensive pattern into the water. The aircraft would make multiple passes along a pre-determined flight azimuth dropping one or more of the inert shapes each time.

The mine-laying exercises at BT–9 would include the use of MK–62, MK–63, MK–76, BDU–45, and BDU–48 inert training shapes. Each inert shape weighs 500, 1000, 25, 500, and 10 pounds (lbs), respectively.

Bombing Exercises: Fixed-Wing Aircraft With Inert Bombs

Pilots train to destroy or disable enemy ships or boats during bombing exercises. These exercises, conducted at BT–9 or BT–11, normally involve the use of two to four fixed-wing aircraft (*i.e.,* an F/A–18F Hornet Strike Fighter or AV–8 Harrier II) approaching the target area from an altitude of approximately 152 m (500 ft) up to 4,572 m (15,000 ft). When the aircraft reach the target area, they establish a predetermined racetrack pattern relative to the target and deliver the bombs. Participating aircraft follow the same flight path during subsequent target ingress, ordnance delivery, target egress, and downwind pattern. The Marine Corps uses this type of pattern to ensure

that only one aircraft releases ordnance at any given time.

The pilots deliver the bombs against targets at BT–9 or BT–11, day or night; the average time to complete this type of exercise is approximately one hour. There is no set level or pattern of amount of sorties conducted and there are no cluster munitions authorized for use during bombing exercises.

The bombing exercises would typically use unguided MK–76, BDU–45, MK–82, and MK–83 inert training bombs (25, 500, 500, and 1,000 lbs, respectively); precision-guided munitions consisting of laser-guided bombs (inert); and laser-guided training rounds (inert, but contains a small impact-initiated spotting charge).

For unguided munitions, the typical release altitudes are 914 m (3,000 ft) or above 4,572 m (15,000 ft). The typical release altitude for precision-guided munitions is 1.8 km (1.1 mi) or greater in altitude. For laser-guided munitions, onboard laser designators, laser designators from support aircraft, or ground support personnel, use lasers to illuminate the certified targets. For either weapons delivery system, the lowest minimum altitude for ordnance delivery (inert bombs) would be 152 m (500 ft).

Gunnery Exercises: Aircraft With Cannons

During air-to-surface gunnery exercises with cannons, pilots train to destroy or disable enemy ships, boats, or floating/near-surface mines from aircraft with mounted cannons equal to or larger than 20 mm. The Marine Corps proposes to use either fixed-wing (F/A–18F Hornet Strike Fighter or an AV–8 Harrier II) or rotary-wing (AH–1 Super Cobra), tilt-rotor (V–22), and other aircraft to conduct gunnery exercises at BT–9 or BT–11. During the exercise (*i.e.,* strafing run), two aircraft would approach the target area from an altitude of approximately 914 m (3,000 ft) and within a distance of 1,219 m (4,000 ft) from the target, begin to fire a burst of approximately 30 rounds of munitions before reaching an altitude of 305 m (1,000 ft) to break off the attack. Each aircraft would reposition for another strafing run until each aircraft expends its exercise ordnance of approximately 250 rounds (approximately 8–12 passes per aircraft per exercise). This type of gunnery exercise would typically use a Vulcan M61A1/A2, 20 mm cannon or a GAU–12, 25 mm cannon. The Marine Corps proposes to use inert munitions for these exercises. The aircraft deliver the ordnance against targets at BT–9 or BT–11, day or night. The average time to complete this type of exercise is approximately one hour.

Gunnery Exercises: Aircraft With Machine Guns

During air-to-surface gunnery exercises with machine guns, pilots train to destroy or disable enemy ships, boats, or floating/near-surface mines with aircraft using mounted machine guns. The Marine Corps proposes to use rotary-wing (CH–52 Super Stallion, UH–1 Iroquois Huey, CH–46 Sea Knight, MV–22 Osprey, or H–60 Hawk series, and other types) aircraft to conduct gunnery exercises at BT–9 or BT–11. During the exercise an aircraft would fly around the target area at an altitude between 15 and 30 m (50 and 100 ft) in a 91 m (300 ft) racetrack pattern around the water-based target. Each gunner would expend approximately 400 rounds of 7.62 mm ammunition and 200 rounds of .50 cal ammunition in each exercise. The aircraft deliver the ordnance against the bombing targets at BT–9 or BT–11, day or night. The average time to complete this type of exercise is approximately one hour.

Rocket Exercises

The Marine Corps proposes to conduct rocket exercises similar to the bombing exercises. Fixed- and rotary-wing aircraft crews would launch rockets at surface maritime targets, day and night, to train for destroying or disabling enemy ships or boats. These operations employ 2.75-inch and 5-inch rockets (4.8 and 15.0 lbs net explosive weight, respectively). Generally, personnel would deliver an average of approximately 14 rockets per sortie. As with the bombing exercises, there is no set level or pattern of amount of sorties conducted.

Pyrotechnics

Pyrotechnics are non-explosive devices that use chemical reactions to produce heat, light, gas, smoke, and/or sound to simulate threat conditions during exercises (DoN, 2009). The Marine Corps proposes to use chaff, LUU–2, LUU–19, MI27 A1-parachute flare, self-protection flares, signal illuminations, simulated booby traps, Smokey Sams, artillery simulators, and ground bursts.

Munitions and Estimated Annual Expenditures

Tables 3 and 4 in this document provide a list and expenditure levels of the live and inert ordnance proposed for use at BT–9 and BT–11, respectively.

There are several varieties of ordnance and net explosive weights (for live munition used at BT–9) can vary according to type. All practice bombs are inert but simulate the same ballistic properties of service type bombs. They are either solid cast metal bodies or thin sheet metal containers. Since practice bombs contain no explosive filler, a practice bomb signal cartridge (smoke) serves as a visual observation of weapon target impact.

When a high explosive detonates, the explosive fill within the weapon case converts almost instantly into a gas at very high pressure and temperature. Under the pressure of the gases generated, the weapon case expands and breaks into fragments. The air surrounding the casing compresses and transmits a shock (blast) wave. Typical initial values for a high-explosive weapon are 200 kilobars of pressure (1 bar = 1 atmosphere) and 5,000 degrees Celsius (9,032 degrees Fahrenheit). The Marine Corps proposes to use five types of explosive sources at BT–9: 2.75-inch Rocket High Explosives, 5-inch Rocket High Explosives, 30 mm High Explosives, 40 mm High Explosives, and G911 grenades. All munitions proposed for use at BT–11 are inert (not live).

TABLE 3—TYPE OF ORDNANCE, NET EXPLOSIVE WEIGHT, AND PROPOSED LEVELS OF ANNUAL EXPENDITURES AT BT–9

Proposed ordnance	Net explosive weight in pounds (lbs)	Proposed number of rounds
Small arms excluding .50 cal (7.62 mm)	N/A, inert	525,610
.50 cal	N/A, inert	568,515
Large arms—live (30 mm)	0.1019	3,432
Large arms—live (40 mm)	0.1199	10,420
Large arms—inert (20, 25, 30, and 40 mm)	N/A	120,405
Rockets—live (2.75-inch)	4.8	220
Rockets—live (5-inch)	15.0	68

TABLE 3—TYPE OF ORDNANCE, NET EXPLOSIVE WEIGHT, AND PROPOSED LEVELS OF ANNUAL EXPENDITURES AT BT–9—Continued

Proposed ordnance	Net explosive weight in pounds (lbs)	Proposed number of rounds
Rockets—inert (2.75-inch rocket, 2.75-inch illumination, 2.75-inch white phosphorus, 2.75-inch red phosphorus; 5-inch rocket, 5-inch illumination, 5-inch white phosphorus, 5-inch red phosphorus).	N/A	844
Grenades—live (G911)	0.5	144
Bombs—inert (BDU–45 practice bomb, MK–76 practice bomb, MK–82 practice bomb, MK–83 practice bomb).	0.083800—0.1676 signal cartridge only	4,460
Pyrotechnics—inert (chaff, LUU–2, self-protection flares)	N/A	4,496

TABLE 4—TYPE OF ORDNANCE, NET EXPLOSIVE WEIGHT, AND PROPOSED LEVELS OF ANNUAL EXPENDITURES AT BT–11

Proposed ordnance	Net explosive weight in pounds (lbs)	Proposed number of rounds
Small arms excluding .50 cal (7.62 mm)	N/A, inert	610,957
.50 cal	N/A, inert	366,775
Large arms—inert (20, 25, 30, and 40 mm)	N/A	240,334
Rockets—inert (2.75-inch rocket, 2.75-inch illumination, 2.75-inch white phosphorus, 2.75-inch red phosphorus; 5-inch rocket, 5-inch illumination, 5-inch white phosphorus, 5-inch red phosphorus).	N/A	5,592
Bombs—inert (BDU–45 practice bomb, MK–76 practice bomb, MK–82 practice bomb, MK–83 practice bomb).	0.083800—0.1676 signal cartridge only	22,114
Pyrotechnics—inert (chaff, LUU–2, self-protection flares, SMD SAMS)	N/A	8,912

The Marine Corps estimates that the 5-year level of expended ordnance at BT–9 and BT–11 (both surface-to-surface and air-to-surface) would be approximately 6,193,070 and 6,273,420 rounds, respectively. The approximate annual quantities of ordnance listed in Tables 3 and 4 represent conservative figures, meaning that the volume of each type of inert and explosive ordnance proposed is the largest number that personnel could expend annually.

The Marine Corps realizes that its evolving training programs, linked to real world events, necessitate flexibility regarding the amounts of ordnance used in air-to-surface and surface-to-surface exercises. Thus, this rule would account for inter-annual variability in ordnance expenditures over the course of the five years. NMFS refers the reader to Table 2–2 of the Marine Corps' application for a complete list of munitions authorized for use at the Marine Corps Air Station Cherry Point Range Complex.

Acoustic Characteristics of Ordnance

Noise generated by live or inert ordnance impacting the water and associated detonations from live ordnance may present some risk to bottlenose dolphins. Estimates of the noise fields generated in water by the impact of non-explosive (inert) ordnance indicate that the energy radiated is about one to two percent of the total kinetic energy of the impact. This energy level (and likely peak pressure levels) is well below the thresholds for predicting potential physical impacts from underwater pressure waves, because the firing of an inert projectile does not create an explosion even at 1 m (3 ft) from the impact. Therefore, NMFS and the Marine Corps do not expect that the noise generated by the in-water impact of inert ordnance would have the potential to take marine mammals within the action area. Thus, NMFS will not consider the acoustic impacts of inert ordnance further in this document.

However, live ordnance detonated underwater introduces loud, impulsive broadband (producing sound over a wide frequency band) sounds into the marine environment and does have the potential to take marine mammals. Broadband explosives produce significant acoustic energy across several frequency decades of bandwidth. Propagation loss is sufficiently sensitive to frequency as to require model estimates at several frequencies over such a wide band. Three source parameters influence the effect of an explosive: The weight of the explosive material, the type of explosive material, and the detonation depth. The net explosive weight (or NEW) accounts for the first two parameters. The ordnance's NEW is the weight of trinitrotoluene (TNT) that produces an equivalent explosive power. The detonation depth of an explosive is particularly important due to a propagation effect known as surface-image interference. For sources located near the sea surface, a distinct interference pattern arises from the coherent sum of the two paths that differ only by a single reflection from the pressure-release surface. As the source depth and/or the source frequency decreases, these two paths increasingly and destructively interfere with each other, reaching total cancellation at the surface (barring surface-reflection scattering loss).

For this final rulemaking, the Marine Corps proposes to use five types of explosive sources: 2.75-inch rocket high explosives, 5-inch rocket high explosives, 30 mm high explosives, 40 mm high explosives, and G911 grenades.

The firing sequence for some of the munitions consists of a number of rapid bursts, often lasting a second or less. The maximum firing time is 10 to 15 second bursts. Due to the tight spacing in time, the Marine Corps considers each burst as a single detonation. For the energy metrics, the Marine Corps considers the impact area of a burst using a source energy spectrum that is the source spectrum for a single detonation scaled by the number of rounds in a burst. For the pressure metrics, the impact area for a burst is the same as the impact area of a single round. For all metrics, the cumulative impact area of an event consisting of a certain number of bursts is the product

of the impact area of a single burst and the number of bursts, as would be the case if the bursts are sufficiently spaced in time or location as to insure that each burst is affecting a different set of marine wildlife.

Table 5 provides a comparison of the live explosive ordnance proposed for use during 2015 through 2020. Table 5 lists the number of rounds per burst by ordnance; the acoustic characteristics of the proposed ordnance including the peak one-third octave (OTO) source level (SL); and the approximate frequency at which the peak occurs.

TABLE 5—PROPOSED LEVELS OF ORDNANCE, NET EXPLOSIVE WEIGHT, SOURCE LEVELS, AND CENTER FREQUENCIES

Proposed ordnance	NEW (lbs)	Rounds per burst	Source level of peak ⅓rd octave (decibels, dB)	Center frequency of peak ⅓rd octave (hertz, Hz)
Large arms—live (30 mm)	0.1019	30	207 dB re: 1μPa	4,032
Large arms—live (40 mm)	0.1199	5	208 dB re: 1μPa	4,032
Rockets—live (2.75-inch)	4.8	1	224 dB re: 1μPa	1,270
Rockets—live (5-inch)	15.0	1	229 dB re: 1μPa	1,008
Grenades—live (G911)	0.5	1	214 dB re: 1μPa	2,540

For ordnance detonated at shallow depths, often the source level of the explosion may breech the surface with some of the acoustic energy escaping the water column. The source levels presented in Table 5 do not account for possible venting of the acoustic energy through the water surface which the Marine Corps expects to be minor because of the low source net explosive weights and detonation depth of 1.2 m (3.9 ft).

Description of Marine Mammals in the Area of the Specified Activity

There is one species of marine mammal with possible or confirmed occurrence in the area of the specified activity: The Atlantic bottlenose dolphin (*Tursiops truncatus*) which routinely frequents Pamlico Sound (Lefebvre *et al,* 2001; DoN 2003). The region of influence for the proposed project includes estuarine waters, and does not include offshore waters.

Four designated coastal stocks for bottlenose dolphins may occur within the proposed activity area. They include: the Western North Atlantic Northern Migratory Coastal; Western North Atlantic Southern Migratory; Northern North Carolina Estuarine System; and the Southern North Carolina Estuarine System stocks. Dolphins encountered at BT–9 and BT–11 would most likely belong to the Northern North Carolina Estuarine System and the Southern North Carolina Estuarine System stocks.

Table 6 in this document presents information on the abundance, status, and distribution of the four stocks. The reader may also refer to Section 4 of the Marine Corps' application, their 2014 application addendum, and Chapter 3 of the Marine Corps' EA for more detailed information. NMFS summarizes this information and presents updated information on the species' abundance, status, and distribution from the 2013 NMFS Stock Assessment Report for the U.S. Atlantic and Gulf of Mexico (Waring *et al.,* 2014). The publication is available at *http://www.nmfs.noaa.gov/pr/sars/region.htm*.

TABLE 6—GENERAL INFORMATION ON THE SPECIES/STOCKS THAT COULD POTENTIALLY OCCUR IN BT–9 AND BT–11

Bottlenose dolphin stocks	Regulatory status	Stock/species abundance	Occurrence and range	Season
Western North Atlantic Northern Migratory Coastal (NMC).	MMPA—D ESA—NL	11,548 (CV=0.36)	Occasional Coastal	Winter
Western North Atlantic Southern Migratory (SMC).	MMPA—D ESA—NL	9,173 (CV=0.46)	Occasional Coastal	Winter
Northern North Carolina Estuarine System (NNCES).	MMPA—S ESA—NL	950 (CV = 0.23)	Common Estuarine	Summer–Fall
Southern North Carolina Estuarine System (SNCES).	MMPA—S ESA—NL	188 (CV=0.19)	Common Estuarine	Late Summer

[1] MMPA: D = Depleted, Strategic Stock; S = Strategic Stock only; NC = Not Classified.
[2] ESA: NL = Not listed.

Bottlenose Dolphins

The bottlenose dolphin is one of the most well-known species of marine mammals. They have a robust body and a short, thick beak. Their coloration ranges from light gray to black with lighter coloration on the belly. Inshore and offshore individuals vary in color and size. Inshore animals are smaller and lighter in color, while offshore animals are larger, darker in coloration and have smaller flippers.

Bottlenose dolphins range in lengths from 1.8 to 3.8 m (6.0 to 12.5 ft) with males slightly larger than females. Adults weight from 300–1,400 lbs (136–635 kg). Generally, the species has a lifespan of 40 to 45 years for males and more than 50 years for females.

Sexual maturity varies by population and ranges from five to 13 years for females and 9 to 14 years for males. Calves, born after a 12-month gestation period, generally wean at 18 to 20 months. On average, calving occurs every 3 to 6 years.

Bottlenose dolphins are generalists and feed on a variety of prey items ''endemic'' to their habitat, foraging individually and cooperatively. Like other dolphins, bottlenose dolphins use high frequency echolocation to locate and capture prey. Coastal animals prey on benthic invertebrates and fish, and offshore animals feed on pelagic squid and fish.

Western North Atlantic Northern Migratory Coastal (NMC) Stock: This stock is not listed as threatened or endangered under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*); however, it is categorized as depleted (and thus strategic) under the MMPA. The best available abundance estimate for the NMC stock is 11,548 animals (Waring *et al.,* 2014). However, there is insufficient data to determine the population trends for this stock.

Based on aerial survey data, tag-telemetry studies, photo-identification data, and genetic studies, the NMC stock of bottlenose dolphins occurs along the North Carolina coast and as far north as Long Island, New York (CETAP, 1982; Kenney, 1990; Garrison *et al.,* 2003; Waring *et al.,* 2014). During summer months (July–September), this stock occupies coastal waters from the shoreline to approximately the 25-m (82-ft) isobath between the Chesapeake Bay mouth and Long Island, New York. During the winter months (January–March), the stock moves south to waters of North Carolina and occupies coastal waters from Cape Lookout, North Carolina to the Virginia-North Carolina border (Barco and Swingle, 1996; Waring *et al.,* 2014).

Western North Atlantic Southern Migratory Coastal (SMC) Stock: This stock is not listed as threatened or endangered under the ESA; however, it is categorized as depleted (and thus strategic) under the MMPA. The best available abundance estimate for the SMC stock is 9,173 animals (Waring *et al.,* 2014). However, there is insufficient data to determine the population trends for this stock.

Based on tag-telemetry studies, the SMC stock of bottlenose dolphins occurs in coastal waters between southern North Carolina and Georgia, but the stock's migratory movements and spatial distribution are the most poorly understood of the coastal stocks (Waring *et al.,* 2014). During the fall (October–December), this stock occupies waters of southern North Carolina (South of Cape Lookout) where it overlaps spatially with the Southern North Carolina Estuarine System stock in coastal waters. In winter months (January–March), the SMC stock moves as far south as northern Florida where it overlaps spatially with the South Carolina/Georgia and Northern Florida Coastal stocks. In spring (April–June), the stock moves north to waters of North Carolina where it overlaps with the Southern North Carolina Estuarine System stock and the Northern North Carolina Estuarine System stock. In summer months (July–September), the stock most likely occupies coastal waters north of Cape Lookout, North Carolina, to the eastern shore of Virginia (Waring *et al.,* 2014).

Northern North Carolina Estuarine System (NNCES) Stock: This stock is not listed as threatened or endangered under the ESA; however, it is categorized as strategic (but not depleted) under the MMPA. The best available abundance estimate for the NNCES stock is 950 animals (Waring *et al.,* 2014). However, there is insufficient data to determine the population trends for this stock.

Based on photo-identification studies, the NNCES stock of bottlenose dolphins occurs in the estuarine waters of Pamlico Sound (Waring *et al.,* 2014). The ranging patterns of bottlenose dolphins in those studies support the presence of a group of dolphins within these waters that are distinct from both dolphins occupying estuarine and coastal waters in southern North Carolina and animals in the NMC and SMC stocks that occupy coastal waters of North Carolina at certain times of the year (Read *et al.,* 2003; NMFS, 2001; NMFS, unpublished data).

During summer and fall months (July–October), the NNCES stock occupies waters of Pamlico Sound and nearshore coastal (less than 1 km (3,280 ft) from shore) and estuarine waters of central and northern North Carolina to Virginia Beach and the lower Chesapeake Bay (Waring *et al.,* 2014). It likely overlaps with animals from the SMC stock in coastal waters during these months. During late fall and winter (November–March), the NNCES stock moves out of estuarine waters and occupies nearshore coastal waters between the New River and Cape Hatteras (Waring *et al.,* 2013). It overlaps with the NMC stock during this period, particularly between Cape Lookout and Cape Hatteras. It appears that the region near Cape Lookout including Bogue Sound and Core Sound is an area of overlap with the Southern North Carolina Estuarine System stock during late summer (Waring *et al.,* 2014).

Southern North Carolina Estuarine System (SNCES) Stock: This stock is not listed as threatened or endangered under the ESA; however, it is categorized as strategic (but not depleted) under the MMPA. The best available abundance estimate for the SNCES stock is 188 animals (Waring *et al.,* 2014). However, there is insufficient data to determine the population trends for this stock.

Based on photo-identification studies, the SNCES stock of common bottlenose dolphins occupies estuarine and nearshore coastal waters (less than 3 km from shore) between the Little River Inlet Estuary, including the estuary and the New River (Waring *et al.,* 2014). During summer and fall months (July–October), the SNCES stock occupies estuarine and nearshore coastal waters (less than 3 km (1.7 mi) from shore) between the North Carolina-South Carolina border and Core Sound. It likely overlaps with the NNCES stock in the northern portion of its range (*i.e.,* southern Pamlico Sound) during late summer (Waring *et al.,* 2014). During late fall through spring, the SNCES stock moves south to waters near Cape Fear. In coastal waters, it overlaps with the SMC stock during this period (Waring *et al.,* 2014).

Bottlenose Dolphin Distribution Within BT–9 and BT–11

In Pamlico Sound, bottlenose dolphins concentrate in shallow water habitats along shorelines, and few, if any, individuals are present in the central portions of the sounds (Gannon, 2003; Read *et al.,* 2003a, 2003b). The dolphins utilize shallow habitats, such as tributary creeks and the edges of the Neuse River, where the bottom depth is less than 3.5 m (11.5 ft) (Gannon, 2003). Fine-scale distribution of dolphins seems to relate to the presence of topography or vertical structure, such as the steeply-sloping bottom near the shore and oyster reefs. Bottlenose dolphins may use these features to facilitate prey capture (Gannon, 2003).

In 2000, Duke University Marine Lab (Duke) conducted a boat-based mark-recapture survey throughout the estuaries, bays and sounds of North Carolina (Read *et al.,* 2003). The 2000 boat-based survey produced an estimate of 919 dolphins for the northern inshore waters divided by an estimated 5,015 km^2 (1,936 mi^2) survey area.

In a follow-on aerial study (July, 2002 to June, 2003) specifically in and around BT–9 and BT–11, Duke reported one sighting in the restricted area surrounding BT–9, two sightings in proximity to BT–11, and seven sightings in waters adjacent to the bombing targets (Maher, 2003). In total, the study observed 276 bottlenose dolphins ranging in group size from two to 70 animals.

Results of a passive acoustic monitoring effort conducted from 2006–2007 by Duke University researchers detected that dolphin vocalizations in the BT–11 vicinity were higher in August and September than vocalization detection at BT–9 (Read *et al.,* 2007). Additionally, detected vocalizations of dolphins were more frequent at night for the BT–9 area and during early morning hours at BT–11 (Read *et al.,* 2007).

Other Marine Mammals in the Proposed Action Area

The endangered West Indian manatee (*Trichechus manatus*), under the jurisdiction of the U.S. Fish and Wildlife Service, rarely occurs in the area (Lefebvre *et al.,* 2001; DoN 2003). The U.S. Fish and Wildlife Service has jurisdiction over the manatee; therefore, NMFS would not include a proposed authorization to harass manatees and does not discuss this species further in this final rule.

Based on the best available information, there are no observations of the endangered North Atlantic right whale (*Eubalaena glacialis*) or other large whales within Pamlico Sound or in vicinity of the bombing targets (Kenney, 2006). No suitable habitat exists for these species in the shallow Pamlico Sound or bombing target vicinity; therefore, because NMFS does not expect these species to be present in the action area, there is no potential for take (NMFS, 2012). Thus, NMFS will not discuss these species further.

Other dolphins, such as Atlantic spotted (*Stenella frontalis*) and the common dolphin (*Delphinus delphis*), have an oceanic distribution and do not venture into the shallow, brackish waters of southern Pamlico Sound. Because these species are rare and/or have extralimital occurrence in the bombing target area, NMFS will not discuss these species further in this final rule.

Potential Effects of the Specified Activity on Marine Mammals

The surface-to-surface and air-to-surface training exercises proposed for taking of marine mammals under these regulations have the potential to take marine mammals by exposing them to impulsive noise and pressure waves generated by live ordnance detonation at or near the surface of the water. Exposure to energy, pressure, or direct strike by ordnance has the potential to result in non-lethal injury (Level A harassment), disturbance (Level B harassment), serious injury, and/or mortality. In addition, NMFS also considered the potential for harassment from vessel and aircraft operations.

In the Potential Effects of the Specified Activity on Marine Mammals section of the proposed rule (79 FR 41373, July 15, 2014), NMFS included a qualitative discussion of the different ways that the Marine Corps' activities may potentially affect marine mammals without consideration of mitigation and monitoring measures (see 79 FR 41373, July 15, 2014; pages 41383–41391). Marine mammals may experience direct physiological effects (*e.g.,* threshold shift and non-acoustic injury, acoustic masking, impaired communication, stress responses, behavioral disturbance, stranding, behavioral responses from vessel movement, and injury or death from vessel collisions). The information contained in this section in the proposed rule has not changed and NMFS does not repeat that information here in this document.

This section did not consider the specific manner in which the Marine Corps would carry out the proposed activity, what mitigation measures the Marine Corps would implement, and how either of those would shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment, Injury, or Mortality'' section later in this document will include a quantitative analysis of the number of individuals that NMFS expects the Marine Corps to take during this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity would impact marine mammals. NMFS will consider the content of the following sections: (1) Estimated Take by Incidental Harassment, Injury, or Mortality; (2) Mitigation; and (3) Anticipated Effects on Marine Mammal Habitat, to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals—and from that consideration—the likely impacts of this activity on the affected marine mammal populations or stocks.

Anticipated Effects on Habitat

In the Anticipated Effects Habitat section of the proposed rule (79 FR 41373, July 15, 2014), we included a qualitative discussion of the different ways that the Marine Corps' activities may potentially affect marine mammals marine mammal habitat (see 79 FR 41373, July 15, 2014; page 41391). The information contained in this section in the proposed rule has not changed and NMFS does not repeat that information here in this document.

Impacts on marine mammal habitat are part of the consideration in making a finding of negligible impact on the species and stocks of marine mammals. Habitat includes rookeries, mating grounds, feeding areas, and areas of similar significance. NMFS does not anticipate that the operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the area, including the food sources they use (*i.e.,* fish and invertebrates). Although 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.

Summary of Previous Monitoring

The Marine Corps complied with the mitigation and monitoring required under the previous authorizations (2010–2013). The Marine Corps submitted final monitoring reports, which described the activities conducted and observations made. For the 2010 period, the Marine Corps did not observe any marine mammals during training exercises. The only recorded observations—which were bottlenose dolphins—occurred on two occasions by maintenance vessels engaged in target maintenance. Personnel did not observe marine mammals during range sweeps, air-to-ground or surface-to-surface activities (small boats), or during ad hoc monitoring via range cameras.

For the 2012 period, the total amount of ordnance expended at BT–9 and BT–11 was 301,687 and 955,528 rounds, respectively. During the period of the 2012 IHA, the Marine Corps did not fire any high explosive (live) munitions at BT–9. The Marine Corps do not permit high explosive (live) munitions within BT–11. Maintenance vessels engaged in target maintenance observed marine mammals on two occasions during the 2012 reporting period. Flight crews conducting range sweeps identified dolphins within the confines of Rattan Bay at BT–11 on two separate occasions: February 10, 2012 and August 16, 2012. When the sightings occurred during range sweeps, the Marine Corps suspended military training until the dolphins exited the mouth of the embayment, per Marine Corps Air Station Cherry Point Range standard operating procedures. There were no observations of marine mammals during the air-to surface or surface-to-surface activities (small boats), or during ad hoc monitoring via range cameras other than during follow-up on the two occasions of sightings made during the pre-exercise range sweeps.

For the 2013 period, the total amount of ordnance expended at BT–9 and BT–11 was 821,516 and 1,217,824 rounds, respectively. During the period of the 2013 IHA, the Marine Corps did not fire any high explosive (live) munitions at BT–9. The Marine Corps do not permit high explosive (live) munitions within BT–11.

During the 2013 reporting period, a small boat crew observed a pod of eight dolphins within Rattan Bay (BT–11) while conducting surface-to-surface exercises. The Marine Corps suspended all small arms, live-fire activities until

the pod departed Rattan Bay. On one other occasion, flight crews conducting range sweeps and observed dolphins within the confines of Rattan Bay at BT–11 prior to live-fire activities. The Marine Corps suspended the start of all training activities until the dolphins exited the mouth of the embayment, per MCAS Cherry Point Range standard operating procedures. For BT–9 during the 2013 period, there were no observations of marine mammals during the air-to surface or surface-to-surface activities (small boats), or during ad hoc monitoring via range cameras or maintenance vessels.

In summary, no instances of mortality, serious injury, or Level A harassment occurred during the conduct of training activities during the course of the previous three incidental harassment authorizations.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse 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).

The NDAA of 2004 amended the MMPA as it relates to military-readiness activities and the incidental take authorization process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

NMFS and the Marine Corps have worked to identify potential practicable and effective mitigation measures, which include a careful balancing of the likely benefit of any particular measure to the marine mammals with the likely effect of that measure on personnel safety, practicality of implementation, and impact on the ''military-readiness activity.'' NMFS refers the reader to Appendix B of the Marine Corps' application for more detailed information on the proposed mitigation measures which include the following:

1. *Visual Monitoring:* Range operators will conduct or direct visual surveys to monitor BT–9 or BT–11 for protected species before and after each exercise. Range operation and control personnel would monitor the target area through tower mounted safety and surveillance cameras. The remotely operated range cameras are high-resolution cameras that allow viewers to see animals at the surface and breaking the surface, but not underwater. The camera system has night vision (IR) capabilities. Lenses on the camera system have a focal length of 250 mm to 1500 mm, with view angles of 2.2° x 1.65° (in wide-view) and 0.55° x 41° (in narrow-view) respectively. Using the night-time capabilities, with a narrow view, an observer could identify a 1-by-1 meter target out to three kilometers.

In the event that the Marine Corps sight a marine mammal within 914 m (3,000 ft) of the BT–9 target area, personnel would declare the area as fouled and cease training exercises. Personnel would commence operations in BT–9 only after the animal moves beyond and on a path away from the 914-m (3,000-ft) radius around the target area.

For BT–11, in the event that a marine mammal is sighted anywhere within the confines of Rattan Bay, personnel would declare the water-based targets within Rattan Bay as fouled and cease training exercises. Personnel would commence operations in BT–11 only after the marine mammal has left the confines of Rattan Bay.

2. *Range Sweeps:* The VMR–1 squadron, stationed at Marine Corps Air Station Cherry Point, includes three specially equipped HH–46D helicopters. The primary mission of these aircraft, known as PEDRO, is to provide search and rescue for downed 2nd Marine Air Wing aircrews. On-board are a pilot, co-pilot, crew chief, search and rescue swimmer, and a medical corpsman. Each crew member has received extensive training in search and rescue techniques, and is therefore particularly capable at spotting objects floating in the water.

The PEDRO crew would conduct a range sweep the morning of each exercise day prior to the commencement of range operations. The crew would also conduct post-exercise sweeps. The primary goal of the pre-exercise sweep is to ensure that the target area is clear of fisherman, other personnel, and protected species. Generally, the weekly monitoring events would include a maximum of five pre-exercise and four post-exercise sweeps. The maximum number of days that would elapse between pre- and post-exercise monitoring events would be approximately 3 days, and would normally occur on weekends.

The sweeps would occur at 100 to 300 meters (328 to 984 ft) above the water surface, at airspeeds between 60 to 100 knots (69 to 115 mph). The path of the sweep runs down the western side of BT–11, circles around BT–9 and then continues down the eastern side of BT–9 before leaving. The sweep typically takes 20 to 30 minutes to complete.

The PEDRO crew communicates directly with range personnel and can provide immediate notification to range operators of a fouled target area due to the presence of protected species. The PEDRO aircraft would remain in the area of a marine mammal sighting until the animal clears the area, if possible, or as mission requirements dictate.

If the crew sights marine mammals during a range sweep, they would collect sighting data and immediately provide the information to range personnel who would take appropriate management action. Range staff would relay the sighting information to training Commanders scheduled on the range after the observation. Range personnel would enter the data into the Marine Corps' sighting database, web-interface, or report generator. Sighting data includes the following (collected to the best of the observer's ability): (1) Species identification; (2) group size; (3) the behavior of marine mammals (*e.g.,* milling, travel, social, foraging); (4) location and relative distance from the bombing target; (5) date, time and visual conditions (*e.g.,* Beaufort sea state, weather) associated with each observation; (6) direction of travel relative to the bombing target; and (7) duration of the observation.

3. *Aircraft Cold Pass:* Standard operating procedures for waterborne targets require the pilot to perform a visual check prior to ordnance delivery to ensure the target area is clear of unauthorized civilian boats and personnel, and protected species such as turtles and marine mammals. This is a ''cold'' or clearing pass. Pilots requesting entry onto the BT–9 and BT–11 airspace must perform a low-altitude, cold first pass (a pass without any release of ordnance) immediately prior to ordnance delivery at the bombing targets both day and night.

Pilots would conduct the cold pass with the aircraft (helicopter or fixed-winged) flying straight and level at altitudes of 61 to 914 m (200 to 3,000 ft) over the target area. The viewing angle is approximately 15 degrees. A blind spot exists to the immediate rear of the aircraft. Based upon prevailing visibility, a pilot can see more than one mile forward upon approach. If marine mammals are present in the target area, the Range Controller may deny ordnance delivery to the target as conditions warrant. If marine mammals are not present in the target area, the Range Controller may grant ordnance delivery as conditions warrant.

4. *Delay of Exercises:* The Marine Corps would consider an active range as fouled and not available for use if a marine mammal is present within 914 m (3,000 ft) of the target area at BT–9 or anywhere within the confines of Rattan Bay (BT–11). Therefore, if Marine Corps personnel observe a marine mammal within 914 m (3,000 ft) of the target at BT–9 or anywhere within Rattan Bay at BT–11 during the cold pass or from range camera detection, they would delay training until after the animal moves beyond and on a path away from the 914-m (3,000-ft) radius around the target area at BT–9 or has moved out of Rattan Bay at BT–11. This mitigation measure applies to both air-to-surface and surface-to-surface exercises during the day or night.

5. *Vessel Operations:* All vessels used during training operations would abide by NMFS' Southeast Regional Viewing Guidelines designed to prevent harassment to marine mammals (*http://www.nmfs.noaa.gov/pr/education/southeast/*).

6. *Stranding Network Coordination:* The Marine Corps would coordinate with the local NMFS Stranding Coordinator to discuss observations of any unusual marine mammal behaviors, strandings, or any beached live/dead, or floating marine mammals at any time during training activities or within 24 hours after completion of training.

Mitigation Conclusions

NMFS has carefully evaluated the Marine Corps' mitigation 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' evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to training exercises that we expect to result in the take of marine mammals (this goal may contribute to goal 1 or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to training exercises that we expect to result in the take of marine mammals (this goal may contribute to goal 1 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 training exercises that we expect to result in the take of marine mammals (this goal may contribute to goal 1 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 the evaluation of the Marine Corps' mitigation measures, which includes consideration of the results from past monitoring reports required under the 2010–2013 Authorizations, 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 while also considering personnel safety, practicality of implementation, and the impact of effectiveness of the military readiness activity.

Monitoring and Reporting

In order to issue a Letter of Authorization for an activity, section 101(a)(5)(A) of the MMPA states that we 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 an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

As part of its application, the Marine Corps provided a monitoring plan for assessing impacts to marine mammals from military training activities at BT–9 and BT–11 in Pamlico Sound, NC. This plan is similar, if not identical, to those conducted in previously issued Incidental Harassment Authorizations for the Marine Corps' activities from 2010–2013. The Marine Corps' suggested means of accomplishing the necessary monitoring and reporting under these regulations includes the following:

1. *Protected Species Observer Training:* Operators of small boats, and other personnel monitoring for marine mammals from watercraft shall be required to take the Department of the Navy's Marine Species Awareness Training. The Marine Corps shall instruct those pilots conducting range sweeps on marine mammal observation techniques during routine Range Management Department briefings. This training would make personnel knowledgeable of marine mammals, protected species, and visual cues related to the presence of marine mammals and protected species.

2. *Pre- and Post-Exercise Monitoring:* The Marine Corps would conduct pre-exercise monitoring the morning of an exercise and post-exercise monitoring the morning following an exercise, unless an exercise occurs on a Friday, in which case the post-exercise sweep would take place the following Monday. Weekly monitoring events would include a maximum of five pre-exercise and four post-exercise sweeps. The maximum number of days that would elapse between pre- and post-exercise monitoring events would be approximately three days, and would normally occur on weekends. If the Marine Corps observe marine mammals during this monitoring, personnel would record sighting data identical to those collected by the PEDRO crew.

3. *Long-term Monitoring:* The Marine Corps awarded Duke University Marine Lab (Duke) a contract to obtain abundance, group dynamics (*e.g.,* group size, age census), behavior, habitat use, and acoustic data on the bottlenose dolphins which inhabit Pamlico Sound, specifically those around BT–9 and BT–11. Duke began conducting boat-based surveys and passive acoustic monitoring of bottlenose dolphins in Pamlico Sound in 2000 (Read *et al.,* 2003) and specifically at BT–9 and BT–11 in 2003 (Mayer, 2003). To date, boat-based surveys indicate that bottlenose

dolphins may be resident to Pamlico Sound and use the BT–9 and BT–11 restricted areas on a frequent basis. Passive acoustic monitoring (PAM) provides more detailed insight into how dolphins use the two ranges, by monitoring for their vocalizations year-round, regardless of weather conditions or darkness. In addition to these surveys, the Marine Corps and Duke's scientists continue to test a real-time passive acoustic monitoring system at BT–9 that will allow automated detection of bottlenose dolphin whistles, providing yet another method of detecting dolphins prior to training operations.

4. *Reporting:* The Marine Corps will submit an annual report to NMFS by June 1st of each year starting in 2016. The first report will cover the time period from issuance of the March 13, 2015 Letter of Authorization through March 12, 2016. Each annual report after that time will cover the time period from March 13 through March 12, annually.

The Marine Corps will submit a draft final comprehensive report to NMFS no later than 180 days prior to expiration of these regulations. This report must summarize the findings made in all previous reports and assess both the impacts at each of the bombing targets and the cumulative impact on bottlenose dolphin from the specified activities.

The draft final comprehensive report will summarize the type and amount of training exercises conducted, all marine mammal observations made during monitoring, and if mitigation measures were implemented. The draft final comprehensive report will also address the effectiveness of the monitoring plan in detecting marine mammals. The draft comprehensive report will be subject to review and comment by NMFS. Prior to acceptance by NMFS, the Marine Corps must address any recommendations made by NMFS, within 60 days of its receipt, in the final comprehensive report.

General Notification of Injured or Dead Marine Mammals

The Marine Corps will systematically observe training operations for injured or disabled marine mammals. In addition, the Marine Corps will monitor the principal marine mammal stranding networks and other media to correlate analysis of any dolphin strandings that could potentially be associated with BT–9 or BT–11 training operations.

Marine Corps personnel will ensure that they notify NMFS immediately or as soon as clearance procedures allow if personnel find an injured, stranded, or dead marine mammal during or shortly after, and in the vicinity of, any training operations. The Marine Corps will provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that an injured, stranded, or dead marine mammal is found by Marine Corps personnel that is not in the vicinity of, or found during or shortly after operations, the Marine Corps personnel will report the same information as listed above as soon as operationally feasible and clearance procedures allow.

General Notification of a Vessel Strike

In the event of a vessel strike, at any time or place, the Marine Corps shall do the following:

- Immediately report to us the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead (or unknown);
- Report to us as soon as operationally feasible the size and length of the animal, an estimate of the injury status (*e.g.*, dead, injured but alive, injured and moving, unknown, etc.), vessel class/type and operational status;
- Report to NMFS the vessel length, speed, and heading as soon as feasible; and
- Provide us a photo or video, if equipment is available.

Adaptive Management

NMFS has included an adaptive management component in the regulations governing the take of marine mammals incidental to the Marine Corps' activities at BT–9 and BT–11. In accordance with 50 CFR 216.105(c), NMFS must base the regulations on the best available information. As the Marine Corps develops new information, through monitoring, reporting, or research, NMFS may modify the regulations, in whole or in part, after notice and opportunity for public review. The use of adaptive management will allow NMFS to consider new information from different sources to determine if NMFS should modify mitigation or monitoring measures (including additions or deletions) if new data suggest that such modifications are appropriate for subsequent LOAs. NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with the Marine Corps regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. Following are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

1. Results from the Marine Corps' monitoring from the previous year.

2. Results from marine mammal and/or sound research or studies; or

3. Any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent Letters of Authorization.

In addition, NMFS may withdraw or suspend the LOA, if, after notice and opportunity for public comment, the Assistant Administrator finds, among other things, that the Marine Corps are not substantially complying with the regulations or the taking allowed is having more than a negligible impact on the species or stock, as allowed for in 50 CFR 216.106(e). That is, should monitoring and reporting indicate that the operations and activities from the Marine Corps' activities at BT–9 and BT–11 are having more than a negligible impact on marine mammals, then NMFS reserves the right to modify the regulations and/or withdraw or suspend an LOA after public review.

Research

The Marine Corps has funded surveys performed by Duke University researchers and provided financial support to augment surveys conducted by the NMFS Southeast Fisheries Science Center. Information and knowledge gained from the Marine Corps-funded research has contributed significantly to the understanding of bottlenose dolphin stocks, including their distribution and movement, in Pamlico Sound, NC.

The Marine Corps, in collaboration with Duke scientists, are in the process of developing and testing a real-time passive acoustic monitoring system that will allow automated detection of bottlenose dolphin whistles (Appendix C in the application). The Marine Corps and Duke have performed the work in two phases. Phase I was the development of an automated signal detector (a software program) to recognize the whistles of dolphins at BT–9 and BT–11. Phase II, currently in progress, is the assembly and deployment of a prototype real-time monitoring unit on one of the towers in the BT–9 range. The success of this effort will help direct future research initiatives and activities within the

Marine Corps Air Station Cherry Point Range Complex. As funding becomes available and research opportunities arise, the Marine Corps will continue to fund and participate in studies that will enhance the understanding of the life history of marine mammals in Pamlico Sound.

Comments and Responses

On July 15, 2014, NMFS published a proposed rule (79 FR 41374) in response to the Marine Corps' request to take marine mammals incidental to military training activities at BT–9 and BT–11 in Pamlico Sound. In that **Federal Register** notice, NMFS requested comments, information, and suggestions concerning the request. During the 30-day public comment period, we received comments from the following: The Marine Mammal Commission (Commission), the Center for Biological Diversity (CBD), and 12 comments from private citizens. Following is a summary of the substantive comments and NMFS' responses.

MMPA Concerns

Comment 1: The CBD requested that NMFS not issue regulations authorizing serious injury and mortality of up to 30 dolphins during the course of the five-year rule, stating that NMFS' analysis shows that the take of bottlenose dolphins will be more than negligible, specifically for the Southern and Northern North Carolina Estuarine System stocks.

Response: NMFS acknowledges CBD's concerns regarding the Marine Corps' training activities on the Southern and Northern North Carolina Estuarine System stocks of bottlenose dolphins. NMFS has reassessed the estimates of bottlenose dolphins that the Marine Corps could potentially take during the course of the training activities and will not authorize take of bottlenose dolphins by mortality or serious injury in these regulations.

NMFS reanalyzed the take estimates presented in the Marine Corps' 2014 application addendum and Tables 10 and 11 of the proposed rulemaking (79 FR 41374, July 14, 2014, page 41397), and has determined that these estimates overestimated the number of marine mammals that could potentially be taken by mortality and serious injury. First, in the proposed rule, NMFS rounded up the annual take estimates that were less than 0.5 to the nearest whole number (1). Instead, NMFS should have presented the annual take estimates for mortality and serious injury that were less than 0.5 as zero takes, which is the standard practice in calculating take estimates and recommended by the Marine Mammal Commission when estimating incidental take for military readiness activities (MMC, 2015). Generally, one should round down if less than 0.50 and round up if greater than or equal to 0.50.

Second, NMFS inadvertently included estimated take by slight lung injury within the annual estimated take by serious injury category in Table 10 of the proposed rulemaking (79 FR 41374, July 14, 2014, page 41397). NMFS classifies slight lung injury as Level A harassment, not serious injury. Thus, this error of commission led NMFS to inaccurately state the number of takes by serious injury that could potentially occur in the absence of mitigation. Tables 10 and 11 of this final rule present the corrected take estimates for serious injury and mortality in the absence of mitigation. In summary, NMFS now estimates that, in the absence of mitigation, the Marine Corps could potentially take up to zero animals by mortality and potentially take up to two animals by serious injury on an annual basis.

However, as stated in the proposed rule, in consideration of the effectiveness of the mitigation measures, NMFS does not expect take by serious injury or mortality to occur. NMFS believes it has sufficient information about the Marine Corp's activities and the effectiveness of the mitigation measures to reasonably conclude that the activities are not likely to result in any serious injury or mortality. NMFS notes that over the course of the previous incidental harassment authorizations issued to the Marine Corps for the same activities, there were no reported incidents of serious injury to or mortality of any marine mammal. NMFS believes that the mitigation measures that will be implemented by the Marine Corps (*e.g.,* conservative exclusion zones for marine mammals; pre- and post-exercise monitoring, range sweeps, cold passes, delay of exercises, visual monitoring with high-resolution cameras with night vision capabilities, and passive acoustic monitoring) would reduce the amount and severity of the potential impacts from the activity, making it unlikely that any take by serious injury or morality would occur. Therefore, NMFS is not authorizing take by serious injury or mortality.

In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated serious injuries and mortalities; (2) the number and nature of anticipated injuries (Level A harassment); (3) the number, nature, and intensity, and duration of Level B harassment; (4) the status of stock or species of marine mammals; (5) the context in which the takes occur; and (6) the effectiveness of monitoring and mitigation measures. Taking into consideration the historically low concentrations of bottlenose dolphins present within the BT–9 and BT–11 areas; the small scale and spatial footprint of the proposed detonations within the target areas; the relatively short duration and intermittent nature of the training activities; and the incorporation of proven mitigation and monitoring measures to lessen adverse effects, NMFS expects the activities to affect a small number of marine mammals on an infrequent basis to the degree that it would have a negligible impact on the one species of bottlenose dolphins or any of the four stocks of bottlenose dolphins in the action area.

Comment 2: The CBD commented that the proposed regulations would authorize mortality for the Southern and Northern North Carolina Estuarine System strategic stocks of bottlenose dolphins at a rate above the Potential Biological Removal (PBR) for the stocks under the MMPA. They further state that any additional mortalities proposed for authorization above PBR for the North Caroline Estuarine System stock would slow that stock's recovery rate and preclude the species from reaching its optimum sustainable population and that any additional mortalities authorized above PBR for the Southern North Carolina Estuarine System stock would affect annual rates of recruitment or survival.

Response: See NMFS' response to Comment 1. For reasons stated previously in the response to Comment 1, NMFS will not authorize the take of bottlenose dolphins by serious injury or mortality in these regulations. No takes by serious injury or mortality occurred during NMFS' previous authorizations to the Marine Corps. Based on the Marine Corps' compliance with previous authorizations for the same activities, NMFS expects the required mitigation and monitoring measures to minimize the potential risk for serious injury or mortality and does not expect these types of takes to occur.

In addition, NMFS has included an adaptive management component in the regulations governing the take of marine mammals incidental to the Marine Corps' activities at BT–9 and BT–11. The use of adaptive management will allow NMFS to consider new information from different sources to determine whether mitigation or monitoring measures should be modified. NMFS may modify or augment the existing mitigation or

monitoring measures (after consulting with the Marine Corps regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations.

Effects Analyses

Comment 3: The CBD states that NMFS should not issue regulations authorizing harassment and mortality of the North Carolina Estuarine System bottlenose dolphins because the additional mortality associated with the Unusual Mortality Event (UME) in the mid-Atlantic Ocean.

Response: For reasons stated previously in the response to Comment 1, NMFS would not authorize the take of bottlenose dolphins by serious injury or mortality in these regulations. See our responses to Comments 1 and 2 regarding NMFS' determinations of the expected level of mortality and serious injury that could potentially occur in BT–9 and BT–11 given the required mitigation and monitoring measures in this final rule.

NOAA has declared an UME for bottlenose dolphins in the mid-Atlantic Ocean from early July 2013 through the present. Elevated strandings of bottlenose dolphins have occurred in North Carolina. However, none have occurred in BT–9 or BT–11.

All age classes of bottlenose dolphins are involved and strandings range from a few live animals to mostly dead animals with many very decomposed (NMFS, 2015). Based upon preliminary diagnostic testing and discussion with disease experts, the tentative cause of this UME could be cetacean morbillivirus (NMFS, 2015). However the investigation is still ongoing and additional contributory factors to the UME are under investigation including other pathogens, biotoxins, range expansion, etc. (NMFS, 2015).

Comment 4: The Commission recommends the NMFS require the Marine Corps to use either direct strike or dynamic Monte Carlo models to determine the probability of ordnance strike.

Response: NMFS considers the Marine Corps' model for direct strike to be the best available information. Although the Commission recommended ''direct strike or dynamic Monte Carlo methods,'' it noted that the result of using a new risk probability model would likely provide negligible changes from the model described in the application. Because NMFS also believes that any change would be negligible and that the Marine Corps' existing model is the best available information, NMFS disagrees that the alternative modeling suggested by the Commission is necessary.

Mitigation

Comment 5: The Commission also requested that we require the Marine Corps to implement a plan to evaluate the effectiveness of all of its sensor-based monitoring systems (*i.e.,* the remote-camera passive acoustic monitoring systems).

Response: NMFS worked closely with the Marine Corps to develop proper mitigation, monitoring, and reporting requirements designed to minimize and detect impacts from the specified activities. This includes a Marine Mammal and Protected Species Monitoring Plan (Plan) that satisfies the requirements of the MMPA.

The Marine Corps has collaborated with Duke University to develop and test a real-time passive acoustic monitoring system that will allow automated detection of bottlenose dolphin whistles. Duke University is performing the work in two phases. Phase I was the development of an automated signal detector (a software program) to recognize the whistles of dolphins at BT–9 and BT–11. Phase II, currently in progress, is the assembly and deployment of a prototype real-time monitoring unit on one of the towers in the BT–9 range. Through the adaptive management component of the regulations, NMFS and the Marine Corps will continue evaluate the effectiveness of all of the sensor-based monitoring systems in BT–9 and BT–11.

Miscellaneous Concerns

Comment 6: Several individuals expressed general opposition to the Marine Corps' activities and to NMFS' proposed issuance of MMPA regulations because of the danger of killing or harassing marine life.

Response: NMFS appreciates the commenters' concerns for the marine life in the areas of the proposed activities. We note that over the course of the previous incidental harassment authorizations issued to the Marine Corps for the same activities, there were no reported incidents of injury to or mortality of any marine mammal. NMFS does not expect take by serious injury or mortality to occur. Again, taking into consideration the historically low concentrations of bottlenose dolphins present within the BT–9 and BT–11 areas; the small scale and spatial footprint of the proposed detonations within the target areas; the relatively short duration of the activities; and the incorporation of proven mitigation and monitoring measures to lessen adverse effects, NMFS expects the activities to have a negligible impact on marine mammals.

Estimated Numbers of Marine Mammals Taken by Harassment

NMFS' analysis identified the lethal responses, physiological responses, and behavioral responses that could potentially result from exposure to underwater explosive detonations. In this section, NMFS will relate the potential effects to marine mammals from underwater detonation of explosives and direct strike by ordnance to the MMPA regulatory definitions of Level A and Level B harassment, serious injury, and mortality. This section will also quantify the effects that might occur from the military readiness activities in BT–9 and BT–11.

Definition of Harassment

The NDAA removed the ''small numbers'' and ''specified geographic region'' limitations indicated earlier in this document and amended the definition of harassment as it applies to a ''military readiness activity'' to read as follows: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Level B Harassment

Of the potential effects described in the proposed rule, the following are the types of effects that fall into the Level B harassment category:

Behavioral Harassment—Behavioral disturbance that rises to the level described in the above definition, when resulting from exposures to non-impulsive or impulsive sound, is Level B harassment. Some of the lower level physiological stress responses discussed earlier would also likely co-occur with the predicted harassments, although these responses are more difficult to detect and fewer data exist relating these responses to specific received levels of sound. When predicting Level B harassment based on estimated behavioral responses, those takes may have a stress-related physiological component.

Acoustic Masking and Communication Impairment—NMFS

considers acoustic masking to be Level B harassment, as it can disrupt natural behavioral patterns by interrupting or limiting the marine mammal's receipt or transmittal of important information or environmental cues.

Temporary Threshold Shift (TTS)—As discussed previously, TTS can affect how an animal behaves in response to the environment, including conspecifics, predators, and prey. NMFS classifies TTS (when resulting from exposure to explosives and other impulsive sources) as Level B harassment, not Level A harassment (injury).

Level A Harassment

Of the potential effects that were described in the proposed rule, the following are the types of effects that fall into the Level A Harassment category:

Permanent Threshold Shift (PTS)—PTS (resulting either from exposure to explosive detonations) is irreversible and NMFS considers this to be an injury.

Physical Disruption of Tissues Resulting from Explosive Shock Wave—NMFS classifies physical damage of tissues resulting from a shock wave (from an explosive detonation) as an injury.

NMFS considers direct strike by ordnance associated with the specified activities to be serious injury or mortality.

Impulsive Sound Explosive Thresholds

NMFS has identified three potential levels of take for the Marine Corps' training exercises: Level B harassment; Level A harassment; and mortality (or serious injury leading to mortality). We present the acoustic thresholds for impulse sounds in this section.

Table 7 summarizes the marine mammal impulsive sound explosive thresholds used for the Marine Corps' acoustic impact modeling for marine mammal take in its application and 2009 EA. Several standard acoustic metrics (Urick, 1983) describe the thresholds for predicting potential physical impacts from underwater pressure waves. They are:

- Total energy flux density or Sound Exposure Level (SEL). For plane waves (as assumed here), SEL is the time integral of the instantaneous intensity, where the instantaneous intensity is defined as the squared acoustic pressure divided by the characteristic impedance of sea water. Thus, SEL is the instantaneous pressure amplitude squared, summed over the duration of the signal. Standard units are dB referenced to 1 re: μPa^2-s.
- ⅓-octave SEL. This is the SEL in a ⅓-octave frequency band. A ⅓-octave band has upper and lower frequency limits with a ratio of 21:3, creating bandwidth limits of about 23 percent of center frequency.
- Positive impulse. This is the time integral of the initial positive pressure pulse of an explosion or explosive-like wave form. Standard units are Pa-s or psi-ms.
- Peak pressure. This is the maximum positive amplitude of a pressure wave, dependent on charge mass and range. Standard units are psi, μPa, or Bar.

TABLE 7—IMPULSIVE SOUND EXPLOSIVE THRESHOLDS USED BY THE MARINE CORPS IN ITS PREVIOUS ACOUSTICS IMPACTS MODELING

Criterion	Criterion definition	Threshold
Mortality	Onset of severe lung injury (mass of dolphin calf: 12.2 kg) (1% probability of mortality).	31 psi-msec (positive impulse).
Level A harassment (injury)	50% animals would experience ear drum rupture, 30% animals exposed sustain permanent threshold shift.	205 dB re 1 μPa^2-s EFD (full spectrum energy).
Level A harassment (injury)	Onset of slight lung injury (mass of dolphin calf: 12.2 kg).	13 psi-msec (positive impulse).
Level B harassment	TTS and associated behavioral disruption	23 psi peak pressure.
Level B harassment	TTS and associated behavioral disruption (dual criteria).	182 dB re: 1 μPa^2-s EFD*, ⅓-octave band.
Level B harassment	Sub-TTS behavioral disruption (for multiple/sequential detonations only).	177 dB re: 1 μPa^2-s EFD*, ⅓-octave band.

* **Note:** In greatest ⅓-octave band above 10 Hz or 100 Hz.

NMFS previously developed the explosive thresholds for assessing impacts of explosions on marine mammals shown in Table 7 for the shock trials of the USS Seawolf and USS Winston S. Churchill. However, at NMFS' recommendation, the Marine Corps has updated the thresholds used for onset of temporary threshold shift (TTS; Level B Harassment) and onset of permanent threshold shift (PTS; Level A Harassment) to be consistent with the thresholds outlined in the Navy's report titled, ''Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis Technical Report,'' on which the Navy coordinated with NMFS. NMFS believes that the thresholds outlined in the Navy's report represent the best available science. The report is available on the Internet at: *http://aftteis.com/Portals/4/aftteis/Supporting%20Technical%20Documents/Criteria_and_Thresholds_for_US_Navy_Acoustic_and_Explosive_Effects_Analysis-Apr_2012.pdf.*

Table 8 in this document outlines the revised acoustic thresholds used by NMFS for this rulemaking when addressing noise impacts from explosives.

TABLE 8—IMPULSIVE SOUND EXPLOSIVE THRESHOLDS USED BY THE MARINE CORPS IN ITS CURRENT ACOUSTICS IMPACTS MODELING

Group	Behavior		Slight injury			Mortality
	Behavioral	TTS	PTS	Gastro-intestinal tract	Lung	
Mid-frequency Cetaceans.	167 dB SEL ..	172 dB SEL or 23 psi.	187 dB SEL or 45.86 psi.	104 psi	39.1 $M^{1/3}$ $(1+[D_{Rm}/10.081])^{1/2}$ Pa-sec. Where: M = mass of the animals in kg D_{Rm} = depth of the receiver (animal) in meters.	91.4 $M^{1/3}$ $(1+D_{Rm}/10.081])^{1/2}$ Pa-sec. Where: M = mass of the animals in kg D_{Rm} = depth of the receiver (animal) in meters.

The Marine Corps conservatively modeled that all explosives would detonate at a 1.2 m (3.9 ft) water depth despite the training goal of hitting the target, resulting in an above water or on land explosion. For sources detonated at shallow depths, it is frequently the case that the explosion may breech the surface with some of the acoustic energy escaping the water column. Table 9 provides the estimated maximum range or radius, from the detonation point to the various thresholds described in Table 8.

TABLE 9—DISTANCES (M) TO HARASSMENT THRESHOLDS FROM THE MARINE CORPS' EXPLOSIVE ORDNANCE

Proposed ordnance	NEW (lbs)	Mortality	Level A harassment		Level B harassment		
			187 dB	46 psi-msec	172 dB	23 psi	167 dB
30 mm HE	0.1019	0	297.8	8.5	677.7	70	856.7
40 mm HE	0.1199	0	168.2	9.5	467.5	64.4	604.6
2.75-inch Rocket	4.8	29.3	270.4	49.1	631.5	197.3	830.4
5-inch Rocket	15.0	39.8	346.1	63.4	778.7	233.4	1,032.4
G911 Grenade	0.5	9.6	136.4	23.3	416.2	103.5	547.3

Density Estimation

The Marine Corps bases its method to estimate the number of marine mammals potentially affected using bottlenose dolphin densities (summer and winter), the amount/type of ordnance proposed, and distances to NMFS' harassment threshold criteria.

In 2000, Duke conducted a boat-based mark-recapture survey throughout the estuaries, bays and sounds of North Carolina (Read *et al.,* 2003). The 2000 boat-based survey yielded a dolphin density of 0.183 per square kilometer (km^2) (0.071 square mile (mi^2)) based on an estimate of 919 dolphins for the northern inshore waters divided by an estimated 5,015 km^2 (1,936 mi^2) survey area.

In a follow-on aerial study (July 2002–June 2003) specifically in and around BT–9 and BT–11, Duke reported one sighting in the restricted area surrounding BT–9, two sightings in proximity to BT–11, and seven sightings in waters adjacent to the bombing targets (Maher, 2003). In total, 276 bottlenose dolphins were sighted ranging in group size from two to 70 animals with mean dolphin density in BT–11 more than twice as large as the density of any of the other areas; however, the daily densities were not significantly different (Maher, 2003). The researchers calculated the estimated dolphin density at BT–9 and BT–11 based on these surveys to be 0.11 dolphins/km^2, and 1.23 dolphins/km^2, respectively.

For the regulations, the Marine Corps chose to estimate take of dolphins based on the higher density reported from the summer 2000 surveys (0.183/km^2). Although the researchers conducted the aerial surveys year round and provided seasonal density estimates, the average year-round density from the aerial surveys is 0.0936, lower than the 0.183/km^2 density chosen to calculate take for purposes of these proposed regulations. Additionally, Goodman *et al.* (2007) acknowledged that boat based density estimates may be more accurate than the uncorrected estimates derived from the aerial surveys.

Estimated Take From Explosives at BT–9

In order to calculate take from ordnance, the Marine Corps considered the distances to which animals could be harassed along with dolphin density (0.183 km^2) and based take calculations for munitions firing on 100 percent water detonation. Because the goal of training is to hit the targets and not the water, NMFS considers these take estimates based on 100 percent water detonation of munitions to be conservative.

Table 10 presents the annual estimated take of bottlenose dolphins from exposure to explosive ordnance based on current thresholds. The Marine Corps has requested, and NMFS proposes to authorize, the incidental take of 323 bottlenose dolphins from Level B Harassment (behavioral and TTS) and 34 bottlenose dolphins from Level A Harassment (PTS) annually.

Table 10 also includes an estimated annual take of 2 bottlenose dolphins by mortality (or serious injury leading to mortality) as a result of exposure to impulsive sound explosions. However, in consideration of the effectiveness of the mitigation measures, NMFS does not expect take by serious injury or mortality related to exposure to explosive ordnance to occur, and is not authorizing serious injury or mortality. The Marine Corps has conducted gunnery and bombing training exercises at BT–9 and BT–11 for several years and, to date, the monitoring reports do not indicate that dolphin injury, serious injury, or mortality has occurred as a result of the training exercises. Also, the Marine Corps has a history of notifying the NMFS stranding network when any injured or stranded animal comes ashore or is spotted by personnel on the water. The stranding responders have examined each of the stranded animals, confirming that it was unlikely that the

Marine Corps' exercises resulted in the death or injury of the stranded marine mammal.

TABLE 10—ANNUAL AND 5-YEAR ESTIMATED TAKE OF BOTTLENOSE DOLPHINS FROM EXPOSURE TO EXPLOSIVE ORDNANCE BASED ON INDICATED THRESHOLDS AND THE ABSENCE OF MITIGATION MEASURES

Proposed ordnance	Mortality	Serious injury	Level A harassment (PTS/slight lung injury)	Level B harassment (TTS and behavior)	
		104 psi	187 dB SEL/ Positive impulse	172 dB SEL	167 dB SEL
30 mm HE	0 (0.0)	0 (0.46)	3.70	17.18	10.41
40 mm HE	0 (0.0)	2 (1.56)	24.03	153.84	95.37
2.75-inch Rocket	0 (0.06)	0 (0.34)	3.53	15.35	9.82
5-inch Rocket	0 (0.032)	0 (0.19)	1.66	7.21	4.77
G911 Grenade	0 (0.004)	0 (0.06)	0.87	4.60	2.91
Annual Totals*	0	2	34	199	124
5-Year Totals	0	10	170	1,615	

Estimates in parentheses less than or equal to 0.5 rounded to zero.

Estimated Take by Direct Strike of Ordnance

Table 11 presents the annual estimated take of bottlenose dolphins from direct strike by ordnance, which is zero for each location. In consideration of the effectiveness of the mitigation measures, NMFS does not expect take by serious injury or mortality related to direct strike to occur.

TABLE 11—ANNUAL ESTIMATED TAKE OF BOTTLENOSE DOLPHINS FROM DIRECT STRIKE BY ORDNANCE

Bombing target	Estimated annual ordnance levels	Strike probability	Estimated number of strikes	Annual estimate	5-Year estimate
BT–9	1,225,815	2.61×10^{-7}	0 (0.32)	0	0
BT–11	451,686.24[1]	9.4×10^{-8}	0 (0.042)	0	0

[1] BT–11 based on 36 percent of the total estimated ordnance levels (1,254,684) with a deployment footprint over water. In reanalyzing the data based on public comments, NMFS considered the modeled numbers less than or equal to 0.5 to be discountable for estimating take. Estimates in parentheses less than or equal to 0.5 rounded to zero.

The Marine Corps conducted modeling for the bombing targets to determine the total surface area needed to contain 99.99 percent of initial and ricochet impacts (95 percent confidence interval) for each aircraft and ordnance type. It then generated the surface area or footprints of weapon impact areas associated with air-to-ground ordnance delivery and estimated that at both BT–9 and BT–11 the probability of deployed ordnance landing in the impact footprint is essentially 1.0, since the footprints were designed to contain 99.99 percent of impacts, including ricochets. However, only 36 percent of the weapon footprint for BT–11 is over water in Rattan Bay. Water depths in Rattan Bay range from 3 m (10 ft) in the deepest part of the bay to 0.5 m (1.6 ft) close to shore.

The Marine Corps calculated the probability of hitting a bottlenose dolphin at the bombing targets by multiplying the dolphin's dorsal surface area by the density estimate of dolphins in the area. It estimated that the dorsal surface area of a bottlenose dolphin was approximately 1.425 m^2 (15.3 ft^2) with an average length and width of 2.85 m (9.3 ft) and 0.5 m (1.6 ft), respectively. Then using the density estimate of 0.183 km^2, it calculated the probability of direct strike in the waters of BT–9 as 2.61×10^{-7} and the probability of direct strike in the waters of BT–11 as 9.4×10^{-8}. The probability for BT–11 is 64 percent lower, because only 36 percent of the weapons footprint occurs over the water column. This method is the best available information for estimating the probability of ordnance striking a marine mammal in BT–9 or BT–11.

Vessel Presence

Interactions with vessels are not a new experience for bottlenose dolphins in Pamlico Sound. Pamlico Sound is heavily used by recreational, commercial (fishing, daily ferry service, tugs, etc.), and military (including the Navy, Air Force, and Coast Guard) vessels year-round. The NMFS' Southeast Regional Office has developed marine mammal viewing guidelines to educate the public on how to responsibly view marine mammals in the wild and avoid causing a take (*http://www.nmfs.noaa.gov/pr/education/southeast/*). The guidelines recommend that vessels should remain a minimum of 50 yards (45.7 m; 150 ft) from a dolphin, operate in a predictable manner, avoid excessive speed or sudden changes in speed or direction in the vicinity of animals, and not pursue, chase, or separate a group of animals. The Marine Corps would abide by these guidelines to the fullest extent practicable. The Marine Corps would not engage in high speed exercises if personnel detect a marine mammal within the immediate area of the bombing targets prior to training commencement and would never closely approach, chase, or pursue dolphins. Personnel monitoring on the vessels, marking success rate of target hits, and monitoring the remote camera would facilitate detection of marine mammals within the bombing targets.

Based on the description of the action, the other activities regularly occurring in the area, the species that may be exposed to the activity and their observed behaviors in the presence of vessel traffic, and the implementation of measures to avoid vessel strikes, NMFS has determined that it is unlikely that the small boat maneuvers during surface-to-surface maneuvers would result in the take of any marine

mammals, in the form of either behavioral harassment, injury, serious injury, or mortality.

Negligible Impact Analysis and Determinations

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

NMFS would authorize Level A and Level B harassment only of bottlenose dolphins over the course of a 5-year period. The Marine Corps has described its specified activities based on best estimates of the number of sorties that it proposes to conduct training exercises at BT–9 and BT–11. The exact number of ordnance expenditures may vary from year to year, but will not exceed the 5-year total of ordnance expenditures based on the information in Tables 3 and 4. NMFS does not anticipate that the take totals proposed for authorization would exceed the 5-year totals indicated in Tables 10 and 11.

Tolerance

Depending on the intensity of the shock wave and size, location, and depth of the animal, an animal can exhibit tolerance from hearing the blast sound. However, tolerance effects on bottlenose dolphins within the bombing target areas are difficult to assess given their affinity for the area. Scientific boat-based surveys conducted throughout Pamlico Sound conclude that dolphins use the areas around the BTs more frequently than other portions of Pamlico Sound (Maher, 2003), despite the Marine Corps actively training in a manner identical to the specified activities described here for years. Because of the low concentration of bottlenose dolphins present within the BT–9 and BT–11 areas, the incorporation of mitigation measures to lessen effects, and the short durations of the missions, NMFS expects that tolerance effects would be minimal and would affect a small number of marine mammals on an infrequent basis.

Masking

For reasons stated previously in the proposed rule, NMFS expects masking effects from ordnance detonation to be minimal because masking is typically of greater concern for those marine mammals that utilize low frequency communications, such as baleen whales. While it may occur temporarily, NMFS does not expect auditory masking to result in detrimental impacts to an individual's or population's survival, fitness, or reproductive success. Dolphin movement is not restricted within the BT–9 or BT–11 ranges, allowing for movement out of the area to avoid masking impacts.

Disturbance

The Level B harassment takes would likely result in dolphins being temporarily affected by bombing or gunnery exercises. However, the probability that detonation events will overlap in time and space with marine mammals is low, particularly given the densities of marine mammals in the vicinity of BT–9 and BT–11 and the implementation of monitoring and mitigation measures. Moreover, NMFS does not expect animals to experience repeat exposures to the same sound source, as bottlenose dolphins would likely move away from the source after being exposed. In addition, NMFS expects that these isolated exposures, when received at distances of Level B behavioral harassment, would cause brief startle reactions or short-term behavioral modification by the animals. These brief reactions and behavioral changes would disappear when the exposures cease.

Read *et al.* (2003) concluded that dolphins rarely occur in open waters in the middle of North Carolina sounds and large estuaries, but instead are concentrated in shallow water habitats along shorelines. However, no specific areas have been identified as vital reproduction or foraging habitat.

NMFS and the Marine Corps have estimated that individuals of bottlenose dolphins may sustain some level of temporary threshold shift (TTS) from underwater detonations. TTS can last from a few minutes to days, be of varying degree, and occur across various frequency bandwidths. Although the degree of TTS depends on the received noise levels and exposure time, studies show that TTS is reversible. NMFS expects the animals' sensitivity to recover fully in minutes to hours based on the fact that the proposed underwater detonations are small in scale and isolated. In summary, we do not expect that these levels of received impulse noise from detonations would affect annual rates of recruitment or survival.

Stress Response

NMFS expects short-term effects such as stress during underwater detonations, as repeated exposure to sounds from underwater explosions may cause physiological stress that could lead to long-term consequences for the individual such as reduced survival, growth, or reproductive capacity. However, the time scale of individual explosions is very limited, and the Marine Corps disperses its training exercises in space and time.

Consequently, repeated exposure of individual bottlenose dolphins to sounds from underwater explosions is not likely and most acoustic effects are expected to be short-term and localized. NMFS does not expect long-term consequences for populations because the BT–9 and BT–11 areas continue to support bottlenose dolphins in spite of ongoing missions. The best available data do not suggest that there is a decline in the Pamlico Sound population due to these exercises.

Permanent Threshold Shift

NMFS believes that many marine mammals would deliberately avoid exposing themselves to the received levels of explosive ordnance necessary to induce injury by moving away from or at least modifying their path to avoid a close approach. Also, in the unlikely event that an animal approaches the bombing target at a close distance, NMFS believes that the mitigation measures (*i.e.,* the delay/postponement of missions) would typically ensure that animals would not be exposed to injurious levels of sound. As discussed previously, the Marine Corps utilizes both aerial and passive acoustic monitoring in addition to personnel on vessels to detect marine mammals for mitigation implementation. The potential for permanent hearing impairment and injury is low due to the incorporation of the proposed mitigation measures specified in this final rule.

Lethal Responses

As stated previously, NMFS would not authorize take by mortality (or serious injury leading to mortality). There have been no recorded incidents

of mortality or serious injury of marine mammals resulting from previous missions in BT–9 or BT–11 to date. Based on the Marine Corps' compliance with previous authorizations for the same activities, NMFS expects the proposed mitigation and monitoring measures to minimize the potential risk for serious injury or mortality and does not expect these types of takes to occur.

The Marine Corps has conducted gunnery and bombing training exercises at BT–9 and BT–11 for several years and, to date, the monitoring reports do not indicate that dolphin injury, serious injury, or mortality has occurred as a result of its training exercises. Also, the Marine Corps has a history of notifying the NMFS stranding network when any injured or stranded animal comes ashore or is spotted by personnel on the water. The stranding responders have examined each of the stranded animals, confirming that it was unlikely that the Marine Corps' exercises resulted in the death or injury of the stranded marine mammal.

Synopsis

As described in the *Affected Species* section of this final rule, bottlenose dolphin stock segregation is complex with stocks overlapping throughout the coastal and estuarine waters of North Carolina. It is not possible for the Marine Corps to determine to which stock any individual dolphin taken during training activities belongs, as this can only be accomplished through genetic testing. However, it is likely that many of the dolphins encountered would belong to the Northern or Southern North Carolina Estuarine System stocks. These stocks have abundance estimates of 950 and 188 animals, respectively, and are not listed as threatened or endangered under the ESA.

In addition, the potential for temporary or permanent hearing impairment and injury is low and through the incorporation of the proposed mitigation measures specified in this document would have the least practicable adverse impact on the affected species or stocks. The information contained in the Marine Corps' application, the 2009 EA, and this document support NMFS' finding that impacts will be mitigated by implementation of a conservative safety range for marine mammal exclusion in Rattan Bay, incorporation of platform and aerial survey monitoring efforts both prior to and after detonation of explosives, and delay/postponement/cancellation of detonations whenever marine mammals or other specified protected resources are either detected within the bombing target areas or enter the bombing target areas at the time of detonation, or if weather and sea conditions preclude adequate surveillance.

The Marine Corps has complied with the requirements of the previous incidental harassment authorizations issued for similar activities, and reported few observed takes of marine mammals incidental to these training exercises.

Based on the best available information, NMFS authorizes: take by Level B harassment of 1,615 bottlenose dolphins and take by Level A harassment of 170 bottlenose dolphins only. This represents an overestimate of the number of individuals harassed over the duration of the final rule and LOA because these totals represent much smaller numbers of individuals that may be harassed multiple times. There are no stocks known from the action area listed as threatened or endangered under the ESA. Two bottlenose dolphin stocks designated as strategic under the MMPA may be affected by the Marine Corps' activities. In this case, under the MMPA, strategic stock means a marine mammal stock for which the level of direct human-caused mortality exceeds the potential biological removal level. These include the Southern North Carolina Estuarine System and Northern North Carolina Estuarine System Stocks. NMFS does not expect the this action to result in long-term impacts such as permanent abandonment or reduction in presence at BT–9 or BT–11. No impacts are expected at the population or stock level.

Taking into account information presented in this final rule, the Marine Corps' application and 2014 application addendum, the 2009 EA, and results from previous monitoring reports, NMFS has determined that the total level of take incidental to authorized training exercises over the 5-year effective period of the regulations would have a negligible impact on the marine mammal species and stocks affected at BT–9 and BT–11 in Pamlico Sound, NC.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

For the reasons explained above, this action will not affect any ESA-listed species or designated critical habitat under NMFS' jurisdiction. Therefore, there is no requirement for NMFS to consult under Section 7 of the ESA on the issuance of an Authorization under section 101(a)(5)(A) of the MMPA.

National Environmental Policy Act (NEPA)

On February 11, 2009, the Marine Corps issued a Finding of No Significant Impact for its Environmental Assessment (EA) on MCAS Cherry Point Range Operations. Based on the analysis of the EA, the Marine Corps determined that the proposed action would not have a significant impact on the human environment.

After evaluating the Marine Corps' application and the 2009 EA, NMFS determined that there were changes to the proposed action (*i.e.,* increased ammunitions levels) and new environmental impacts (*i.e.,* the use of revised thresholds for estimating potential impacts on marine mammals from explosives) not addressed in the 2009 EA. In 2015, NMFS conducted a new analysis per NEPA, augmenting the information contained in the Marine Corps' 2009 EA, on the issuance of MMPA rulemaking and a subsequent LOA. In February 2015, NMFS determined that the issuance of this regulation and subsequent LOA would not have a significant effect on the quality of the human environment and issued a FONSI. In 2015, the Marine Corps issued a new FONSI for their activities under the regulations and subsequent LOA.

Classification

This action does not contain any collection of information requirements for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The Office of Management and Budget has determined that this final rule is not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage, that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS published the certification in the **Federal Register** notice of the proposed rulemaking on July 15, 2014. NMFS received no comments about the

certification. Accordingly, a final regulatory flexibility analysis is not required and NMFS has not prepared one for this rulemaking.

The Assistant Administrator for Fisheries has determined that there is good cause under the Administrative Procedure Act (5 U.S.C. 553(d)(3)) to waive the 30-day delay in effective date of the measures contained in the final rule. The Marine Corps has a compelling national policy reason to continue military readiness activities without interruption to the routine training at Marine Corps Air Station Cherry Point Range Complex.

This rulemaking began after our receipt of the Marine Corps' revised application for take authorization in May 2014. Since that time, NMFS has prepared an EA for the rulemaking and subsequent LOA for the Marine Corps' activities. Both agencies seriously considered all public comments and worked together to ensure an outcome that satisfied both the Marine Corps purpose and need and our statutory responsibilities under the MMPA.

The Marine Corps has a compelling national policy reason to continue military readiness activities without interruption to their military training activities. Under these circumstances, it was not possible to finalize the MMPA rulemaking and the NEPA obligations with sufficient time to allow for the 30-day delay in effectiveness date.

As discussed below, suspension/interruption of the Marine Corps' ability to conduct training exercises disrupts adequate and realistic testing of military equipment, weapons, and sensors for proper operation and suitability for combat essential to national security.

In order to meet its national security objectives, the Marine Corps must continually maintain its ability to train and operate. To meet these objectives, the Marine Corps must identify, develop, and procure defense systems by continually integrating test and evaluation support throughout the defense acquisition process and providing essential information to decision-makers. Such testing and evaluation is critical in determining that defense systems perform as expected and whether these systems are operationally effective, suitable, survivable, and safe for their intended use.

In order to effectively fulfill its national security mission, the Marine Corps has a need to conduct training activities covered by this final rule as soon as possible. A 30-day delay further reduces the amount of time the Marine Corps has available to plan for and execute an activity covered by this rule. Further, should an immediate national security issue arise; the 30-day delay would prevent the Marine Corps from meeting its mission, which would have adverse national security consequences. Waiver of the 30-day delay of the effective date of the final rule will allow the Marine Corps to continue training marines quickly, while also ensuring compliance with the MMPA.

List of Subjects in 50 CFR Part 218

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: March 4, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 218 is amended as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Subpart E is added to part 218 to read as follows:

Subpart E—Taking Marine Mammals Incidental to U.S. Marine Corps Training Exercises at Brant Island Bombing Target and Piney Island Bombing Range, Pamlico Sound, North Carolina

Sec.

218.40 Specified activity and location of specified activities.
218.41 Effective dates.
218.42 Permissible methods of taking.
218.43 Prohibitions.
218.44 Mitigation.
218.45 Requirements for monitoring and reporting.
218.46 Applications for Letters of Authorization.
218.47 Letter of Authorization.
218.48 Renewal and Modifications of Letters of Authorization.

Subpart E—Taking Marine Mammals Incidental to U.S. Marine Corps Training Exercises at Brant Island Bombing Target and Piney Island Bombing Range, Pamlico Sound, North Carolina

§ 218.40 Specified activity and location of specified activities.

(a) Regulations in this subpart apply only to the U.S. Marine Corps (Marine Corps) for the incidental taking of marine mammals that occurs in the area outlined in paragraph (b) of this section incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Marine Corps is only authorized if it occurs within the Brant Island Target (BT–9) and Piney Island Bombing Range (BT–11) bombing targets at the Marine Corps Air Station Cherry Point Range Complex located within Pamlico Sound, North Carolina (as depicted in Figure 3–1 of the Marine Corps' request for regulations and Letter of Authorization). The BT–9 area is a water-based bombing target and mining exercise area located approximately 52 kilometers (km) (32.3 miles (mi)) northeast of Marine Air Corps Station Cherry Point. The BT–11 area encompasses a total of 50.6 square kilometers (km^2) (19.5 square miles (mi^2)) on Piney Island located in Carteret County, North Carolina.

(c) The taking of marine mammals by the Marine Corps is only authorized if it occurs incidental to the following activities within the annual amounts of use:

(1) The level of training activities in the amounts indicated here:

(i) Surface-to-Surface Exercises—up to 471 vessel-based sorties annually at BT–9 and BT–11; and

(ii) Air-to-Surface Exercises—up to 14,586 air-based based sorties annually at BT–9 and BT–11.

(2) The use of the following live ordnance for Marine Corps training activities at BT–9, in the total amounts over the course of the five-year rule indicated here:

(i) 30 mm HE—17,160 rounds;

(ii) 40 mm HE—52,100 rounds;

(iii) 2.75-inch Rocket—1,100 rounds;

(iv) 5-inch Rocket—340 rounds; and

(v) G911 Grenade—720 rounds.

(3) The use of the following inert ordnance for Marine Corps training activities at BT–9 and BT–11, in the total amounts over the course of the five-year rule indicated here:

(i) Small arms excluding .50 cal (7.62 mm)—2,628,050 rounds at BT–9 and 3,054,785 rounds at BT–11;

(ii) 0.50 Caliber arms—2,842,575 rounds at BT–9 and 1,833,875 rounds at BT–11;

(iii) Large arms (up to 25 mm)—602,025 rounds at BT–9 and 1,201,670 rounds at BT–11;

(iv) Rockets, inert (2.75-inch rocket, 2.75-inch illumination, 2.75-inch white phosphorus, 2.75-inch red phosphorus; 5-inch rocket, 5-inch illumination, 5-inch white phosphorus, 5-inch red phosphorus)—4,220 rounds at BT–9 and 27,960 rounds at BT–11;

(v) Bombs, inert (BDU–45 practice bomb, MK–76 practice bomb, MK–82 practice bomb, MK–83 practice bomb)—4,055 rounds at BT–9 and 22,114 rounds at BT–11; and

(vi) Pyrotechnics—4,496 rounds at BT–9 and 8,912 at BT–11.

§ 218.41 Effective dates.

Regulations in this subpart are effective from March 13, 2015 until March 12, 2020.

§ 218.42 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.47, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment only within the area described in § 218.40(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The incidental take of marine mammals under the activities identified in § 218.40(c) is limited to the following species, by the indicated method of take and the indicated number over a five-year period:

(1) Level B Harassment:

(i) Atlantic bottlenose dolphin (*Tursiops truncatus*)—1,615.

(ii) [Reserved]

(2) Level A Harassment:

(i) Atlantic bottlenose dolphin—170.

(ii) [Reserved]

§ 218.43 Prohibitions.

No person in connection with the activities described in § 218.40 shall:

(a) Take any marine mammal not specified in § 218.42(c);

(b) Take any marine mammal specified in § 218.42(c) other than by incidental take as specified in § 218.42(c)(1) and (2);

(c) Take a marine mammal specified in § 218.42(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under § 216.106 of this chapter and § 218.47.

§ 218.44 Mitigation.

(a) When conducting operations identified in § 218.40(c), the mitigation measures contained in the Letter of Authorization issued under § 216.106 of this chapter and § 218.47 must be implemented. These mitigation measures include, but are not limited to:

(b) Training Exercises at BT–9 and BT–11:

(1) Safety Zone:

(i) The Marine Corps shall establish and monitor a safety zone for marine mammals comprising the entire Rattan Bay area at BT–11.

(ii) The Marine Corps shall establish and monitor a safety zone for marine mammals comprising a radius of 914 meters (m) (3,000 feet) around the target area at BT–9.

(2) For training exercises, the Marine Corps shall comply with the monitoring requirements, including pre-mission and post-mission monitoring, set forth in § 218.45(c).

(3) When detonating explosives or delivering ordnance:

(i) If personnel observe any marine mammals within the safety zone prescribed in paragraph (b)(1) of this section, or if personnel observe marine mammals that are on a course that will put them within the designated safety zone prior to surface-to-surface or air-to-surface training exercises, the Marine Corps shall delay ordnance delivery and/or explosives detonations until all marine mammals are no longer within the designated safety zone.

(ii) If personnel cannot reacquire marine mammals detected in the safety zone after delaying training missions, the Marine Corps shall not commence activities until the next verified location of the animal is outside of the safety zone and the animal is moving away from the mission area.

(iii) If personnel are unable to monitor the safety zone prescribed in paragraph (b)(1) of this section, then the Marine Corps shall delay training exercises.

(iv) If daytime weather and/or sea conditions preclude adequate surveillance for detecting marine mammals, then the Marine Corps shall postpone training exercises until adequate sea conditions exist for adequate monitoring of the safety zone prescribed in paragraph (b)(1) of this section.

(4) Pre-Mission and Post-Mission Monitoring:

(i) Range operators shall conduct or direct visual surveys to monitor BT–9 or BT–11 for marine mammals before and after each exercise. Range operation and control personnel shall monitor the target area through two tower-mounted safety and surveillance cameras.

(ii) Range operators shall use the surveillance camera's night vision (*i.e.,* infrared) capabilities to monitor BT–9 or BT–11 for marine mammals during night-time exercises.

(iii) For BT–9, in the event that a marine mammal is sighted within the 914-m (3,000-ft) radius around the target area, personnel shall declare the area as fouled and cease training exercises. Personnel shall commence operations in BT–9 only until the marine mammal moves beyond and on a path away from the 914-m (3,000 ft) radius from the BT–9 target.

(iv) For BT–11, in the event that a marine mammal is sighted anywhere within the confines of Rattan Bay, personnel shall declare the water-based targets within Rattan Bay as fouled and cease training exercises. Personnel shall commence operations in BT–11 only after the animal has moved out of Rattan Bay.

(5) Range Sweeps for Safety Zone Monitoring and Delay of Exercises:

(i) The Marine Corps shall conduct a range sweep the morning of each exercise day prior to the commencement of range operations.

(ii) The Marine Corps shall also conduct a range sweep after each exercise following the conclusion of range operations.

(iii) Marine Corps Air Station personnel shall conduct the sweeps by aircraft at an altitude of 100 to 300 m (328 to 984 ft) above the water surface, at airspeeds between 60 to 100 knots.

(iv) The path of the sweeps shall run down the western side of BT–11, circle around BT–9, and then continue down the eastern side of BT–9 before leaving the area.

(v) The maximum number of days that shall elapse between pre- and post-exercise monitoring events shall be approximately 3 days, and will normally occur on weekends.

(6) Cold Pass by Aircraft:

(i) For waterborne targets, the pilot must perform a low-altitude visual check immediately prior to ordnance delivery at the bombing targets both day and night to ensure the target area is clear of marine mammals. This is referred to as a ''cold'' or clearing pass.

(ii) Pilots shall conduct the cold pass with the aircraft (helicopter or fixed-winged) flying straight and level at altitudes of 61 to 914 m (200 to 3,000 ft) over the target area.

(iii) If marine mammals are present in the target area during a range sweep, cold pass, or visual surveillance with the camera, the Range Controller shall deny ordnance delivery to the target as conditions warrant. If marine mammals are not present in the target area, the Range Controller may grant clearance to the pilot as conditions warrant.

(7) Vessel Operation:

(i) All vessels used during training operations shall abide by NMFS' Southeast Regional Viewing Guidelines designed to prevent harassment to marine mammals (*http://www.nmfs.noaa.gov/pr/education/southeast/).*

(ii) [Reserved]

§ 218.45 Requirements for monitoring and reporting.

(a) The Holder of the Letter of Authorization issued pursuant to § 216.106 of this chapter and § 218.47

for activities described in § 218.40(c) is required to conduct the monitoring and reporting measures specified in this section and § 218.44 and any additional monitoring measures contained in the Letter of Authorization.

(b) The Holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service, and any other Federal, state, or local agency monitoring the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Director, Office of Protected Resources, National Marine Fisheries Service, or designee, by letter or telephone (301–427–8401), at least 2 weeks prior to any modification to the activity identified in § 218.40(c) that has the potential to result in the serious injury, mortality, or Level A or Level B harassment of a marine mammal that was not identified and addressed previously.

(c) Monitoring Procedures for Missions at BT–9 and BT–11:

(1) The Holder of this Authorization shall:

(i) Designate qualified on-site individual(s) to record the effects of training exercises on marine mammals that inhabit Pamlico Sound;

(ii) Require operators of small boats, and other personnel monitoring for marine mammals from watercraft to take the Marine Species Awareness Training (Version 2), provided by the Department of the Navy.

(iii) Instruct pilots conducting range sweeps on marine mammal observation techniques during routine Range Management Department briefings. This training would make personnel knowledgeable of marine mammals, protected species, and visual cues related to the presence of marine mammals and protected species.

(iv) Continue the Long-Term Monitoring Program to obtain abundance, group dynamics (*e.g.,* group size, age census), behavior, habitat use, and acoustic data on the bottlenose dolphins which inhabit Pamlico Sound, specifically those around BT–9 and BT–11.

(v) Continue the Passive Acoustic Monitoring (PAM) Program to provide additional insight into how dolphins use BT–9 and BT–11 and to monitor for vocalizations.

(vi) Continue to refine the real-time passive acoustic monitoring system at BT–9 to allow automated detection of bottlenose dolphin whistles.

(d) Reporting:

(1) Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization shall conduct all of the monitoring and reporting required under the LOA and shall submit an annual and comprehensive report to the Director, Office of Protected Resources, National Marine Fisheries Service by a date certain to be specified in the LOA. This report must include the following information:

(i) Date and time of each training exercise;

(ii) A complete description of the pre-exercise and post-exercise activities related to mitigating and monitoring the effects of the training exercises on marine mammal populations;

(iii) Results of the Marine Corps monitoring, including numbers by species/stock of any marine mammals injured or killed as a result of the training exercises and number of marine mammals (by species, if possible) that may have been harassed due to presence within the applicable safety zone;

(iv) A detailed assessment of the effectiveness of the sensor-based monitoring in detecting marine mammals in the area of the training exercises; and

(v) Results of coordination with coastal marine mammal stranding networks. The Marine Corps shall coordinate with the local NMFS Stranding Coordinator to discuss any unusual marine mammal behavior and any stranding, beached (live or dead), or floating marine mammals that may occur at any time during training activities or within 24 hours after completion of training.

(2) The Marine Corps will submit an annual report to NMFS by June 1st of each year starting in 2016. The first report will cover the time period from issuance of the March 2015 Letter of Authorization through March 12, 2016. Each annual report after that time will cover the time period from March 13 through March 12, annually.

(3) The Marine Corps shall submit a draft comprehensive report on all marine mammal monitoring and research conducted during the period of these regulations to the Director, Office of Protected Resources, NMFS at least 180 days prior to expiration of these regulations or 180 days after the expiration of these regulations if the Marine Corps will not request new regulations.

(i) The draft comprehensive report will be subject to review and comment by NMFS. Prior to acceptance by NMFS, the Marine Corps must address any recommendations made by NMFS, within 60 days of its receipt, in the final comprehensive report.

(ii) [Reserved]

(4) General Notification of Injured or Dead Marine Mammals:

(i) The Marine Corps shall systematically observe training operations for injured or disabled marine mammals. In addition, the Marine Corps shall monitor the principal marine mammal stranding networks and other media to correlate analysis of any dolphin strandings that could potentially be associated with BT–9 or BT–11 training operations.

(ii) Marine Corps personnel shall notify NMFS immediately, or as soon as clearance procedures allow, if personnel find an injured, stranded, or dead marine mammal during or shortly after, and in the vicinity of, any training operations. The Marine Corps shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

(iii) In the event that an injured, stranded, or dead marine mammal is found by Marine Corps personnel that is not in the vicinity of, or found during or shortly after operations, the Marine Corps personnel will report the same information listed above as soon as operationally feasible and clearance procedures allow.

(5) General Notification of a Ship Strike:

(i) In the event of a vessel strike, at any time or place, the Marine Corps shall do the following:

(ii) Immediately report to NMFS the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead (or unknown);

(iii) Report to NMFS as soon as operationally feasible the size and length of the animal, an estimate of the injury status (*e.g.,* dead, injured but alive, injured and moving, unknown, etc.), vessel class/type, and operational status;

(iv) Report to NMFS the vessel length, speed, and heading as soon as feasible; and

(v) Provide NMFS with a photo or video, if equipment is available.

§ 218.46 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined at § 216.103 of this chapter) conducting the activities identified in § 218.40 must apply for and obtain either an initial Letter of Authorization in accordance with

§ 216.106 of this chapter and § 218.47 or a renewal under § 218.48.

§ 218.47 Letter of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Marine Corps must apply for and obtain a Letter of Authorization.

(b) A Letter of Authorization, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If a Letter of Authorization expires prior to the expiration date of these regulations, the Marine Corps must apply for and obtain a renewal of the Letter of Authorization.

(d) In the event of any changes to the activity or to mitigation and monitoring measures required by a Letter of Authorization, the Marine Corps must apply for and obtain a modification of the Letter of Authorization as described in § 218.48.

(e) The Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the Letter of Authorization shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a Letter of Authorization shall be published in the **Federal Register** within 30 days of a determination.

§ 218.48 Renewals and Modifications of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 of this chapter and § 218.47 for the activity identified in § 218.40 shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 218.47(c)(1)), and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous Letter of Authorization under these regulations were implemented.

(b) For Letter of Authorization modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 218.47(c)(1)) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed Letter of Authorization in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the Letter of Authorization.

(c) A Letter of Authorization issued under § 216.106 of this chapter and § 218.47 for the activity identified in § 218.40 may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Marine Corps regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a Letter of Authorization include:

(A) Results from the Marine Corps' monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent Letters of Authorization.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS shall publish a notice of proposed Letter of Authorization in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.42(c), a Letter of Authorization may be modified without prior notice or opportunity for public comment. NMFS will publish a notice in the **Federal Register** within 30 days subsequent to the action.

[FR Doc. 2015–05797 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 49
Friday, March 13, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–1070; Airspace Docket No. 14–ANM–9]

Proposed Establishment of Class D and Class E Airspace; Aurora, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D and Class E surface area airspace and Class E airspace extending upward from 700 feet above the surface at Aurora State Airport, Aurora, OR, to accommodate a new air traffic control tower. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for Standard Instrument Approach Procedures (SIAPs) at the airport.

DATES: Comments must be received on or before April 27, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2014–1070; Airspace Docket No. 14–ANM–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this proposed incorporation by reference material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–1070/Airspace Docket No. 14–ANM–9.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class D surface area airspace, Class E surface area airspace and Class E airspace extending upward from 700 feet above the surface at Aurora State Airport, Aurora, OR. The construction of a new air traffic control tower has made this action necessary for the safety and management of IFR operations for SIAPs at the airport. Class D airspace and Class E surface area airspace would extend upward from the surface to and including 2,700 feet within a 5-mile radius of Aurora State Airport, excluding segments below 1,300 feet beyond 3.3 miles southeast, and southwest of the airport. Class E airspace extending upward from 700 feet above the surface would be

established within a 7-mile radius of Aurora State Airport, with segments extending from the 7-mile radius to 20 miles northeast and 10.9 miles northwest of the airport.

Class D and Class E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.9Y, dated August 6, 2014 and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Aurora State Airport, Aurora, OR.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ANM OR D Aurora, OR [New]

Aurora, Aurora State Airport, OR
(Lat. 45°14′50″ N., long. 122°46′12″ W)
Canby, Workman Airpark, OR
(Lat. 45°12′27″ N., long. 122°40′09″ W)

That airspace extending upward from the surface to and including 2,700 feet within a 5-mile radius of Aurora State Airport, excluding that airspace below 1,300 feet beyond 3.3 miles from the airport from the 142° bearing clockwise to the 172° bearing from the airport, and the 250° bearing clockwise to the 266° bearing from the airport, and that airspace within a 0.5-mile radius of Workman Airpark, OR. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ANM OR E2 Aurora, OR [New]

Aurora, Aurora State Airport, OR
(Lat. 45°14′50″ N., long. 122°46′12″ W)
Canby, Workman Airpark, OR
(Lat. 45°12′27″ N., long. 122°40′09″ W)

That airspace extending upward from the surface to and including 2,700 feet within a 5-mile radius of Aurora State Airport, excluding that airspace below 1,300 feet beyond 3.3 miles from the airport from the 142° bearing clockwise to the 172° bearing from the airport, and the 250° bearing clockwise to the 266° bearing from the airport, and that airspace within a 0.5-mile radius of Workman Airpark, OR.

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM OR E5 Aurora, OR [New]

Aurora, Aurora State Airport, OR
(Lat. 45°14′50″ N., long. 122°46′12″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Aurora State Airport, and that airspace 1.6 miles either side of the 007° bearing from airport extending from the 7-mile radius to 20 miles northeast of the airport, and that airspace 1.2 miles either side of the 306° bearing from airport extending from the 7-mile radius to 10.9 miles northwest of the airport.

Issued in Seattle, Washington, on February 25, 2015.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–05700 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 314 and 320

[Docket No. FDA–2011–N–0830]

RIN 0910–AF97

Abbreviated New Drug Applications and 505(b)(2) Applications

Correction

In Proposed Rule Document 2015–01666, pages 6801–6896, publishing in the Issue of Friday, February 6, 2015, make the following corrections:

1. On page 6807, in the second column in Table 1, the heading should read:

	Proposed Changes See section of this document (identified in parentheses) for more detailed information regarding the proposed change

2. On page 6808, in Table 1, the second column should read:

314.95(e)	Documentation of Timely Sending and Receipt of Notice of Paragraph IV Certification, including: a. Acceptable methods of sending notice of paragraph IV certification; and b. Amendment documenting timely sending and confirmation of receipt of notice of paragraph IV certification. (II.D.4).

3. On pages 6818–6819, in Table 2, the second row should read:

Current regulations	Proposed revisions to regulations
General Requirements (§ 314.53(c)(1)) Patent information will not be accepted unless it is complete and submitted on the appropriate forms (Form FDA 3542a or 3542).	*General Requirements (§ 314.53(c)(1))* • Patent information will not be accepted unless it is submitted on the appropriate forms (Form FDA 3542a or 3542) and contains the information required in § 314.53(c)(2).
Reporting Requirements (§ 314.53(c)(2)) The required information and verification in § 314.53(c)(2)(i) and (c)(2)(ii) includes: • Information on whether the patent has been submitted previously for the NDA • Information on whether the drug substance patent claims a polymorph that is the same active ingredient that is described in the pending NDA or supplement, and, if so, has test data described in § 314.53(b)(2)	*Reporting Requirements (§ 314.53(c)(2))* The required information and verification in § 314.53(c)(2)(i) and (c)(2)(ii) includes: • Information on whether the patent is a re-issued patent of a patent submitted previously for listing for the NDA or supplement. • Information on whether the drug substance patent claims *only* a polymorph that is the same active ingredient that is described in the pending NDA or supplement, and, if so, has test data described in § 314.53(b)(2).

4. On pages 6838–6839, in Table 8, the second row should read:

Current regulations	Proposed revisions to regulations
Documentation of receipt of notice (§§ 314.52(e) and 314.95(e)) • Applicant must amend its 505(b)(2) application or ANDA to document the date of receipt of the notice of paragraph IV certification by each patent owner and NDA holder provided the notice. • Applicant must include a copy of the return receipt or other similar evidence of the date the notification was received. — FDA will accept as adequate documentation of the date of receipt a return receipt or a letter acknowledging receipt by the person provided the notice. • An applicant may rely on another form of documentation only if FDA has agreed to such documentation in advance.	*Documentation of timely sending and receipt of notice (§§ 314.52(e) and 314.95(e))* • Applicant must amend its 505(b)(2) application or ANDA to provide documentation of the date of receipt of the notice of paragraph IV certification by each patent owner and NDA holder provided the notice. —FDA will accept as adequate documentation of the date of receipt a return receipt, signature proof of delivery by a designated delivery service, or a letter acknowledging receipt by the person provided notice. — Amendment must be submitted to FDA within 30 days after the last date on which notice was received by a patent owner or NDA holder. • Amendment also must include adequate documentation that notice was sent on a date that complies with the timeframe required by § 314.52(b) or (d) or § 314.95(b) or (d), as applicable. —FDA will accept a copy of the registered mail receipt, certified mail receipt, or receipt from a designated delivery service, as adequate documentation of the date of delivery. • An ANDA applicant's amendment must include a dated printout of the Orange Book entry for the RLD that includes the patent that is the subject of the paragraph IV certification. • An applicant may rely on another form of documentation only if FDA has agreed in advance.

5. On pages 6842–6843, in Table 9, the third row should read:

Current regulations	Proposed revisions to regulations
After a Finding of Infringement (§§ 314.50(i)(6)(i) and 314.94(a)(12)(viii)(A)) • Change from paragraph IV certification to paragraph III certification required after a final judgment is entered finding the patent to be infringed. • Provision applies if patent infringement action initiated within 45 days of receipt of notice of paragraph IV certification.	*After a Finding of Infringement (§§ 314.50(i)(6)(i) and 314.94(a)(12)(viii)(A))* • Change from paragraph IV certification to paragraph III certification required after court enters final decision from which no appeal has been or can be taken, or signs settlement order or consent decree with a finding of infringement (unless the patent also is found invalid). An applicant may instead provide a statement under § 314.50(i)(1)(iii) or § 314.94(a)(12)(iii) with respect to a method-of-use patent if the 505(b)(2) application or ANDA is amended such that the applicant is no longer seeking approval for a method of use claimed by the patent. • Provision applies if patent infringement action initiated after receipt of notice of paragraph IV certification, irrespective of whether the action is brought within the 45-day period.

6. On pages 6859–6861, in Table 12, the third, sixth, and seventh rows should read:

Current regulations	Proposed revisions to regulations
Date of approval letter (§ 314.107(b)(1)) • Except as provided in § 314.107(b)(3), (b)(4), and (c), approval will become effective on the date FDA issues an approval letter if the applicant certifies that: (i) there are no relevant patents; or (ii) the patent information has not been submitted to FDA; or (iii) the relevant patent has expired; or (iv) the relevant patent is invalid, unenforceable, or will not be infringed.	*Timing of approval based on patent certification or statement (§ 314.107(b)(1))* • If none of the reasons in § 314.125 or § 314.127 for refusing to approve the application apply, and none of the reasons in § 314.107(d) for delaying approval apply, the 505(b)(2) application or ANDA may be approved— (i) *Immediately,* if the applicant certifies that: (A) the patent information has not been submitted to FDA; or (B) the relevant patent has expired; or (C) the relevant patent is invalid, unenforceable, or will not be infringed, except as provided in § 314.107(b)(3) and (c), and the 45-day period provided for in section 505(c)(3)(C) and 505(j)(5)(B)(iii) of the FD&C Act has expired; or (D) there are no relevant patents. (ii) *Immediately,* if the applicant submits an appropriate statement explaining that a method-of-use patent does not claim an indication or other condition of use for which it is seeking approval.
Disposition of patent litigation (§ 314.107(b)(3)(i)) • (A) Except as provided in § 314.107(b)(3)(ii) through (b)(3)(iv), if — applicant submits a paragraph IV certification; and — patent owner or its representative or the exclusive patent licensee brings suit for patent infringement within 45 days of receipt by the patent owner of the notice of paragraph IV certification, Approval may be made effective 30 months after the date of the receipt of the notice of paragraph IV certification by the patent owner or by the exclusive licensee (or their representatives) unless the court has extended or reduced the period; or • (B) If the patented drug product qualifies for 5-year exclusivity, and — patent owner or its representative or the exclusive patent licensee brings suit for patent infringement during the 1-year period beginning 4 years after the date the patented drug was approved and within 45 days of receipt by the patent owner of the notice of paragraph IV certification, Approval may be made effective at the expiration of 7½ years from the date of NDA approval for the patented drug product.	*Disposition of patent litigation (§ 314.107(b)(3)(i))* • (A) Except as provided in § 314.107(b)(3)(ii) through (b)(3)(viii), if, with respect to patents for which required information was submitted before the date on which the 505(b)(2) application or ANDA was submitted to FDA (excluding an amendment or supplement), —applicant submits a paragraph IV certification; and —patent owner or the exclusive patent licensee brings suit for patent infringement within 45 days of receipt of the notice of paragraph IV certification, 505(b)(2) application, or ANDA may be approved 30 months after the later of the date of the receipt of the notice of certification by any owner of the listed patent or by the NDA holder who is an exclusive patent licensee (or their representatives) unless the court has extended or reduced the period; or • (B) If the patented drug product qualifies for 5-year exclusivity, and —patent owner or its representative or the exclusive patent licensee brings suit for patent infringement during the 1-year period beginning 4 years after the date the patented drug was approved and within 45 days of receipt of the notice of paragraph IV certification, the 505(b)(2) application or ANDA may be approved at the expiration of 7½ years from the date of NDA approval for the patented drug product.
Disposition of patent litigation (§ 314.107(b)(3)(ii)–(b)(3)(iv))	*Disposition of patent litigation (§ 314.107(b)(3)(ii)–(b)(3)(viii)*

Current regulations	Proposed revisions to regulations
If before the expiration of the 30-month period, or 7½ years where applicable: • (ii) the court issues a final order that the patent is invalid, unenforceable, or not infringed, approval may be made effective on: — the date the court enters judgment; • (iii) the court issues a final order or judgment that the patent has been infringed, approval may be made effective on: — the date the court determines that the patent will expire or otherwise orders • (iv) the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug product until the court decides the issues of patent validity and infringement, and if the court later decides that the patent is invalid, unenforceable, or not infringed, approval may be made effective on: — the date the court enters a final order or judgment that the patent is invalid, unenforceable, or not infringed.	If before the expiration of the 30-month period, or 7½ years where applicable: • (ii) the district court decides that the patent is invalid, unenforceable, or not infringed (including any substantive determination that there is no cause of action for patent infringement or invalidity), the 505(b)(2) application or ANDA may be approved on: —(A) the date on which the court enters judgment reflecting the decision; or —(B) the date of a settlement order or consent decree signed and entered by the court stating that the patent that is the subject of the certification is invalid or not infringed. • (iii) the district court decides that the patent has been infringed and the judgment is appealed, the 505(b)(2) application or ANDA may be approved on: —(A) the date on which the mandate is issued by the court of appeals entering judgment that the patent is invalid or not infringed; or —(B) the date of a settlement order or consent decree signed and entered by the court of appeals stating that the patent is invalid or not infringed. • (iv) the district court decides that the patent has been infringed and the judgment is not appealed or is affirmed, the 505(b)(2) application or ANDA may be approved no earlier than the date specified by the district court in an order under 35 U.S.C. 271(e)(4)(A). • (v) the district court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug product until the court decides the issues of patent validity and infringement: — if the court later decides the patent is invalid, unenforceable, or not infringed, the 505(b)(2) application or ANDA may be approved per § 314.107(b)(3)(ii). —if the court decides that the patent has been infringed, the 505(b)(2) application or ANDA may be approved per § 314.107(b)(3)(iii) or (b)(3)(iv), as applicable. • (vi) the patent owner or the exclusive patent licensee (or their representatives) agrees in writing that the 505(b)(2) application or ANDA may be approved any time on or after the date of the consent, approval may be granted on or after that date. • (vii) the court enters an order requiring the 30-month or 7½-year period to be terminated, the 505(b)(2) application or ANDA may be approved in accordance with the court's order. • (viii) the court enters an order of dismissal, with or without prejudice, without a finding of infringement, the 505(b)(2) application or ANDA may be approved on or after the date of the order.

[FR Doc. C1–2015–01666 Filed 3–12–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–143040–14]

RIN 1545–BM59

Reporting of Original Issue Discount on Tax-Exempt Obligations; Basis and Transfer Reporting by Securities Brokers for Debt Instruments and Options

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to information reporting by brokers for transactions involving debt instruments and options, including the reporting of original issue discount (OID) and acquisition premium on tax-exempt obligations, the treatment of certain holder elections for reporting a taxpayer's adjusted basis in a debt instrument, and transfer reporting for section 1256 options and debt instruments. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments must be received by June 11, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–143040–14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–143040–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–143040–14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Pamela Lew, (202) 317–7053; concerning submissions of comments, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Section 1.6049–10T, which is published elsewhere in this issue of the **Federal Register**, requires a payor to report OID and acquisition premium on tax-exempt obligations acquired on or after January 1, 2017. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of tax-exempt interest each year for alternative minimum tax and other purposes. In addition, because this information is used to report a taxpayer's adjusted basis in a debt instrument under section 6045(g), this information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of gain or loss upon the sale of a tax-exempt obligation. The burden for the collection of information contained in § 1.6049–10T and the corresponding proposed regulations in this document will be reflected in the burden on Form 1099–OID (OMB control number 1545–0117) when revised to request the additional information in the regulations.

Upon the transfer of a covered security, section 6045A and § 1.6045A–1 require the transferring broker to provide to the transferee broker a transfer statement containing certain information relating to the security. This transfer statement generally provides the transferee broker the information needed to determine a customer's adjusted basis and whether any gain or loss with respect to the security is long-term, short-term, or ordinary as required by section 6045(g). Prior to the publication of § 1.6045A–1T in this issue of the **Federal Register**, a broker did not have to provide a transfer statement for a section 1256 option. In addition, a broker did not have to provide the last date on or before the transfer date that the broker made an adjustment for a particular item relating to a debt instrument. Section 1.6045A–1T, however, now requires a broker to transfer this information for a section 1256 option transferred on or after January 1, 2016, and for a debt instrument transferred on or after June 30, 2015.

The collection of information contained in section 1.6045A–1 relating to the furnishing of information in connection with the transfer of securities has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. The collection of information in § 1.6045A–1T and the corresponding proposed regulations in this document is necessary to allow brokers that effect sales of transferred section 1256 options and debt instruments that are covered securities to determine and report the adjusted basis of these securities in compliance with section 6045(g). This collection of information is required to comply with the provisions of section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)) (the Act). The collection of information contained in § 1.6045A–1T is an increase in the total annual burden under control number 1545–2186. The likely respondents are brokers transferring section 1256 options and debt instruments that are covered securities.

Estimated total annual reporting burden is 3,333 hours.

Estimated average annual burden per respondent is 2 hours.

Estimated average burden per response is 4 minutes.

Estimated number of respondents is 7,500.

Estimated total frequency of responses is 200,000.

The collection of information is required to comply with the provisions of section 403 of the Act.

The holder of a debt instrument is permitted to make a number of elections that affect how basis is computed. To minimize the need for reconciliation between information reported by a broker to both a customer and the IRS and the amounts reported on the customer's tax return, a broker is required to take into account certain specified elections in reporting information to the customer. A customer, therefore, must provide certain information concerning an election to the broker in a written notification. A written notification includes a writing in electronic format. See § 1.6045–1(n)(5).

The collection of information contained in § 1.6045–1(n)(5) relating to the furnishing of information by a customer to a broker in connection with the sale or transfer of a debt instrument that is a covered security has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. Under § 1.6045–1T(n)(11)(i)(A), which is published elsewhere in this issue of the **Federal Register**, unlike the rule in current § 1.6045–1(n)(5) adopted in 2013, a broker must not take into account the election under § 1.1272–3 in reporting a customer's adjusted basis in a debt instrument. Therefore, a customer is no longer required to notify the broker that the customer has made or revoked an election under § 1.1272–3. This change represents a decrease in the total annual burden under OMB control number 1545–2186. In addition, under § 1.6045–1T(n)(11)(i)(B), a broker must take into account the election under section 1276(b)(2) unless the customer timely notifies the broker that the customer has not make the election. The temporary regulations reverse the assumption in current § 1.6045–1(n)(5) adopted in 2013. Because the section 1276(b)(2) election results in a more taxpayer-favorable result than the default ratable method for accruing market discount in most cases, it is anticipated that more customers will want to use this method and these customers will no longer need to notify their brokers that they have made the election. As a result, this change represents a decrease in the total annual burden under OMB control number 1545–2186.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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 section 6103.

Background and Explanation of Provisions

Section 6045 generally requires a broker to report gross proceeds upon the sale of a security. Section 6045 was amended by section 403 of the Act to require the reporting of adjusted basis for a covered security and whether any gain or loss upon the sale of the security is long-term or short-term. In addition, the Act added section 6045A, which requires certain information to be reported in connection with a transfer of a covered security to another broker. Section 6049 requires the reporting of interest payments (including accruals of OID treated as payments).

On April 18, 2013, the Treasury Department and the IRS published in the **Federal Register** (TD 9616 at 78 FR 23116) final regulations under sections 6045 and 6045A (the 2013 final basis reporting regulations). After the publication of the 2013 final basis reporting regulations in the **Federal Register**, the Treasury Department and the IRS received written comments on certain provisions of the 2013 final basis reporting regulations. In response to these written comments, temporary

regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to sections 6045, 6045A, and 6049. The temporary regulations (1) amend § 1.6045–1(n) of the 2013 final basis reporting regulations to change a broker's treatment of the election to treat all interest as OID under § 1.1272–3 and the election to accrue market discount based on a constant yield under section 1276(b)(2), (2) amend § 1.6045A–1 of the 2013 final basis reporting regulations to require transfer statement reporting under section 6045A for section 1256 options, (3) amend § 1.6045A–1 of the 2013 final basis reporting regulations to require an additional item of information to be provided on transfer statements for debt instruments, and (4) require information reporting under section 6049 for OID and acquisition premium on tax-exempt obligations. The text of the temporary regulations also serves as the text of these proposed regulations.

Consideration of Administrative Burdens Related to Basis Reporting

A number of commenters have indicated that compliance with basis reporting requirements and the use of basis and other information reported by brokers will require considerable resources and effort on the part of return preparers and information recipients. The Treasury Department and the IRS are continuing to review all aspects of the information reporting process and are exploring ways to reduce the compliance burden for both brokers and for information recipients.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Any effect on small entities by the rules in the regulations generally flows directly from section 403 of the Act. In addition, it is anticipated that the requirements in the regulations in this document will fall only on financial services firms with annual receipts greater than the $38.5 million threshold and, therefore, on no small entities.

Section 403(a) of the Act requires a broker to report the adjusted basis of a debt instrument that is a covered security. Although a holder of a debt instrument (customer) is permitted to make a number of elections that affect how basis is computed, a broker only is required to take into account specified elections in reporting a debt instrument's adjusted basis, including the election under section 1276(b)(2) to determine accruals of market discount on a constant yield method. Under the 2013 final basis reporting regulations, a customer had to notify the broker that the customer had made the section 1276(b)(2) election. However, § 1.6045–1T(n)(11)(i)(B) requires a broker to take into account the election under section 1276(b)(2) in reporting a debt instrument's adjusted basis unless the customer timely notifies the broker that the customer has not made the election. The notification must be in writing, which includes a writing in electronic format. In most cases, this election results in a more taxpayer-favorable result than the default ratable method. It is anticipated that this collection of information in the regulations will not fall on a substantial number of small entities, especially because fewer customers will need to notify brokers about the election. Further, the regulations generally implement the statutory requirements for reporting adjusted basis under section 403 of the Act. Moreover, any economic impact is expected to be minimal because it should take a customer no more than seven minutes to satisfy the information-sharing requirement in these regulations.

Section 403(c) of the Act added section 6045A, which requires applicable persons to provide a transfer statement in connection with the transfer of custody of a covered security. Section 1.6045A–1T and the corresponding proposed regulations in this document effectuate the Act by giving the broker who receives the transfer statement the information necessary to determine and report adjusted basis and whether any gain or loss with respect to a debt instrument or section 1256 option is long-term or short-term as required by section 6045 when the security is subsequently sold. Consequently, § 1.6045A–1T and the corresponding proposed regulations in this document do not add to the impact on small entities imposed by the statutory provisions. Instead, the regulations limit the information to be reported to only those items necessary to effectuate the statutory scheme.

The information required under § 1.6049–10T and the corresponding proposed regulations in this document will enable the IRS to verify that a taxpayer is reporting the correct amount of tax-exempt interest each year for alternative minimum tax and other purposes. In addition, because this information is used to report a taxpayer's adjusted basis in a debt instrument under section 6045(g), this information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of gain or loss upon the sale of a tax-exempt obligation. Any economic impact on small entities is expected to be minimal because a broker already is required to determine the accruals of OID and acquisition premium for purposes of determining and reporting a customer's adjusted basis on Form 1099–B under section 6045. Moreover, any effect on small entities by the rules in the final regulations flows from section 6049 and section 403 of the Act.

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Request for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** heading. The Treasury Department and the IRS welcome comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available at *www.regulations.gov* for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for a public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Pamela Lew, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.6045–1(n)(11) also issued under 26 U.S.C. 6045(g). * * *

Section 1.6045A–1(e) and (f) also issued under 26 U.S.C. 6045A(a). * * *

Section 1.6049–10 also issued under 26 U.S.C. 6049(a). * * *

■ **Par. 2.** Section 1.6045–1(n)(11) is added to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

[The text of proposed § 1.6045–1(n)(11) is the same as the text of § 1.6045–1T(n)(11) published elsewhere in this issue of the **Federal Register**].

■ **Par. 3.** Sections 1.6045A–1(e) and (f) are added to read as follows:

§ 1.6045A–1 Statements of information required in connection with transfers of securities.

[The text of proposed § 1.6045A–1(e) and (f) is the same as the text of § 1.6045A–1T(e) and (f) published elsewhere in this issue of the **Federal Register**].

■ **Par. 4.** Section 1.6049–10 is added to read as follows:

§ 1.6049–10 Reporting of original issue discount on a tax-exempt obligation.

[The text of proposed § 1.6049–10 is the same as the text of § 1.6049–10T published elsewhere in this issue of the **Federal Register**].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–05654 Filed 3–12–15; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, and 1926

[Docket No. OSHA–2014–0024]

RIN 1218–AC87

Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration (''OSHA'' or ''Agency'') is issuing this notice of proposed rulemaking to update its general industry, shipyard employment, marine terminals, longshoring, and construction eye and face protection standards by incorporating by reference the three most recent versions of the American National Standards Institute (''ANSI'' or ''national consensus standard'') Occupational and Educational Eye and Face Protection standard. In addition, OSHA proposes to change language in the construction eye and face protection standard to make it consistent with both the general industry and maritime standards.

DATES: Submit comments on this notice of proposed rule (including comments on the information-collection (paperwork) determination described under the section titled Procedural Determinations, hearing requests, and other information) by April 13, 2015. All submissions must bear a postmark or provide other evidence of the submission date (the following section titled **ADDRESSES** describes the available methods of making submissions).

ADDRESSES: Submit comments, hearing requests, and other information as follows:

• *Electronic.* Submit comments electronically to *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

• *Facsimile.* OSHA allows facsimile transmission of comments and hearing requests that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693–1648; OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (*e.g.,* studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center (TDC), Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.,* OSHA–2014–0024 so that the Agency can attach them to the appropriate document.

• *Regular mail, express delivery, hand delivery, and messenger (courier) service.* Submit comments and any additional material (*e.g.,* studies, journal articles) to the OSHA Docket Office, Docket No. OSHA–2013–0024 or RIN 1218–AC8708 Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2350. (OSHA's TTY number is (877) 889–5627)). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures for delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

• *Instructions.* All submissions must include the Agency name and the OSHA docket number (*i.e.,* OSHA Docket No. OSHA–2014–0024). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at: *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made public, or submitting comments that contain personal information (either about themselves or others), such as social security numbers, birth dates, and medical data.

OSHA invites comments on all issues related to this notice of proposed rulemaking. The Agency also welcomes comments on its findings that this notice of proposed rulemaking will have no impact on the regulated community.

• *Docket.* To read or download comments or other material in the docket, go to *http://www.regulations.gov.* The electronic docket for this notice of proposed rule established at *http://www.regulations.gov* contains most of the documents in the docket. Some information (*e.g.,* copyrighted material), however, cannot be read or downloaded through this Web site. All submissions, including copyrighted material, are accessible at the OSHA Docket Office.

Contact the OSHA Docket Office for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Contact Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–1999, email: *meilinger.francis2@dol.gov.*

Technical inquiries: Contact Kenneth Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663; email; *stevanus.ken@dol.gov.*

Copies of this ***Federal Register*** *notice.* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION: *The preamble to the proposed standard follows this outline:*

I. Background
- A. OSHA's Eye and Face Protection Standards
- B. ANSI's Occupational and Educational Eye and Face Protection Standard
- a. Comparison Between the 2010 and 2003 Versions of ANSI Z87.1
- b. Comparison Between the 2010 and 1968 Versions of ANSI Z87.1
- C. Overview of Proposed Rulemaking
- D. Reasonable Availability of the ANSI Standard to the Public

II. Summary and Explanation of Revisions to the Eye and Face Protection Standards
- A. Updating the General Industry and Maritime Industry Standards
- B. Updating the Construction Industry Standard

III. Procedural Determinations
- A. Legal Considerations
- B. Preliminary Economic Analysis and Regulatory Flexibility Act Certification
- C. OMB Review Under the Paperwork Reduction Act of 1995
- D. Federalism
- E. State Plan States
- F. Unfunded Mandates Reform Act of 1995
- G. Consultation and Coordination With Indian Tribal Governments
- H. Consultation With the Advisory Committee on Construction Safety and Health

IV. Authority and Signature

I. Background

A. OSHA's Eye and Face Protection Standards

The original OSHA standards addressing eye and face protection were adopted in 1971 from established Federal standards and national consensus standards to address the various workplace hazards that pose a significant risk of death or injury. Since then, OSHA has amended its standards on numerous occasions, most recently in 2009 for the general industry, shipyard employment, longshoring, and marine terminals standards (74 FR 46350), and in 1993 for the construction standard (58 FR 35309). *See* 29 CFR 1910.133 (General Industry); 29 CFR 1915.153 (Shipyard Employment); 29 CFR 1917.91 (Marine Terminals); 29 CFR 1918.101 (Longshoring); and 29 CFR 1926.102 (Construction). The general industry and maritime standards require that eye and face protection comply with national consensus standards incorporated by reference unless the employer demonstrates that non-specified eye and face protection equipment is at least as protective of workers. *See* 29 CFR 1910.133(b)(2); 29 CFR 1915.153(b)(2); 29 CFR 1917.91(a)(1)(ii); and 29 CFR 1918.101(a)(1)(ii). The construction standard requires that eye and face protection meet the requirements of ANSI Z87.1–1968. *See* 29 CFR 1926.102(a)(2). Each of these provisions are part of OSHA's comprehensive requirements to ensure that employees use personal protective equipment that will protect them from hazards in the workplace.

B. ANSI's Occupational and Educational Eye and Face Protection Standard

ANSI's Occupational and Educational Eye and Face Protection, Z87.1, was first published in 1968 and revised in 1979, 1989, 2003, and 2010. The 1979 version was nearly identical to the 1968 version; it contained only minor changes in language and organization. The 1989 version emphasized performance requirements to encourage and accommodate advancements in design, materials, technologies, and product performance. Performance requirements were specified wherever practical. Minimum thickness requirements for protectors were added and new impact testing requirements were established to ensure that protectors intended to provide side protection were tested from the side and the front. This version also improved the transmittance requirements for filter lenses. The 2003 version added an enhanced user selection chart with a system for selecting equipment (*e.g.,* spectacles, goggles, and faceshields) that adequately protects from a particular hazard.

Unlike earlier versions, the 2010 version of ANSI Z87.1 focuses on a hazard, such as droplet and splash, impact, optical radiation, dust, fine dust, and mist, and specifies the type of equipment needed to protect from that hazard. Earlier versions focused on protector type, such as spectacles, goggles, faceshields, or welding hats. *See* Ex. OSHA–2014–0024–0001 (a side-by-side comparison of versions prepared by OSHA). It contains general requirements for all protector types, which assess optical qualities, minimum robustness, ignition, corrosion resistance, and minimum coverage. It also includes performance assessments that are unique to a specific protector configuration such as welding devices or prescription safety eyewear. Finally, it defines the number of samples to be tested when assessing a protector's ability to meet applicable performance criteria.

a. Comparison Between the 2010 and 2003 Versions of ANSI Z87.1

The 2010 version of ANSI Z87.1 adds new requirements to and changes the structure of the 2003 version. *See* Ex. OSHA–2014–0024–0001 (a side-by-side comparison of versions prepared by OSHA). Section 5 of the 2010 version, general requirements, adds Section 5.2, which requires that protectors are free from projections, sharp edges, or other defects. The drop ball impact test, which appeared in Section 7.3.1 of the 2003 version, is in Section 5.2.1 of the 2010 version. Additionally, the test is universally-applied rather than protector-dependent. Section 7.6 of the 2003 version, flammability, has been replaced with Section 5.2.3, ignition. The new section states that protectors shall not ignite or continue to glow once the rod is removed. It also states that each externally-exposed material shall be tested. Section 5.2.5 adds requirements for the minimum coverage area of the eyewire and lens. Section 5.4 adds marking requirements and states that protectors shall bear the permanent marking in specified locations.

In Section 6 of the 2010 version, impact protector requirements, the spectacle frame test that appeared in Section 7.2 of the 2003 version, has been moved to Section 6.12, and now requires components to be tested as a complete device. Section 6.13 adds a requirement for lateral side coverage, and states that the impact-rated protectors shall provide continuous lateral coverage with specified diameters/dimensions. Section 6.2.5 includes qualifications for prescription lens material and lists different ways that the lens can fail to meet the qualifications. Section 6.2.6 adds qualifications for prescription lens mounting. It also requires that complete devices using representative test lenses meeting the requirements of Section

6.2.5 be capable of resisting high mass and high velocity impact. Section 6.3 provides additional impact requirements for specific protectors, such as devices with lift fronts, welding helmets, and faceshields, and prescription lens carriers behind plano protectors.

Section 7 of the 2010 version, optical radiation protector requirements, adds a requirement to test in lightest to darkest states in Section 7.1.3. Section 7.2.1 adds a requirement that goggle housing intended to provide protection against optical radiation meet transmittance requirements of shade 6 or higher.

Section 8 of the 2010 version, droplet and splash, dust, and fine dust protector requirements, adds a new requirement to Section 8.1.1 that goggles be tested so that the droplets or liquid splash do not cause a red coloration. Section 8.1.2 mandates that a laser beam not make direct contact with any point on the eye-region rectangle ''without first being intercepted by the faceshield.''

Section 14 of the 2003 version is section 9 in the 2010 version and addresses test methods. This section requires testing at standard laboratory conditions rather than normal laboratory ambient conditions required in the previous version. Section 9.10 includes new testing requirements for lateral protection to assess the lateral protection area of a complete device. Section 9.14 includes a new prescription lens test that requires lens materials to withstand impact from high velocity. Section 9.16 is a new testing requirement for goggles and faceshields that require a determination of the protector's capability to keep liquid splashes and sprays from reaching eyes. Sections 9.17 and 9.18 contain new requirements to, respectively, determine the protector's capability to keep larger dust particles and fine dust particles from reaching the wearer's eyes. Finally, Sections 7.8, 8.8, 9.8, and 10.8 of the 2003 version, which addressed cleanability of spectacles and goggles, were removed.

b. Comparison Between the 2010 and 1968 Versions of ANSI Z87.1

The 2010 version of ANSI Z87.1 also differs significantly from the 1968 version. *See* Ex. OSHA–2014–0024–0002 (a side-by-side comparison of versions prepared by OSHA). Whereas the scope of the 1968 version simply states that it applies to all occupational operations, the 2010 scope is far more specific in that it sets forth criteria related to the general requirements, testing, permanent marking, selection, care, and use of protectors to minimize the occurrence and severity or prevention of injuries from the different types of hazards. In addition, the 2010 version excludes more hazardous exposures than the 1968 version, including bloodborne pathogens, microwaves, radio-frequency radiation, and sports and recreation. It also removes nearly all of the definitions contained in the 1968 version and makes significant alterations to the remaining definitions. For example, the 1968 definitions for ultraviolet and infrared radiation were defined as within the range of 50 to 390 nm and 770 to 12000 nm, respectively. The 2010 version defines these ranges from 200 to 380 nm and 780 to 2000 nm, respectively.

C. Overview of Proposed Rulemaking

As discussed in a previous **Federal Register** notice (69 FR 68283), OSHA is undertaking a series of projects to incorporate the latest versions of national consensus and industry standards into its regulations. These projects include removing outdated national consensus and industry standards and updating regulatory text.

On May 17, 2007, OSHA published a notice of proposed rulemaking (72 FR 27771) entitled ''Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment.'' This notice did not include a revision of the construction industry standards that cover personal protective equipment, which had last been updated in 1993. 58 FR 35160. In response to the notice, the Agency received approximately 25 comments. On December 4, 2007, OSHA held an informal public hearing at which nine witnesses testified. Several of the commenters and witnesses questioned the Agency's decision not to include the construction industry in this rulemaking. *See* Exs. OSHA–2007–0044–0021 and –0034; *see also,* Tr. at 18–19 and 51–52. OSHA responded that limited resources did not permit inclusion of the construction industry at that time. Tr. at 18–19; *see also,* 74 FR 46352.

On September 9, 2009, OSHA published the final rule (74 FR 46350), which became effective on October 9, 2009, and pertained only to the general industry and maritime standards. The final rule did not include a reference to the 2010 edition of the ANSI standard because this edition was not available to OSHA prior to February 8, 2008, the date on which the administrative law judge who presided over the hearing closed the rulemaking record.

By this notice, OSHA is proposing to update the references in 29 CFR 1910.133(b)(1), 29 CFR 1915.153(b)(1), 29 CFR 1917.91(a)(1)(i), and 29 CFR 1918.101(a)(1)(i) to include ANSI Z87.1–2010, the most recent version of that standard and delete the reference to ANSI Z87.1–1989. As a result, these provisions will allow use of eye and face protection that complies with the three most recent editions of the consensus standard, *i.e.,* ANSI Z87.1–2010, Z87.1–2003 and Z87.1–1989 (R–1998). In addition, OSHA is proposing to amend 29 CFR 1926.102(a)(2) of the construction standard to remove ANSI Z87.1–1968 and add the three most recent versions of the ANSI standard to 29 CFR 1926.102(b)(1). This will make the ANSI references in the construction standard identical to those in the general industry and maritime standards. This action addresses the comments received during the initial rulemaking, cited above, and as stated above, will ensure consistency among the Agency's standards. These changes also eliminate any confusion, clarify employer obligations, and provide up-to-date protection for workers exposed to eye and face hazards.

D. Reasonable Availability of the ANSI Standard to the Public

OSHA believes that the ANSI standards included in this proposal are reasonably available to interested parties. The 2010, 2003, and 1989 (R–1998) versions of ANSI Z87.1 can be purchased as a package from ANSI in pdf form for $57 (*http://webstore.ansi.org/*). All three are also available for purchase at both the IHS Standards (*http://global.ihs.com/*) or Techstreet (*http://www.techstreet.com/*) stores. In addition, they are available at OSHA's docket office for review. In addition, both the 2003 and 1989 (R–1998) versions are available at OSHA's regional offices for review. If OSHA ultimately finalizes this rule, all three documents would be maintained in OSHA's national and regional offices for review by the public.

II. Summary and Explanation of Revisions to the Eye and Face Protection Standards

A. Updating the General Industry and Maritime Industry Standards

OSHA adopted the previous revision of the general industry and maritime eye and face protection standards on September 9, 2009. 74 FR 46350. These revisions, which became effective on October 9, 2009, permit compliance with ANSI Z87.1–2003, ANSI Z87.1–1989 (R–1998), or ANSI Z87.1–1989. Since OSHA published the previous revision, ANSI Z87.1–2010 has become available. This rulemaking will update

the references in 29 CFR 1910.133(b)(1), 29 CFR 1915.153(b)(1), 29 CFR 1917.91(a)(1)(i), and 29 CFR 1918.103(a)(1)(i) to recognize the 2010 edition of ANSI Z87.1 and delete the reference to Z87.1–1989. It will also update the general incorporation by reference section for each of these standards (*i.e.,* 29 CFR 1910.6, 1915.5, 1917.3, 1918.3) to reflect the incorporation of ANSI Z87.1–2010, ANSI Z87.1–2003, and ANSI Z87.1–1989 (R–1998).

Since it is OSHA's understanding that eye and face protection is now only designed, tested, or manufactured in accordance with the 2010, 2003, or 1989 (R–1998) versions of ANSI Z87.1, OSHA believes these updates are consistent with the usual and customary practice of employers in the general and maritime industries. Therefore, incorporating by reference ANSI Z87.1–2010, and deleting ANSI Z87.1–1989, will not add a compliance burden for employers. OSHA invites public comment on whether the revisions in the 2010 edition of the consensus standard represent current industry practice, as well as any other issues raised by OSHA's proposed revisions to the general industry and maritime eye and face protection standards.

B. Updating the Construction Industry Standard

The proposed update to the construction eye and face protection standard involves: (1) Changes to the ANSI standard references and (2) inclusion of language from the general industry eye and face protection standard. With respect to the ANSI standard update, OSHA will amend 29 CFR 1926.6 and 1926.102, which currently incorporate by reference ANSI Z87.1–1968, to include the three most recent versions of the ANSI standard, ANSI Z87.1–2010, ANSI Z87.1–2003, and ANSI Z87.1–1989 (R–1998). With respect to the inclusion of language from the general industry standard, OSHA will modify certain existing language to make it nearly identical to the language in the general industry standard's eye and face protection provisions. It will also retain provisions unique to the current construction standard that do not appear to be covered in the versions of the ANSI Z87.1 incorporated by the proposal. These changes better reflect the requirements of the newer consensus standards and ease compliance for employers whose employees might also perform work covered by the general industry or maritime standards.

Specifically, OSHA is proposing to replace sections 1926.102(a)(1) through (a)(3), and (a)(7) with the language found in the general industry standard at 1910.133(a)(1) through (a)(4) and 1910.133(b). The Agency will also replace: (1) The statement of scope in section 1926.102(a)(1) with the statement of scope in 1910.133(a)(1); (2) the reference to the 1968 ANSI standard in 1926.102(a)(2) with the updated list of national consensus standards in 1910.133(b)(1); and (3) the requirements for corrective lenses in 1926.102(a)(3) with the corrective-lens requirements in 1910.133(a)(3). The proposal deletes section 1926.102(a)(4)'s requirement to keep the protective equipment clean, in good repair, and free of structural and optical defects. This provision does not appear in 1910.133, and is addressed by requirements in each of the three versions of Z87.1 included in the proposal. *See, e.g.,* ANSI Z87.1–2010 (sections 10.3 and 10.4); ANSI Z87.1–2003 (section 6.2.6); and ANSI Z87.1–1989 (R 1998) (sections 14.4, 14.5, 15.7). The proposal also removes Table E–1, Eye and Face Protector Selection Guide, which is specific to the 1968 version of ANSI Z87.1 and referenced in the current section 1926.102(a)(5). Removal of Table E–1 is of no consequence because employers and employees may use any of the three newly-referenced ANSI standards, which contain similar selection guides. *See* ANSI Z87.1–2010, Annex I. Selection Chart, ANSI Z87.1–2003, Annex I—Selection Chart, or ANSI Z87.1–1989 (R–1998), Selection Chart. Once Table E–1 is removed, OSHA will renumber Tables E–2 and E–3 under this paragraph as Tables E–1 and E–2, respectively.

The proposal retains section 1926.102(a)(6)—which specifies, among other requirements, that protectors must be capable of being disinfected, easily cleanable, and durable—because its language does not appear to be in the most recent ANSI standard, Z87.1–2010. The proposal also substitutes the marking requirement specified by section 1926.102(a)(7) with the marking requirement in section 1910.133(a)(4). In addition, the proposal will delete the requirement in 1926.102(a)(8)—that employers must transmit information from manufacturers to users about equipment limitations or precautions and that such limitations and precautions must be strictly observed—to bring the section into closer alignment with the general industry standard because this requirement is covered by requirements in each of the ANSI standards (*see* ANSI Z87.1–2010, section 10.2; ANSI Z87.1–2003, section 6.2.6; ANSI Z87.1–1989 (R 1998), section 14.2. The language adopted from the general industry standard will add a provision to the construction standard that permits an employer to use eye and face protection not manufactured in accordance with one of the incorporated ANSI Z87.1 standards if the employer can demonstrate compliance with one of the incorporated ANSI Z87.1 standards (*i.e.,* the equivalent-protection provision). Finally, section 1926.102(b) will be redesignated as section 1926.102(c).

OSHA believes that it is consistent with employers' usual and customary practice in the construction industry to require use of eye and face protection that complies with ANSI Z87.1–2010, ANSI Z87.1–2003, or ANSI Z87.1–1989 (R–1998). Accordingly, the Agency determined that incorporating these editions of ANSI Z87.1 consensus standards for eye and face protection into 29 CFR 1926.102(b)(1) does not add a compliance burden for employers. OSHA invites public comment on whether use of eye and face protection that complies with ANSI Z87.1–2010, ANSI Z87.1–2003, or ANSI Z87.1–1989 (R–1998) and inclusion of language from the general industry standard's eye and face provisions accords with employers' usual and customary practice in the construction industry, as well as any other issues raised by OSHA's proposed revisions to the construction standard for eye and face protection.

III. Procedural Determinations

A. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (OSH Act) is to achieve to the extent possible safe and healthful working conditions for all employees. 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(b). A safety or health standard is a standard ''which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.'' 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) of the OSH Act when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. *See Indus. Union Dep't, AFL–CIO* v. *Am. Petroleum Inst.,* 448 U.S. 607 (1980). OSHA already determined that requirements specified by eye and face protection standards, including design requirements, are

reasonably necessary or appropriate within the meaning of Section 652(8). *See, e.g.,* 49 FR 49726, 49737 (1978); 51 FR 33251, 33251–59 (1986).

Moreover, this notice of proposed rulemaking neither reduces employee protection nor alters an employer's obligations under the existing standards. With respect to employee protection, because the proposal will allow employers to continue to provide the same eye and face protection they currently provide, employees' protection will not change. In terms of employers' obligations, the proposal will allow employers additional options for meeting the design-criteria requirements for eye and face protection. Accordingly, this proposal does not require an additional significant risk finding (*cf. Edison Elec. Inst.* v. *OSHA,* 849 F.2d 611, 620 (D.C. Cir. 1988)).

In addition, a safety standard must be technologically feasible. *See UAW* v. *OSHA,* 37 F.3d 665, 668 (D.C. Cir. 1994). A standard is technologically feasible when the protective measures it requires already exist, when available technology can bring the protective measures into existence, or when that technology is reasonably likely to develop. *See Am. Textile Mfrs. Inst.* v. *OSHA,* 452 U.S. 490, 513 (1981); *Am. Iron and Steel Inst.* v. *OSHA,* 939 F.2d 975, 980 (D.C. Cir. 1991)). The proposed revisions detailed in this NPRM are technologically feasible because: (1) Protectors are already manufactured in accordance with the 2010 ANSI standard or the other versions permitted under the revision and (2) employers already comply with the 2003 and 1998 versions of the ANSI standard incorporated by reference into the general industry and maritime standards, which will remain in effect under the proposed rule.

B. Preliminary Economic Analysis and Regulatory Flexibility Act Certification

OSHA has preliminarily determined that employers can comply with the proposed rule by following their current usual and customary practice in providing eye and face protection to their employees. Therefore, OSHA finds that this notice of proposed rulemaking is not economically significant within the context of Executive Order 12866, or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. In addition, this notice of proposed rulemaking complies with Executive Order 13563 because employers are allowed increased flexibility in choosing eye and face protection for their employees and are not required to update or replace that protection solely as a result of this rule if the employer's current practice meets the revised standards. Because the rule imposes no costs, OSHA certifies that it will not have a significant economic impact on a substantial number of private or public sector entities and does not meet any of the criteria for an economically significant or major rule specified by the Executive Order or relevant statutes.

C. OMB Review Under the Paperwork Reduction Act of 1995

This notice of proposed rulemaking does not establish or revise any collection of information requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501. Accordingly, the Agency did not submit an Information Collection Request to OMB in association with this rulemaking.

Members of the public may respond to this paperwork determination by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218–AC77), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. The Agency encourages commenters to submit these comments to the rulemaking docket, along with their comments on other parts of this notice of proposed rulemaking. For instructions on submitting these comments and accessing the docket, see the sections of this **Federal Register** document titled **DATES** and **ADDRESSES**.

To make inquiries or to request other information contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2222.

D. Federalism

OSHA reviewed this notice of proposed rulemaking in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of state law only with the expressed consent of Congress. Agencies must limit any such preemption to the extent possible.

Under Section 18 of the OSH Act, 29 U.S.C. 651 *et seq.,* Congress expressly provides that states may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards (29 U.S.C. 667); OSHA refers to states that obtain Federal approval for such a plan as ''State Plan states.'' Occupational safety and health standards developed by State Plan states must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. 29 U.S.C. 667. Subject to these requirements, State Plan states are free to develop and enforce under state law their own requirements for occupational safety and health standards.

While OSHA drafted this notice of proposed rulemaking to protect employees in every state, Section 18(c)(2) of the OSH Act permits State Plan states and U.S. territories to develop and enforce their own standards for eye and face protection provided these requirements are at least as effective in providing safe and healthful employment and places of employment as the requirements specified in this notice of proposed rulemaking.

In summary, this notice of proposed rulemaking complies with Executive Order 13132. In states without OSHA-approved state plans, this rulemaking limits state policy options in the same manner as other OSHA standards. In State Plan states, this rulemaking does not significantly limit state policy options because, as explained in the following section, State Plan states do not have to adopt this notice of proposed rulemaking

E. State Plan States

When Federal OSHA promulgates a new standard or amends an existing standard to be more stringent than it was previously, the 27 states or U.S. territories with their own OSHA-approved occupational safety and health plans must revise their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, *e.g.,* because an existing state standard covering this area is at least as effective in protecting workers as the new Federal standard or amendment. 29 CFR 1953.5(a). In this regard, the state standard must be at least as effective as the final Federal rule. State Plan states must adopt the Federal standard or complete their own standard within six months of the publication date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than the existing standard,

State Plan states need not amend their standards, although OSHA may encourage them to do so. The following 21 states and 1 U.S. territory have OSHA-approved occupational safety and health plans that apply only to private-sector employers: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. In addition, Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply only to state and local government employees.

When OSHA promulgates a new final rule, states and territories with approved State Plans must adopt comparable amendments to their standards relating to personal protective equipment across OSHA's various industries within six months of OSHA's promulgation of the final rule unless they demonstrate that such a change is not necessary because their existing standards are already the same, or at least as effective, as OSHA's new final rule.

F. Unfunded Mandates Reform Act of 1995

OSHA reviewed this notice of proposed rulemaking according to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501–1571, and Executive Order 12875, 58 FR 58093 (1993). As discussed above in Section IV.B (''Preliminary Economic Analysis and Regulatory Flexibility Certification'') of this preamble, OSHA preliminarily determined that the proposed rule imposes no additional costs on any private-sector or public-sector entity. Accordingly, this notice of proposed rulemaking requires no additional expenditures by either public or private employers.

As noted above under Section IV.E (''State Plan States'') of this preamble, OSHA standards do not apply to state or local governments except in states that elected voluntarily to adopt an OSHA-approved state plan. Consequently, this notice of proposed rulemaking does not meet the definition of a ''Federal intergovernmental mandate.'' *See* 2 U.S.C. 658(5). Therefore, for the purposes of the UMRA, OSHA certifies that this notice of proposed rulemaking does not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

G. Consultation and Coordination With Indian Tribal Governments

OSHA reviewed this notice of proposed rulemaking in accordance with Executive Order 13175, 65 FR 67249 (2000), and determined that it does not have ''tribal implications'' as defined in that order. As proposed, the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

H. Consultation With the Advisory Committee on Construction Safety and Health

Under 29 CFR parts 1911 and 1912, OSHA must consult with the Advisory Committee on Construction Safety and Health (''ACCSH'' or ''the Committee''), established pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), in setting standards for construction work. Specifically, 29 CFR 1911.10(a) requires the Assistant Secretary to provide the ACCSH with a draft proposed rule (along with pertinent factual information) and give the Committee an opportunity to submit recommendations. *See also* 29 CFR 1912.3(a) (''[W]henever occupational safety or health standards for construction activities are proposed, the Assistant Secretary [for Occupational Safety and Health] shall consult the Advisory Committee'').

On May 8, 2014, OSHA presented its proposal to update the Agency's eye and face protection standards including its construction standard at 29 CFR 1926.102 to the ACCSH. OSHA presented the committee two options for updating of its construction standard. In the first option OSHA proposed to replace the provisions in the construction standard with those of the general industry and maritime standards, except for those that were unique to the construction industry standard. This would make the construction eye and face protection standard nearly identical to the general industry and maritime standards however, it would preserve those provisions that are unique to the construction standard.

The second option proposed would substitute only the three most current ANSI standards for the outdated ANSI standard currently cited and include the new provision allowing the use of any equivalent-protection standards. The remaining provisions of the construction standard would stay intact except for the removal of Table E–1 which references the outdated ANSI standard. This option would retain existing requirements that are familiar to employers and employees in the construction industry. The Committee subsequently selected the first option and passed a motion recommending that the Agency move forward in the rulemaking process. (*See* the minutes from the meeting Docket No. OSHA–2014–0024–0004; *see also* two options for an update, available at Docket No. OSHA–2014–0024–0003).

List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, and 1926

Incorporation by reference, Occupational safety and health, Personal protective equipment.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, authorized the preparation of this notice. OSHA is issuing this proposed rule pursuant to 29 U.S.C. 653, 655, and 657; 40 U.S.C. 3701 *et seq.;* 5 U.S.C. 553; Secretary of Labor's Order 1–2012, 77 FR 3912 (2012); and 29 CFR part 1911.

Signed at Washington, DC, on March 2, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons stated above in the preamble, the Occupational Safety and Health Administration proposes to amend 29 CFR parts 1910, 1915, 1917, 1918 and 1926 as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

■ 1. The authority citation for subpart A of part 1910 continues to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Pub. L. 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. Amend § 1910.6 by revising paragraphs (e)(69) through (e)(71) to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(e) * * *

(69) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, approved April 13, 2010; IBR approved for § 1910.133(b)(1)(i). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(70) ANSI Z87.1–2003, Occupational and Educational Eye and Face Personal Protection Devices, approved June 19, 2003; IBR approved for §§ 1910.133(b)(1)(ii). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(71) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1910.133(b)(1)(iii). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

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Subpart I—[Amended]

■ 3. The authority citation for subpart I of part 1910 continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable, and 29 CFR part 1911; Sections 1910.132, 1910.134, and 1910.138 of 29 CFR also issued under 29 CFR 1911; Sections 1910.133, 1910.135, and 1910.136 of 29 CFR also issued under 29 CFR 1911 and 5 U.S.C. 553.

■ 4. Amend § 1910.133 by revising paragraph (b)(1) to read as follows:

§ 1910.133 Eye and face protection.

* * * * *

(b) *Criteria for protective eye and face protection.* (1) Protective eye and face protection devices must comply with any of the following consensus standards:

(i) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1910.6;

(ii) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1910.6; or

(iii) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection, incorporated by reference in § 1910.6;

* * * * *

PART 1915—[AMENDED]

■ 5. The authority citation for part 1915 continues to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; 29 CFR part 1911.

Section 1915.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Sections 1915.120 and 1915.152 of 29 CFR also issued under 29 CFR part 1911.

Source: 47 FR 16986, Apr. 20, 1982, unless otherwise noted.

■ 6. Amend § 1915.5 by revising paragraphs (d)(1)(vi) through (d)(1)(viii) to read as follows:

§ 1915.5 Incorporation by reference.

* * * * *

(d)(1) * * *

(vi) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, approved April 13, 2010; IBR approved for § 1915.153(b)(1)(i). Copies are available for purchase from:

(A) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(B) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(C) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(vii) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, approved June 19, 2003; IBR approved for § 1910.153(b)(1)(ii). Copies available for purchase from the:

(A) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(B) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(C) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(viii) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1910.153(b)(1)(iii). Copies are available for purchase from:

(A) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(B) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(C) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

* * * * *

Subpart I—[Amended]

■ 7. Amend § 1915.153 by revising paragraph (b)(1) to read as follows:

§ 1915.153 Eye and face protection.

* * * * *

(b) *Criteria for protective eye and face devices.* (1) Protective eye and face protection devices must comply with any of the following consensus standards:

(i) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1915.5;

(ii) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face

Protection Devices, incorporated by reference in § 1915.5; or

(iii) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection, incorporated by reference in § 1915.5;

* * * * *

PART 1917—[AMENDED]

■ 8. The authority citation for part 1917 continues to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 7 FR 3912),as applicable; and 29 CFR 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Source: 48 FR 30909, July 5, 1983, unless otherwise noted.

* * * * *

■ 9. Amend § 1917.3 by revising paragraphs (b)(6) through (b)(8) to read as follows:

§ 1917.3 Incorporation by reference.

* * * * *

(b) * * *

(6) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, approved April 13, 2010; IBR approved for § 1917.91(a)(1)(i)(A). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(7) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, approved June 19, 2003; IBR approved for § 1917.91(a)(1)(i)(B). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(8) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1917.91(a)(1)(i)(C). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

* * * * *

Subpart E—[Amended]

■ 10. Amend § 1917.91 by revising paragraph (a)(1)(i) to read as follows:

§ 1917.91 Eye and face protection.

(a)(1)(i) The employer shall ensure that each affected employee uses protective eye and face protection devices that comply with any of the following consensus standards:

(A) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1917.3;

(B) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1917.3; or

(C) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection, incorporated by reference in § 1917.3;

* * * * *

PART 1918—[AMENDED]

■ 11. The authority citation for part 1918 is revised to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR 1911.

Section 1918.90 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Source: 62 FR 40202, July 25, 1997, unless otherwise noted.

■ 12. Amend § 1918.3 by revising paragraphs (b)(6) through (b)(8) to read as follows:

§ 1918.3 Incorporation by reference.

* * * * *

(b) * * *

(6) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, approved April 13, 2010; IBR approved for § 1918.101(a)(1)(i)(A). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(7) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, approved June 19, 2003; IBR approved for § 1918.101(a)(1)(i)(B). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(8) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1918.101(a)(1)(i)(C). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

* * * * *

Subpart J—[Amended]

■ 13. Amend § 1918.101 by revising paragraph (a)(1)(i) to read as follows:

§ 1918.101 Eye and face protection.

(a) * * *

(1)(i) Employers must ensure that each employee uses appropriate eye and/or face protection when the

employee is exposed to an eye or face hazards, and that protective eye and face devices comply with any of the following consensus standards:

(A) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1918.3;

(B) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1918.3; or

(C) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection, incorporated by reference in § 1918.3

* * * * *

PART 1926—[AMENDED]

Subpart A—General [Amended]

■ 14. The authority citation for subpart A of part 1926 continues to read as follows:

Authority: 40 U.S.C. 3701 *et seq.;* 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 15. Amend § 1926.6 as follows:
■ a. Revise paragraph (h)(31);
■ b. Redesignate paragraphs (h)(32) thru (h)(34) as (h)(34) thru (h)(36);
■ c. Add new paragraphs (h)(32) and (h)(33).

The revisions and additions read as follows:

§ 1926.6 Incorporation by reference.

* * * * *

(h) * * *

(31) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, approved April 13, 2010; IBR approved for § 1926.102(b)(1)(i). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/*;

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com*; or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(32) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, approved June 19, 2003; IBR approved for § 1926.102(b)(2)(ii). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

(33) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1926.102(b)(2)(iii). Copies are available for purchase from:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: (212) 642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: (877) 413–5184; Web site: *http://global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: (877) 699–9277; Web site: *http://techstreet.com.*

* * * * *

Subpart E—[Amended]

■ 16. Revise the authority citation for subpart E of part 1926 to read as follows:

Authority: 40 U.S.C. 3701 *et seq.;* 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 17. Amend § 1926.102 as follows:
■ a. Revise paragraphs (a)(1) thru (a)(4).
■ b. Delete paragraphs (a)(5), (a)(7), (a)(8) and Table E–1.
■ c. Redesignate paragraph (a)(6) as (a)(5) and Tables E–2 and E–3 as Tables E–1 and E–2 .
■ d. Revise paragraph (b).
■ e. Add paragraph (c).

The additions and revisions read as follows:

§ 1926.102 Eye and face protection.

(a*) General requirements.* (1) The employer shall ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(2) The employer shall ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (*e.g.* clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(3) The employer shall ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or wears eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(4) Eye and face PPE shall be distinctly marked to facilitate identification of the manufacturer.

* * * * *

(b*) Criteria for protective eye and face protection.* (1) Protective eye and face protection devices must comply with any of the following consensus standards:

(i) ANSI Z87.1–2010, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1926.6;

(ii) ANSI Z87.1–2003, Occupational and Educational Personal Eye and Face Protection Devices, incorporated by reference in § 1926.6; or

(iii) ANSI Z87.1–1989 (R–1998), Practice for Occupational and Educational Eye and Face Protection, incorporated by reference in § 1926.6;

(2) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(c) *Protection against radiant energy*—(1) *Selection of shade numbers for welding filter.* Table E–1 shall be used as a guide for the selection of the proper shade numbers of filter lenses or plates used in welding. Shades more dense than those listed may be used to suit the individual's needs.

TABLE E–1—FILTER LENS SHADE NUMBERS FOR PROTECTION AGAINST RADIANT ENERGY

Welding operation	Shade No.
Shielded metal-arc welding 1/16-, 3/32-, 1/8-, 5/32-inch diameter electrodes.	10.
Gas-shielded arc welding (nonferrous) 1/16-, 3/32-, 1/8-, 5/32-inch diameter electrodes.	11.
Gas-shielded arc welding (ferrous) 1/16-, 3/32-, 1/8-, 5/32-inch diameter electrodes.	12.

TABLE E–1—FILTER LENS SHADE NUMBERS FOR PROTECTION AGAINST RADIANT ENERGY—Continued

Welding operation	Shade No.
Shielded metal-arc welding 3/16-, 7/32-, 1/4-inch diameter electrodes.	12.
5/16-, 3/8-inch diameter electrodes	14.
Atomic hydrogen welding	10–14.
Carbon-arc welding	14.
Soldering	2.
Torch brazing	3 or 4.
Light cutting, up to 1 inch	3 or 4.
Medium cutting, 1 inch to 6 inches	4 or 5.
Heavy cutting, over 6 inches	5 or 6.
Gas welding (light), up to 1/8-inch	4 or 5.
Gas welding (medium), 1/8-inch to 1/2-inch.	5 or 6.
Gas welding (heavy), over 1/2-inch	6 or 8.

(2) *Laser protection.* (i) Employees whose occupation or assignment requires exposure to laser beams shall be furnished suitable laser safety goggles which will protect for the specific wavelength of the laser and be of optical density (O.D.) adequate for the energy involved. Table E–2 lists the maximum power or energy density for which adequate protection is afforded by glasses of optical densities from 5 through 8.

TABLE E–2—SELECTING LASER SAFETY GLASS

Intensity, CW maximum power density (watts/cm^2)	Attenuation	
	Optical density (O.D.)	Attenuation factor
10^{-2}	5	10^5
10^{-1}	6	10^6
1.0	7	10^7
10.0	8	10^8

Output levels falling between lines in this table shall require the higher optical density.

(ii) All protective goggles shall bear a label identifying the following data:

(A) The laser wavelengths for which use is intended;

(B) The optical density of those wavelengths;

(C) The visible light transmission.

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BILLING CODE 4510–26–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AB30

Imposition of Special Measure against Banca Privada d'Andorra as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In a finding, notice of which is published elsewhere in this issue of the **Federal Register** (''Notice of Finding''), the Director of FinCEN found that Banca Privada d'Andorra (''BPA'') is a financial institution operating outside of the United States that is of primary money laundering concern. FinCEN is issuing this notice of proposed rulemaking (''NPRM'') to propose the imposition of a special measure against BPA.

DATES: Written comments on this NPRM must be submitted on or before May 12, 2015.

ADDRESSES: You may submit comments, identified by 1506–AB30, by any of the following methods:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Include 1506–AB30 in the submission.
- *Mail:* The Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include 1506–AB30 in the body of the text. Please submit comments by one method only.
- Comments submitted in response to this NPRM will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

Inspection of comments: Public comments received electronically or through the U.S. Postal Service sent in response to a notice and request for comment will be made available for public review on *http://www.regulations.gov.* Comments received may be physically inspected in the FinCEN reading room located in Vienna, Virginia. Reading room appointments are available weekdays (excluding holidays) between 10 a.m. and 3 p.m., by calling the Disclosure Officer at (703) 905–5034 (not a toll-free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the ''USA PATRIOT Act''), Public Law 107–56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the ''Secretary'') to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (''Section 311''), codified at 31 U.S.C. 5318A, grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, institution, class of transaction, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern.

II. Imposition of a Special Measure Against BPA as a Financial Institution of Primary Money Laundering Concern

A. Special Measure

As noticed elsewhere in this issue of the **Federal Register**, on March 6, 2015, the Director of FinCEN found that BPA is a financial institution operating outside the United States that is of primary money laundering concern (''Finding''). Based upon that Finding, the Director of FinCEN is authorized to impose one or more special measures. Following the consideration of all factors relevant to the Finding and to selecting the special measure proposed in this NPRM, the Director of FinCEN proposes to impose the special measure authorized by section 5318A(b)(5) (the ''fifth special measure''). In connection with this action, FinCEN consulted with representatives of the Federal functional regulators, the Department of Justice, and the Department of State, among others.

B. Discussion of Section 311 Factors

In determining which special measures to implement to address the primary money laundering concern, FinCEN considered the following factors.

1. Whether Similar Action Has Been or Will Be Taken by Other Nations or Multilateral Groups Against BPA

Other countries or multilateral groups have not yet taken action similar to the action proposed in this rulemaking that would: (1) Prohibit domestic financial institutions and agencies from opening or maintaining a correspondent account for or on behalf of BPA; and (2) require certain covered financial institutions to screen their correspondent accounts in a manner that is reasonably designed to guard against processing transactions involving BPA. FinCEN encourages other countries to take similar action based on the information contained in this NPRM and the Notice of Finding.

2. Whether the Imposition of the Fifth Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated With Compliance, for Financial Institutions Organized or Licensed in the United States

The fifth special measure proposed by this rulemaking would prohibit covered financial institutions from opening or maintaining correspondent accounts for or on behalf of BPA after the effective date of the final rule implementing the fifth special measure. Currently, only four U.S. covered financial institutions maintain an account for BPA; therefore, FinCEN believes this action will not present an undue regulatory burden. As a corollary to this measure, covered financial institutions also would be required to take reasonable steps to apply special due diligence, as set forth below, to all of their correspondent accounts to help ensure that no such account is being used to provide services to BPA. For direct correspondent relationships, this would involve a minimal burden in transmitting a one-time notice to certain foreign correspondent account holders concerning the prohibition on processing transactions involving BPA through the U.S. correspondent account. U.S. financial institutions generally apply some level of screening and, when required, conduct some level of reporting of their transactions and accounts, often through the use of commercially-available software such as that used for compliance with the economic sanctions programs administered by the Office of Foreign Assets Control (''OFAC'') of the Department of the Treasury and to detect potential suspicious activity. To ensure that U.S. financial institutions are not being used unwittingly to process payments for or on behalf of BPA, directly or indirectly, some additional burden will be incurred by U.S. financial institutions to be vigilant in their suspicious activity monitoring procedures. As explained in more detail in the section-by-section analysis below, financial institutions should be able to leverage these current screening and reporting procedures to detect transactions involving BPA.

3. The Extent to Which the Proposed Action or Timing of the Action Would Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities of BPA

The requirements proposed in this NPRM would target BPA specifically; they would not target a class of financial transactions (such as wire transfers) or a particular jurisdiction. BPA is not a major participant in the international payment system and is not relied upon by the international banking community for clearance or settlement services. Additionally, it is difficult to assess on the information available the extent to which BPA is used for legitimate business purposes. BPA provides services in private banking, personal banking, and corporate banking. These services include typical bank products such as savings accounts, corporate accounts, credit cards, and financing. BPA provides services to high-risk customers including international foreign operated shell companies, businesses likely engaged in unlicensed money transmission, and senior foreign political officials. Because of the demonstrated cooperation of high level management at BPA with TPMLs, BPA's legitimate business activity is at high risk of being abused by money launderers. Given this risk, FinCEN believes that any impact on the legitimate business activities of BPA is outweighed by the need to protect the US financial system. Moreover, the imposition of the fifth special measure against BPA would not have a significant adverse systemic impact on the international payment, clearance, and settlement system.

4. The Effect of the Proposed Action on United States National Security and Foreign Policy

The exclusion of BPA from the U.S. financial system as proposed in this NPRM would enhance national security by making it more difficult for money launderers, transnational criminal organizations, human traffickers, and other criminals to access the U.S. financial system. More generally, the imposition of the fifth special measure would complement the U.S. Government's worldwide efforts to expose and disrupt international money laundering.

Therefore, pursuant to the Finding that BPA is a financial institution operating outside of the United States of primary money laundering concern, and after conducting the required consultations and weighing the relevant factors, the Director of FinCEN proposes to impose the fifth special measure.

III. Section-by-Section Analysis for Imposition of the Fifth Special Measure

A. 1010.662(a)—Definitions

1. Banca Privada d'Andorra

Section 1010.662(a)(1) of the proposed rule would define BPA to include all domestic and international branches, offices, and subsidiaries of BPA wherever located.

Covered financial institutions should take commercially reasonable measures to determine whether a customer is a branch, office, or subsidiary of BPA.

2. Correspondent Account

Section 1010.662(a)(2) of the proposed rule would define the term ''correspondent account'' by reference to the definition contained in 31 CFR 1010.605(c)(1)(ii). Section 1010.605(c)(1)(ii) defines a correspondent account to mean an account established to receive deposits from, or make payments or other disbursements on behalf of, a foreign bank, or to handle other financial transactions related to the foreign bank. Under this definition, ''payable through accounts'' are a type of correspondent account.

In the case of a U.S. depository institution, this broad definition includes most types of banking relationships between a U.S. depository institution and a foreign bank that are established to provide regular services, dealings, and other financial transactions, including a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit. FinCEN is using the same definition of ''account'' for purposes of this rule as was established for depository institutions in the final rule implementing the provisions of section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[1]

In the case of securities broker-dealers, futures commission merchants, introducing brokers-commodities, and investment companies that are open-end companies (''mutual funds''), FinCEN is

[1] *See* 31 CFR 1010.605(c)(2)(i).

also using the same definition of ''account'' for purposes of this rule as was established for these entities in the final rule implementing the provisions of section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[2]

3. Covered Financial Institution

Section 1010.662(a)(3) of the proposed rule would define ''covered financial institution'' with the same definition used in the final rule implementing the provisions of section 312 of the USA PATRIOT Act,[3] which in general includes the following:

- An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));
- a commercial bank;
- an agency or branch of a foreign bank in the United States;
- a Federally insured credit union;
- a savings association;
- a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611);
- a trust bank or trust company;
- a broker or dealer in securities;
- a futures commission merchant or an introducing broker-commodities; and
- a mutual fund.

4. Subsidiary

Section 1010.662(a)(4) of the proposed rule would define ''subsidiary'' as a company of which more than 50 percent of the voting stock or analogous equity interest is owned by BPA.

B. 1010.662(b)—Prohibition on Accounts and Due Diligence Requirements for Covered Financial Institutions

1. Prohibition on Opening or Maintaining Correspondent Accounts

Section 1010.662(b)(1) of the proposed rule imposing the fifth special measure would prohibit covered financial institutions from establishing, maintaining, administering, or managing in the United States any correspondent account for or on behalf of BPA.

2. Special Due Diligence for Correspondent Accounts To Prohibit Use

As a corollary to the prohibition on maintaining correspondent accounts for or on behalf of BPA, section 1010.662(b)(2) of the proposed rule would require a covered financial institution to apply special due diligence to all of its foreign correspondent accounts that is reasonably designed to guard against processing transactions involving BPA. As part of that special due diligence, covered financial institutions must notify those foreign correspondent account holders that the covered financial institutions know or have reason to know provide services to BPA that such correspondents may not provide BPA with access to the correspondent account maintained at the covered financial institution. Covered financial institutions should implement appropriate risk-based procedures to identify transactions involving BPA.

A covered financial institution may satisfy the notification requirement by transmitting the following notice to its foreign correspondent account holders that it knows or has reason to know provide services to BPA:

> Notice: Pursuant to U.S. regulations issued under Section 311 of the USA PATRIOT Act, *see* 31 CFR 1010.662, we are prohibited from establishing, maintaining, administering, or managing a correspondent account for or on behalf of Banca Privada d'Andorra. The regulations also require us to notify you that you may not provide Banca Privada d'Andorra or any of its subsidiaries with access to the correspondent account you hold at our financial institution. If we become aware that the correspondent account you hold at our financial institution has processed any transactions involving Banca Privada d'Andorra or any of its subsidiaries, we will be required to take appropriate steps to prevent such access, including terminating your account.

A covered financial institution may, for example, have knowledge through transaction screening software that a correspondent processes transactions for BPA. The purpose of the notice requirement is to aid cooperation with correspondent account holders in preventing transactions involving BPA from accessing the U.S. financial system. However, FinCEN would not require or expect a covered financial institution to obtain a certification from any of its correspondent account holders that access will not be provided to comply with this notice requirement. Methods of compliance with the notice requirement could include, for example, transmitting a one-time notice by mail, fax, or email. FinCEN specifically solicits comments on the form and scope of the notice that would be required under the rule.

The special due diligence would also include implementing risk-based procedures designed to identify any use of correspondent accounts to process transactions involving BPA. A covered financial institution would be expected to apply an appropriate screening mechanism to identify a funds transfer order that on its face listed BPA as the financial institution of the originator or beneficiary, or otherwise referenced BPA in a manner detectable under the financial institution's normal screening mechanisms. An appropriate screening mechanism could be the mechanism used by a covered financial institution to comply with various legal requirements, such as the commercially available software programs used to comply with the economic sanctions programs administered by OFAC.

A covered financial institution would also be required to implement risk-based procedures to identify indirect use of its correspondent accounts, including through methods used to disguise the originator or originating institution of a transaction. Specifically, FinCEN is concerned that BPA may attempt to disguise its transactions by relying on types of payments and accounts that would not explicitly identify BPA as an involved party. A financial institution may develop a suspicion of such misuse based on other information in its possession, patterns of transactions, or any other method available to it based on its existing systems. Under the proposed rule, a covered financial institution that suspects or has reason to suspect use of a correspondent account to process transactions involving BPA must take all appropriate steps to attempt to verify and prevent such use, including a notification to its correspondent account holder requesting further information regarding a transaction, requesting corrective action to address the perceived risk and, where necessary, terminating the correspondent account. A covered financial institution may re-establish an account closed under the rule if it determines that the account will not be used to process transactions involving BPA. FinCEN specifically solicits comments on the requirement under the proposed rule that covered financial institutions take reasonable steps to prevent any processing of transactions involving BPA.

3. Recordkeeping and Reporting

Section 1010.662(b)(3) of the proposed rule would clarify that paragraph (b) of the rule does not impose any reporting requirement upon any covered financial institution that is not otherwise required by applicable law or regulation. A covered financial institution must, however, document its compliance with the requirement that it notify those correspondent account holders that the covered financial institution knows, or has reason to

[2] *See* 31 CFR 1010.605(c)(2)(ii)–(iv).

[3] *See* 31 CFR 1010.605(e)(1).

know, provide services to BPA, that such correspondents may not process any transaction involving BPA through the correspondent account maintained at the covered financial institution.

IV. Request for Comments

FinCEN invites comments on all aspects of the proposal to impose the fifth special measure against BPA and specifically invites comments on the following matters:

1. The impact of the proposed special measure upon legitimate transactions using BPA involving, in particular, U.S. persons and entities; foreign persons, entities, and governments; and multilateral organizations doing legitimate business.

2. The form and scope of the notice to certain correspondent account holders that would be required under the rule;

3. The appropriate scope of the proposed requirement for a covered financial institution to take reasonable steps to identify any use of its correspondent accounts to process transactions involving BPA; and

4. The appropriate steps a covered financial institution should take once it identifies use of one of its correspondent accounts to process transactions involving BPA.

V. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (''RFA'') requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' that will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

A. Proposal To Prohibit Covered Financial Institutions From Opening or Maintaining Correspondent Accounts With Certain Foreign Banks Under the Fifth Special Measure

1. Estimate of the Number of Small Entities to Whom the Proposed Fifth Special Measure Will Apply

For purposes of the RFA, both banks and credit unions are considered small entities if they have less than $500,000,000 in assets.[4] Of the estimated 7,000 banks, 80 percent have less than $500,000,000 in assets and are considered small entities.[5] Of the estimated 7,000 credit unions, 94 percent have less than $500,000,000 in assets.[6]

Broker-dealers are defined in 31 CFR 1010.100(h) as those broker-dealers required to register with the Securities and Exchange Commission (''SEC''). Because FinCEN and the SEC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the Small Business Administration (''SBA''). The SEC has defined the term ''small entity'' to mean a broker or dealer that: ''(1) had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements, were prepared pursuant to Rule 17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated debt) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.'' [7] Based on SEC estimates, 17 percent of broker-dealers are classified as ''small'' entities for purposes of the RFA.[8]

Futures commission merchants (''FCMs'') are defined in 31 CFR 1010.100(x) as those FCMs that are registered or required to be registered as a FCM with the Commodity Futures Trading Commission (''CFTC'') under the Commodity Exchange Act (''CEA''), except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2). Because FinCEN and the CFTC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the CFTC's definition of small business as previously submitted to the SBA. In the CFTC's ''Policy Statement and Establishment of Definitions of 'Small Entities' for Purposes of the Regulatory Flexibility Act,'' the CFTC concluded that registered FCMs should not be considered to be small entities for purposes of the RFA.[9] The CFTC's determination in this regard was based, in part, upon the obligation of registered FCMs to meet the capital requirements established by the CFTC.

For purposes of the RFA, an introducing broker-commodities dealer is considered small if it has less than $35,500,000 in gross receipts annually.[10] Based on information provided by the National Futures Association (''NFA''), 95 percent of introducing brokers-commodities dealers have less than $35.5 million in Adjusted Net Capital and are considered to be small entities.

Mutual funds are defined in 31 CFR 1010.100(gg) as those investment companies that are open-end investment companies that are registered or are required to register with the SEC. Because FinCEN and the SEC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the SBA. The SEC has defined the term ''small entity'' under the Investment Company Act to mean ''an investment company that, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.'' [11] Based on SEC estimates, 7 percent of mutual funds are classified as ''small entities'' for purposes of the RFA under this definition.[12]

As noted above, 80 percent of banks, 94 percent of credit unions, 17 percent of broker-dealers, 95 percent of introducing brokers-commodities, zero FCMs, and 7 percent of mutual funds are small entities. The limited number of foreign banking institutions with which BPA maintains or will maintain accounts will likely limit the number of affected covered financial institutions to the largest U.S. banks, which actively engage in international transactions. Thus, the prohibition on maintaining correspondent accounts for foreign banking institutions that engage in transactions involving BPA under the fifth special measure would not impact a substantial number of small entities.

2. Description of the Projected Reporting and Recordkeeping Requirements of the Fifth Special Measure

The proposed fifth special measure would require covered financial institutions to provide a notification

[4] *Table of Small Business Size Standards Matched to North American Industry Classification System Codes,* Small Business Administration Size Standards (SBA Jan. 22, 2014) [hereinafter *SBA Size Standards*].

[5] Federal Deposit Insurance Corporation, *Find an Institution, http://www2.fdic.gov/idasp/main.asp; select* Size or Performance: Total Assets, *type* Equal or less than $: ''500000'' and *select* Find.

[6] National Credit Union Administration, *Credit Union Data, http://webapps.ncua.gov/customquery/ ; select* Search Fields: Total Assets, *select* Operator: Less than or equal to, *type* Field Values: ''500000000'' and *select* Go.

[7] 17 CFR 240.0–10(c).

[8] 76 FR 37572, 37602 (June 27, 2011) (the SEC estimates 871 small broker-dealers of the 5,063 total registered broker-dealers).

[9] 47 FR 18618, 18619 (Apr. 30, 1982).

[10] SBA Size Standards at 28.

[11] 17 CFR 270.0–10.

[12] 78 FR 23637, 23658 (April 19, 2013).

intended to aid cooperation from foreign correspondent account holders in preventing transactions involving BPA from accessing the U.S. financial system. FinCEN estimates that the burden on institutions providing this notice is one hour. Covered financial institutions would also be required to take reasonable measures to detect use of their correspondent accounts to process transactions involving BPA. All U.S. persons, including U.S. financial institutions, currently must exercise some degree of due diligence to comply with OFAC sanctions and suspicious activity reporting requirements. The tools used for such purposes, including commercially available software used to comply with the economic sanctions programs administered by OFAC, can easily be modified to identify correspondent accounts with foreign banks that involve BPA. Thus, the special due diligence that would be required by the imposition of the fifth special measure—*i.e.,* the one-time transmittal of notice to certain correspondent account holders, the screening of transactions to identify any use of correspondent accounts, and the implementation of risk-based measures to detect use of correspondent accounts—would not impose a significant additional economic burden upon small U.S. financial institutions.

B. Certification

For these reasons, FinCEN certifies that the proposals contained in this rulemaking would not have a significant impact on a substantial number of small businesses.

FinCEN invites comments from members of the public who believe there would be a significant economic impact on small entities from the imposition of the fifth special measure regarding BPA.

VI. Paperwork Reduction Act

The collection of information contained in this proposed rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by email to oira *submission@omb.eop.gov)* with a copy to FinCEN by mail or email at the addresses previously specified. Comments should be submitted by one method only. Comments on the collection of information should be received by May 12, 2015. In accordance with the requirements of the Paperwork Reduction Act and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information as required by 31 CFR 1010.662 is presented to assist those persons wishing to comment on the information collection.

A. Proposed Information Collection Under the Fifth Special Measure

The notification requirement in section 1010.662(b)(2)(i) is intended to aid cooperation from correspondent account holders in denying BPA access to the U.S. financial system. The information required to be maintained by section 1010.662(b)(3)(i) would be used by federal agencies and certain self-regulatory organizations to verify compliance by covered financial institutions with the provisions of 31 CFR 1010.662. The collection of information would be mandatory.

Description of Affected Financial Institutions: Banks, broker-dealers in securities, futures commission merchants and introducing brokers-commodities, and mutual funds.

Estimated Number of Affected Financial Institutions: 5,000.

Estimated Average Annual Burden in Hours Per Affected Financial Institution: The estimated average burden associated with the collection of information in this proposed rule is one hour per affected financial institution.

Estimated Total Annual Burden: 5,000 hours.

FinCEN specifically invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information would have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information required to be maintained; (d) ways to minimize the burden of the required collection of information, 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 report the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

VII. Executive Order 12866

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

List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, banks and banking, brokers, counter-money laundering, counter-terrorism, foreign banking.

Authority and Issuance

For the reasons set forth in the preamble, part 1010, chapter X of title 31 of the Code of Federal Regulations, is proposed to be amended as follows:

■ 1. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332 Title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

■ 2. Add § 1010.662 to read as follows:

§ 1010.662 Special measures against Banca Privada d'Andorra.

(a) *Definitions.* For purposes of this section:

(1) *Banca Privada d'Andorra* means all branches, offices, and subsidiaries of Banca Privada d'Andorra wherever located.

(2) *Correspondent account* has the same meaning as provided in § 1010.605(c)(1)(ii).

(3) *Covered financial institution* has the same meaning as provided in § 1010.605(e)(1).

(4) *Subsidiary* means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

(b) *Prohibition on accounts and due diligence requirements for covered financial institutions*—(1) *Prohibition on use of correspondent accounts.* A covered financial institution shall terminate any correspondent account that is established, maintained, administered, or managed in the United States for, or on behalf of, Banca Privada d'Andorra.

(2) *Special due diligence of correspondent accounts to prohibit use.* (i) A covered financial institution shall apply special due diligence to its foreign correspondent accounts that is reasonably designed to guard against

their use to process transactions involving Banca Privada d'Andorra. At a minimum, that special due diligence must include:

(A) Notifying those foreign correspondent account holders that the covered financial institution knows or has reason to know provide services to Banca Privada d'Andorra that such correspondents may not provide Banca Privada d'Andorra with access to the correspondent account maintained at the covered financial institution; and

(B) Taking reasonable steps to identify any use of its foreign correspondent accounts by Banca Privada d'Andorra, to the extent that such use can be determined from transactional records maintained in the covered financial institution's normal course of business.

(ii) A covered financial institution shall take a risk-based approach when deciding what, if any, other due diligence measures it reasonably must adopt to guard against the use of its foreign correspondent accounts to process transactions involving Banca Privada d'Andorra.

(iii) A covered financial institution that obtains knowledge that a foreign correspondent account may be being used to process transactions involving Banca Privada d'Andorra shall take all appropriate steps to further investigate and prevent such access, including the notification of its correspondent account holder under paragraph (b)(2)(i)(A) and, where necessary, termination of the correspondent account.

(3) *Recordkeeping and reporting.* (i) A covered financial institution is required to document its compliance with the notice requirement set forth in paragraph (b)(2)(i)(A) of this section.

(ii) Nothing in this paragraph (b) shall require a covered financial institution to report any information not otherwise required to be reported by law or regulation.

Dated: March 6, 2015.

Jennifer Shasky Calvery,

Financial Crimes Enforcement Network.

[FR Doc. 2015–05724 Filed 3–12–15; 8:45 am]

BILLING CODE 4810–2–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–1044]

RIN 1625–AA00

Safety Zone; Shore (Belt) Parkway Bridge Construction, Mill Basin; Brooklyn, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone on the navigable waters of Mill Basin surrounding the Belt Parkway Bridge. In response to a planned Belt Parkway Bridge construction project, this rule would allow the Coast Guard to prohibit all vessel traffic through the safety zone during bridge replacement operations, both planned and unforeseen, that could pose an imminent hazard to persons and vessels operating in the area. This rule is necessary to provide for the safety of life in the vicinity of the construction of the Belt Parkway Bridge.

DATES: Comments and related material must be received by the Coast Guard on or before May 12, 2015.

Requests for public meetings must be received by the Coast Guard on or before April 3, 2015.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202)366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact LT Hannah Eko, Coast Guard Sector New York; telephone (718) 354–4114, or email *hannah.o.eko@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

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

1. Submitting Comments

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

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–1044] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–1044) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

A Coast Guard Public Notice detailing work on the portion of the Belt Parkway Bridge over Mill Basin was published on 31 July 2007.

C. Basis and Purpose

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

The purpose of this rulemaking is to ensure the safety of vessels and workers from hazards associated with construction on the Belt Parkway Bridge.

D. Discussion of Proposed Rule

The proposed rule will give the Captain of the Port (COTP) New York the authority to prohibit vessel traffic on this portion of Mill Basin when necessary for the safety of vessels and workers during construction work in the channel. The Coast Guard will close the designated area to all traffic during any circumstance, planned or unforeseen, that poses an imminent threat to waterway users or construction operations in the area. Complete waterway closures will be minimized to that period absolutely necessary and made with as much advanced notice as possible. During closures there will not be enough space for mariners to transit through the safety zone between the construction vessels and the current bridge piers.

The COTP would notify the public of the enforcement of this safety zone by publishing a Notice of Enforcement (NOE) in the **Federal Register** and via the other means listed in 33 CFR 165.7. Such notifications would include the date and times of enforcement, along with any pre-determined conditions of entry.

A navigation safety situation created by construction of the new Belt Parkway Bridge and removal of the current Belt Parkway Bridge prompted the proposed rule. This bridge carries the Shore Parkway (also referred to as the Belt Parkway) over Mill Basin. The current Belt Parkway Bridge was built in 1940 and no longer meets current federal and state safety standards. The New York City Department of Transportation (NYC DOT) will hire contractors to construct a new fixed bridge approximately 100 feet west of the current bridge and remove the current movable, bascule bridge. This new bridge will represent an increase of about 1,780 feet in length over the existing bridge and an increase of about 46 feet in width. Construction is scheduled to begin mid to late 2015. Scheduled completion of the new bridge and removal of the old bridge is 2021.

The Coast Guard has discussed this project with NYC DOT to determine whether the project can be completed without channel closures and, if possible, what impact that would have on the project timeline. Through these discussions, it became clear that while the majority of construction activities during the span of this project would not require waterways closures, there are certain tasks that can only be completed in the channel and will require closing the waterway.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The Coast Guard expects the economic impact of this proposed rule to be minimal as this proposed safety zone will be limited to the Mill Basin area, closures will mostly occur during weekdays when traffic is low, and most waterway closures will be during times of reduced recreational boating traffic.

Advanced public notifications would also be made to local mariners through appropriate means, which may include but are not limited to the Local Notice to Mariners and at *http://homeport.uscg.mil/newyork* which would allow the public an opportunity to plan for these closures.

2. Impact on Small Entities

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

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREA

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

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

■ 2. Add § 165.T01–1044 to read as follows:

§ 165.T01–1044 Safety Zone; Belt Parkway Bridge Construction, Mill Basin, Brooklyn, NY.

(a) *Location.* The following area is a safety zone: All waters from surface to bottom of Mill Basin within 200 yards of the Belt Parkway Mill Basin bridge, east of a line drawn from 40–36–24.29″ N, 73–54–02.59″ W to 40–36–11.36″ N, 073–54–04.69″ W, and west of a line drawn from 40–36–21.13″ N, 073–53–47.38″ W to 40–36–11.59″ N, 073–53–48.88″ W.

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

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

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

(c) *Enforcement Periods.* (1) This safety zone is in effect permanently 1 June 2015 but will only be enforced when deemed necessary by the COTP.

(2) The COTP will notify the public of the enforcement of this safety zone by publishing a Notice of Enforcement (NOE) in the **Federal Register** and via the other means listed in 33 CFR 165.7.

Such notifications will include the date and times of enforcement, along with any pre-determined conditions of entry.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply.

(2) During periods of enforcement, all persons and vessels must comply with all orders and directions from the COTP or a COTP's designated representative.

(3) During periods of enforcement, upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of the vessel must proceed as directed.

Dated: March 3, 2015.

G. Loebl,

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

[FR Doc. 2015–05800 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0795; FRL–9924–28-Region 4]

Approval and Promulgation of Implementation Plans; North Carolina Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the November 2, 2012, State Implementation Plan (SIP) submission, provided by the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Air Quality (NCDAQ) for inclusion into the North Carolina SIP. This proposal pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. NCDAQ certified that the North Carolina SIP contains provisions that ensure the 2008 8-hour ozone NAAQS is implemented, enforced, and maintained in North Carolina (hereafter referred to as an ''infrastructure SIP submission''). With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting, interstate transport, and state boards requirements, EPA is proposing to approve North Carolina's infrastructure SIP submission provided to EPA on November 2, 2012, as satisfying the required infrastructure elements for the 2008 8-hour ozone NAAQS.

DATES: Written comments must be received on or before April 3, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0795, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: R4–ARMS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2014–0795,'' Air Regulatory Management Section, (formerly the Regulatory Development Section), Air Planning and Implementation Branch, (formerly the Air Planning Branch)Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2014–0795. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

On March 27, 2008, EPA promulgated a revised NAAQS for ozone based on 8-hour average concentrations. EPA revised the level of the 8-hour ozone NAAQS to 0.075 parts per million. *See* 77 FR 16436. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2008 8-hour ozone NAAQS to EPA no later than March 2011.[1]

This action is proposing to approve North Carolina's infrastructure submission for the applicable requirements of the 2008 8-hour ozone NAAQS, with the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), and the state board requirements of 110(E)(ii). With respect to North Carolina's infrastructure SIP submission related to provisions pertaining to the PSD permitting requirements for major sources of sections 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II), and the state board requirements of 110(E)(ii), EPA is not proposing any action today regarding these requirements. EPA will act on these portions of North Carolina's submission in a separate action. For the aspects of North Carolina's submittal proposed for approval today, EPA notes that the Agency is not approving any specific rule, but rather proposing that North Carolina's already approved SIP meets certain CAA requirements.

II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with the 1997 8-hour ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. The requirements of section 110(a)(2) are summarized below and in EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' [2]

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources [3]
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution
- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers
- 110(a)(2)(H): SIP revisions
- 110(a)(2)(I): Plan Revisions for Nonattainment Areas [4]
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and PSD and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from North Carolina that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 8-hour ozone NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

[1] In these infrastructure SIP submissions states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Unless otherwise indicated, the Title 15A regulations (also referred to as rules) of the North Carolina Administrative Code (''15A NCAC'') cited throughout this rulemaking have been approved into North Carolina's federally-approved SIP. The North Carolina General Statutes (''NCGS'') cited throughout this rulemaking, however, are not approved into the North Carolina SIP unless otherwise indicated.

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[3] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[4] As mentioned above, this element is not relevant to this proposed rulemaking.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[5] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[6] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[7] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[8] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[9]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[10]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it

[5] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[6] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[7] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[8] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[9] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[10] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[11] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[12] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[13] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's implementation plan appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and NSR pollutants, including greenhouse gases. By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, among other things, the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor new source review program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such

[11] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[12] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[13] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the DC Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[14] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[15] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[16] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[17]

IV. What is EPA's Analysis of How North Carolina addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?

The North Carolina infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A) *Emission limits and other control measures:* There are several provisions within the North Carolina General Statutes (NCGS) and the North Carolina Administrative Code (NCAC) that provide NCDAQ with the necessary authority to adopt and enforce air quality controls, which include enforceable emission limitations and other control measures. NCGS 143–215.107(a)(5), ''Air quality standards and classifications,'' provides North Carolina with the authority to ''develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards.'' Rules 15A NCAC 2D .0600 ''Monitoring: Recordkeeping: Reporting,'' 15A NCAC 2D .1600 ''General Conformity,'' 15A NCAC 2D .2200 ''Special Orders,'' and, 15A NCAC 2D .2600 ''Source Testing,'' provide enforceable emission limits and other control measures, means, and techniques.[18] EPA has made the preliminary determination that the provisions contained in these statutes and regulations and North Carolina's practices are adequate to protect the 2008 8-hour ozone NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during SSM of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency plans to address such state regulations in a separate action.[19] In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove

[14] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[15] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[16] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[17] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

[18] State rules 15A NCAC 2D .1600 ''General Conformity,'' and 15A NCAC 2D .2200 ''Special Orders,'' are state-approved rules and not incorporated into the federally approved SIP.

[19] On February 22, 2013, EPA published a proposed action in the **Federal Register** entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction; Proposed Rule.'' *See* 78 FR 12459.

any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient air quality monitoring/data system:* SIPs are required to provide for the establishment and operation of ambient air quality monitors; the compilation and analysis of ambient air quality data; and the submission of these data to EPA upon request. NCGS 143–215.107(a)(2), ''Air quality standards and classifications,'' along with the North Carolina Annual Monitoring Network Plan, provide for an ambient air quality monitoring system in the State, which includes the monitoring of ozone at appropriate locations throughout the state using the EPA approved Federal Reference Method or equivalent monitors. NCGS 143–215.107(a)(2) also provides North Carolina with the statutory authority to ''determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.'' Annually, States develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[20] The latest monitoring network plan for North Carolina was submitted to EPA on July 2, 2013, and on November 25, 2013, EPA approved this plan. North Carolina's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0795. EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 2008 8-hour ozone NAAQS.

3. 110(a)(2)(C) *Program for enforcement of control measures including review of proposed new sources:* This element consists of three sub-elements; enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources; and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). To meet these obligations, North Carolina cited regulations 15A NCAC 2D. 0500 ''Emissions Control Standards;'' 2D. 0530 ''Prevention of Significant Deterioration;'' and, 2D. 0531 ''Sources in Nonattainment Area,'' each of which pertain to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable and 15A NCAC 2Q .0300 ''Construction Operation Permits,'' which pertains to the regulation of minor stationary sources. In this action, EPA is only proposing to approve North Carolina's infrastructure SIP submission for the 2008 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that provides for the enforcement of emission limits and control measures such as oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) and the regulation of minor sources and modifications to assist in the protection of air quality in nonattainment, attainment or unclassifiable areas.

Enforcement: NCDAQ's above-described, SIP-approved regulations provide for enforcement of ozone precursor (VOC and NO_X) emission limits and control measures and construction permitting for new or modified stationary sources.

Preconstruction PSD Permitting for Major Sources: With respect to North Carolina's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), EPA is not proposing any action today regarding these requirements and instead will act on this portion of the submission in a separate action.

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source program that regulates emissions of the 2008 8-hour ozone NAAQS. Regulation 15A NCAC 2Q .0300 ''Construction Operation Permits,'' governs the preconstruction permitting of modifications and construction of minor stationary sources.

EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for enforcement of control measures and regulation of minor sources and modifications related to the 2008 8-hour ozone NAAQS.

4. 110(a)(2)(D)(i)(I) and (II) *Interstate Pollution Transport:* Section 110(a)(2)(D)(i) has two components; 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4''). With respect to North Carolina's infrastructure SIP submissions related to the interstate transport requirements of section 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II) (prongs 1 through 4), EPA is not proposing any action today regarding these requirements and instead will act on these portions of the submissions in a separate action.

5. 110(a)(2)(D)(ii) *Interstate Pollution Abatement and International Air Pollution:* Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. 15A NCAC 2D .0530 ''Prevention of Significant Deterioration'' and 15A NCAC 2D .0531 ''Sources of Nonattainment Areas'' provide how NCDAQ will notify neighboring states of potential impacts from new or modified sources consistent with the requirements of 40 CFR 51.166. This regulation requires NCDAQ to provide an opportunity for a public hearing to the public, which includes State or local air pollution control agencies, ''whose lands may be affected by emissions from the source or modification'' in North Carolina. In addition, North Carolina does not have any pending obligation under sections 115 and 126 of the CAA.

[20] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

Accordingly, EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2008 8-hour ozone NAAQS.

6. 110(a)(2)(E) *Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies:* Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve North Carolina's SIP as meeting the requirements of sub-elements 110(a)(2)(E)(i) and (iii). EPA will act on sub-element (ii) in a separate action. EPA's rationale for this proposal respecting sub-elements (i) and (iii) is described in turn below.

To satisfy the requirements of sections 110(a)(2)(E)(i) and (iii), North Carolina's infrastructure SIP submission cites several regulations. Rule 15A NCAC 2Q. 0200 ''Permit Fees,'' provides the mechanism by which stationary sources that emit air pollutants pay a fee based on the quantity of emissions emitted. State statutes NCGS 143–215.3 ''General powers of Commission and Department: auxiliary powers,'' and NCGS 143–215.107(a)(1) ''Air quality standards and classifications'' provide NCDAQ with the statutory authority ''[t]o prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.'' As further evidence of the adequacy of NCDAQ's resources, EPA submitted a letter to North Carolina on February 28, 2014, outlining 105 grant commitments and the current status of these commitments for fiscal year 2013. The letter EPA submitted to North Carolina can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0795. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. North Carolina satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2013, therefore North Carolina's grants were finalized and closed out. Collectively, these rules and commitments provide evidence that NCDAQ has adequate personnel, funding, and legal authority to carry out the state's implementation plan and related issues. EPA has made the preliminary determination that North Carolina has adequate resources and authority to satisfy sections 110(a)(2)(E)(i) and (iii) of the 2008 8-hour ozone NAAQS.

With respect to North Carolina's infrastructure SIP submission related to the state board requirements of section 110(a)(2)(E)(ii), EPA is not proposing any action today regarding this requirement and will act on this portion of the submission in a separate action.

7. 110(a)(2)(F) *Stationary Source Monitoring and Reporting:* North Carolina's infrastructure SIP submission describes how the State establishes requirements for emissions compliance testing and utilizes emissions sampling and analysis. It further describes how the State ensures the quality of its data through observing emissions and monitoring operations. NCDAQ uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. North Carolina meets these requirements through 15A NCAC 2D .0604 ''Exceptions to Monitoring and Reporting Requirements,'' 15A NCAC 2D .0605 ''General Recordkeeping and Reporting Requirements,'' 15A NCAC 2D .0611 ''Monitoring Emissions from Other Sources,'' 15A NCAC 2D .0612 ''Alternative Monitoring and Reporting Procedures,'' 15A NCAC 2D .0613 ''Quality Assurance Program,'' and, 15A NCAC 2D .0614 ''Compliance Assurance Monitoring.'' In addition, Rule 15A NCAC 2D .0605(c) ''General Recordkeeping and Reporting Requirements,'' allows for the use of credible evidence in the event that the NCDAQ Director has evidence that a source is violating an emission standard or permit condition, the Director may require that the owner or operator of any source submit to the Director any information necessary to determine the compliance status of the source. In addition, EPA is unaware of any provision preventing the use of credible evidence in the North Carolina SIP.

Stationary sources are required to submit periodic emissions reports to the State by Rule 15A NCAC 2Q .0207 ''Annual Emissions Reporting.'' North Carolina is also required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data. *See* 73 FR 76539. The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and the precursors that form them—NO_x, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. North Carolina made its latest update to the 2011 NEI on June 3, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for the stationary source monitoring systems obligations for the 2008 8-hour ozone NAAQS.

8. 110(a)(2)(G) *Emergency powers:* This section requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. North Carolina's infrastructure SIP submission cites 15A NCAC 2D .0300 ''Air Pollution Emergencies'' as identifying air pollution emergency episodes and preplanned abatement strategies, and provides the means to implement emergency air pollution episode measures. If NC DENR finds that such a ''condition of . . . air pollution exists and that it creates an emergency requiring immediate action to protect the public health and safety or to protect fish and wildlife, the Secretary of the Department [NC DENR] with the concurrence of the Governor, shall order persons causing or contributing to the . . . air pollution in question to reduce or discontinue immediately the emission of air contaminants or the discharge of wastes. In addition, NCGS 143–215.3(a)(12) provides NC DENR with the authority to declare an emergency when it finds that a generalized condition of water or air pollution which is causing imminent

danger to the health or safety of the public. This statute also allows, in the absence of a generalized condition of air pollution, should the Secretary find ''that the emissions from one or more air contaminant sources . . . is causing imminent danger to human health and safety or to fish and wildlife, he may with the concurrence of the Governor order the person or persons responsible for the operation or operations in question to immediately reduce or discontinue the emissions of air contaminants . . . or to take such other measures as are, in his judgment, necessary.'' EPA also notes that NCDAQ maintains a Web site that provides the public with notice of the health hazards associated with ozone NAAQS exceedances, measures the public can take to help prevent such exceedances, and the ways in which the public can participate in the regulatory process. See *http://www.ncair.org/news/.* EPA has made the preliminary determination that North Carolina's SIP and practices are adequate to satisfy the emergency powers obligations of the 2008 8-hour ozone NAAQS.

9. 110(a)(2)(H) *SIP revisions:* NCDAQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in North Carolina. Statutes NCGS 143–215.107(a)(1) and (a)(10) grants NCDAQ the authority to implement the CAA, and as such, provide NCDAQ the authority to prepare and develop, after proper study, a comprehensive plan for the prevention of air pollution. These provisions also provide NCDAQ the ability and authority to respond to calls for SIP revisions, and North Carolina has provided a number of SIP revisions over the years for implementation of the NAAQS. Accordingly, EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2008 8-hour ozone NAAQS, when necessary.

10. 110(a)(2)(J) *Consultation with Government Officials, Public Notification, and PSD and Visibility Protection:* EPA is proposing to approve North Carolina's infrastructure SIP for the 2008 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that complies with the applicable consultation requirements of section 121, and the public notification requirements of section 127. With respect to North Carolina's infrastructure SIP submission related to the preconstruction PSD permitting, EPA is not proposing any action today regarding these requirements and instead will act on these portions of the submission in a separate action. EPA's rationale for its proposed action regarding applicable consultation requirements of section 121 and the public notification requirements of section 127 is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and federal land managers (FLMs) carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. 15A NCAC 2D.1600 ''General Conformity,'' 15A NCAC 2D .2000 ''Transportation Conformity,'' and 15A NCAC 2D .0531 ''Sources in Nonattainment Areas,'' along with the Regional Haze SIP Plan provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. These consultation procedures were developed in coordination with the transportation partners in the State and are consistent with the approaches used for development of mobile inventories for SIPs. Implementation of transportation conformity as outlined in the consultation procedures requires NCDAQ to consult with federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. The Regional Haze SIP provides for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate that the State meets applicable requirements related to consultation with government officials for the 2008 8-hour ozone NAAQS when necessary.

Public notification (127 public notification): Rule 15A NCAC 2D .0300 ''Air Pollution Emergencies'' provides North Carolina with the authority to declare an emergency and notify the public accordingly when it finds that a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. In addition, the North Carolina SIP process affords the public an opportunity to participate in regulatory and other efforts to improve air quality by holding public hearings for interested persons to appear and submit written or oral comments. Rule 15A NCAC 2D .0530 ''Prevention of Significant Deterioration,'' requires the owners and operators of major stationary sources and major modifications to apply for and receive, as appropriate, a permit as described in Rule 15A NCAC 02Q .0300. Rule 15A NCAC 02Q. 0306 provides for public notice for comments with an opportunity to request a public hearing on the draft permits required pursuant to Rule 15A NCAC 2D. 0530. EPA also notes that NCDAQ maintains a Web site that provides the public with notice of the health hazards associated with ozone NAAQS exceedances, measures the public can take to help prevent such exceedances, and the ways in which the public can participate in the regulatory process. See *http://www.ncair.org/news/.*

EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2008 8-hour ozone NAAQS when necessary.

Visibility protection: EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. NC DENR referenced its regional haze program as germane to the visibility component of section 110(a)(2)(J). EPA recognizes that states are subject to visibility protection and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. Thus, EPA has determined that states do not need to address the visibility component of 110(a)(2)(J) in infrastructure SIP submittals so NC DENR does not need to rely on its regional haze program to fulfill its obligations under section 110(a)(2)(J). As such, EPA has made the preliminary determination that the visibility protection element of section 110(a)(2)(J) does not need to be addressed in North Carolina's infrastructure SIP related to the 2008 8-hour ozone NAAQS.

11. 110(a)(2)(K) *Air Quality Modeling and Submission of Modeling Data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the USEPA can be made. 15A NCAC 2D .0530 ''Prevention of Significant Deterioration'' and 15A NCAC 2D .0531 ''Sources in Nonattainment Areas,'' require that air modeling be conducted in accordance with 40 CFR part 51, appendix W ''Guideline on Air Quality Models.'' These regulations demonstrate that North Carolina has the authority to

perform air quality modeling and to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 8-hour ozone NAAQS. Additionally, North Carolina supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2008 8-hour ozone NAAQS, for the Southeastern states. Taken as a whole, North Carolina's air quality regulations demonstrate that NCDAQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 8-hour ozone NAAQS. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2008 8-hour ozone NAAQS when necessary.

12. 110(a)(2)(L) *Permitting fees:* This element necessitates that the SIP require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

To satisfy these requirements, North Carolina's infrastructure SIP submission cites NCGS 143–215.3 ''General powers of Commission and Department; auxiliary Powers,'' which directs NCDAQ to require a processing fee in an amount sufficient for the reasonable cost of reviewing and acting upon PSD and NNSR permits. Regulation 15A NCAC 2Q .0200 ''Permit Fees,'' implements this directive and requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a sufficient fee to cover the costs of the permitting program. Additionally, North Carolina has a fully approved title V operating permit program that covers the cost of implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that North Carolina's practices adequately provide for permitting fees related to the 2008 8-hour ozone NAAQS, when necessary.

13. 110(a)(2)(M) *Consultation and Participation by Affected Local Entities:* This element requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. North Carolina 15A NCAC 2D .0530 ''Prevention of Significant Deterioration,'' and NCGS 150B–21.1 and –21.2 authorize and require NCDAQ to advise, consult, cooperate and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the Department. Furthermore, NCDAQ has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the developing of its Transportation Conformity SIP, Regional Haze Implementation Plan, and the 8-Hour Ozone Attainment Demonstration for the North Carolina portion of the Charlotte-Gastonia-Rock Hill NC-SC nonattainment area. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate consultation with affected local entities related to the 2008 8-hour ozone NAAQS, when necessary.

V. Proposed Action

With the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), and the state board requirements of section 110(a)(E)(ii), EPA is proposing to approve that NCDAQ's infrastructure SIP submissions, submitted November 2, 2012, for the 2008 8-hour ozone NAAQS have met the above described infrastructure SIP requirements. EPA is proposing to approve these portions of North Carolina's infrastructure SIP submission for the 2008 8-hour ozone NAAQS because these aspects of the submission are consistent with section 110 of the CAA. EPA will address those portions of North Carolina's infrastructure SIP submission not acted upon through this notice in a separate action.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 proposed 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 proposed 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 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, the North Carolina SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 20, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–05647 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 80, No. 49
Friday, March 13, 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

Forest Service

Tongass Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tongass Advisory Committee (Committee) will meet in Juneau, Alaska. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 2). Committee recommendations and advice may directly inform the development of a proposed action for modification of the 2008 Tongass Land Management Plan. The meeting is open to the public. Additional information concerning the Committee, including the meeting summary/minutes, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/R10/Tongass/TAC.*

DATES: The meeting will be held on:

- Wednesday, March 25, 2015 from 8:30 a.m. to 5:00 p.m. (AKDT).
- Thursday, March 26, 2015 from 8:30 a.m. to 5:00 p.m. (AKDT).
- Friday, March 27, 2015 from 8:30 a.m. to 12:30 p.m. (AKDT).

All meetings are subject to change and cancellation. For updated status of the meetings prior to attendance, please visit the Web site listed in the **SUMMARY** section, or contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held in the Assembly Chambers in the Juneau Municipal Building, 155 S. Seward Street, Juneau, Alaska 99801. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Tongass National Forest Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Marina Whitacre, Committee Coordinator, by phone at 907–772–5934, or by email at *mwhitacre@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Continue discussions about Plan Amendment recommendations;

2. Continue discussions about implementation, investments, and monitoring/accountability;

3. Review status of Forest Service effects analyses on Plan components; and

4. Finalize plans for subsequent TAC meeting(s).

There will be time allotted on the agenda for oral public comment. Those interested can register at the meeting. In addition, written statements may be filed with the Committee's staff before or after the meeting. Written comments may also be submitted by mail to Jason Anderson, Designated Federal Officer, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833; or email to *jasonanderson@fs.fed.us,* or facsimile to 907–772–5895. Summary/minutes of the meeting will be posted on the Web site listed above within 45 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: March 4, 2015.

Jason Anderson,

Deputy Forest Supervisor, Tongass National Forest.

[FR Doc. 2015–05773 Filed 3–12–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 9, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 13, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: Patent License Application.

OMB Control Number: 0518–0003.

Summary of Collection: Public Law 96–517, HR 209 (Technology Transfer Commercialization Act of 2000), and 37 CFR part 404 requires Federal agencies to use the patent system to promote the utilization of inventions arising from federally supported research and provide the authority to grant patent licenses. 37 CFR 404.8 specifies the information which must be submitted by a patent license applicant to the Federal agency having custody of a patent.

Need and Use of the Information: The Agricultural Research Service (ARS) will collect identifying information on the applicant, identifying information for the business, and a detailed description for development and/or marketing of the invention using form AD–761. The information collected is used to determine whether the applicant has both a complete and sufficient plan for developing and marketing the invention and the necessary manufacturing, marketing, technical, and financial resources to carry out the submitted plan.

Description of Respondents: Business or other for profit; not-for-profit institutions; individuals or households.

Number of Respondents: 75.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 225.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–05728 Filed 3–12–15; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0007]

Notice of Availability of a Treatment Evaluation Document; Methyl Bromide Fumigation of Figs

Correction

In Notice Document 2015–04172, appearing on pages 10661–10662, in the Issue of Friday, February 27, 2015, make the following corrections:

1. On page 10661, in the third column, in the paragraph beginning with ''DATES:'', ''May 28, 2015'' should read ''April 28, 2015''.

2. On page 10662, in the first column, in the forty-second line, ''1.5 lb □ 4.0 lb'' should read ''1.5 lb—4.0 lb''.

3. On page 10662, in the second column, in the thirteenth line and in the twenty-first line from the bottom of the page, ''T101–i–2–22'' is corrected to read ''T101–i–2–2''.

[FR Doc. C1–2015–04172 Filed 3–12–15; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 9, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Marking, Labeling, and Packaging of Meat, Poultry, and Egg Products.

OMB Control Number: 0583–0092.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 seq.), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statues mandate that FSIS protect the public by ensuring that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

Need and Use of the Information: FSIS will collect information to ensure that meat, poultry, and egg products are accurately labeled. To control the manufacture of marking devices bearing official marks, FSIS requires that official meat and poultry establishments and the manufacturers of such marking devices complete FSIS form 5200–7, Authorization Certificate and FSIS form 7234–1, Application for Approval of Labels, Marking or Device and FSIS Form 8822–4 Request for Label Reconsideration. If the information is not collected it would reduce the effectiveness of the meat, poultry, and egg products inspection program.

Description of Respondents: Business or other for-profit.

Number of Respondents: 7,536.

Frequency of Responses: Recordkeeping; reporting: on occasion.

Total Burden Hours: 128,267.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–05727 Filed 3–12–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra National Forest; California; Exchequer Restoration Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The United States Forest Service (USFS), Sierra National Forest, proposes to approve the Notice of Intent (NOI) and Proposed Action (PA) with appropriate mitigation measures to reduce resource impacts. This NOI is to reduce hazardous fuels and restore ecological components within the Exchequer Management Unit Group (MUG), McKinley Grove (MUG), and a managed-fire area.

DATES: Comments concerning the scope of the analysis must be received by April 13, 2015. The draft environmental impact statement is expected October

2015 and the final environmental impact statement is expected February 2016.

ADDRESSES: Send written comments to 29688 Auberry Road, Prather, CA 93651. Comments may also be sent via email to *comments-pacificsouthwest-sierra@fs.fed.us,* or via facsimile to 559–855–5375.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

FOR FURTHER INFORMATION CONTACT: Jody Nickerson, 559–297–0706 extension 4943 or *jnickerson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The project is located in Fresno County, CA in T. 9 S., R. 25 E. Sections 32–34; T. 9 S., R. 26 E. Sections 31 and 34–36; T. 10 S., R. 25 E. Sections 3–4; 9–10; 15–16, 22, 27–29 and 34; T. 10 S. R. 26 E. Sections 1–3; 10–16; 21–24; 25–29; 34–36; T. 10 S., R. 27 E. Sections 5–8; 18–20; T. 11 S., R. 26 E. Section 1; and T. 11 S., R. 27 E. Section 6, MDBM. The project proposes to reduce hazardous fuels and restore ecological components, with a focus on the California spotted owl within the project area based on a landscape assessment conducted by the Landscape Planning Work Group (LPWG) of the Dinkey Collaborative. The landscape assessment was completed for the Dinkey Landscape Restoration Project (DLRP) area in which the Exchequer MUG was rated as the highest priority area to treat at this time.

Purpose and Need for Action

The purpose of the project is to improve and maintain key California spotted owl habitat structures, reduce fire risk to communities and fire fighters, restore forest health to a more natural condition characteristic of frequent-fire forests and the Sierra National Forest Land and Resource Management Plan (LRMP), and to meet the interests expressed by the Dinkey Collaborative. In the project area, there is a need to protect from wildfire and enhance nesting and foraging structures for California spotted owl and fisher; to restore a vigorous, diverse forest ecosystem resilient to the effects of wildfire, insect and disease, air pollution, and climate change; to protect adjacent landowners and private property from the effects of wildfire; to incorporate potential ecological benefits into the fire management decision making process; to improve watershed resilience and function and improve aquatic habitat for sensitive species; to restore and enhance meadow habitat and aspen communities; and to reduce the spread of noxious weeds and to protect sensitive botanical species.

Proposed Action

The USFS, Sierra National Forest is proposing to apply restoration treatments to Exchequer MUG including vegetation treatments (mechanical commercial thinning, ladder fuels), plantation treatments (reforestation, site preparation, herbicide use), treatment of watershed improvement needs, meadow and aspen restoration, fuels reduction (strategic roads treatments, prescribed fire, mastication, dozer piling), and hazard tree removal. The project proposes to apply prescribed fire to the McKinley Grove MUG for beneficial ecological purposes. A project-specific land management plan is being proposed in the eastern portion of the project area to use managed wildfire outside of a designated wilderness boundary. Actions area designed to move current conditions of the project area closer to reference conditions. Design criteria would be incorporated into the project design and would incorporate all applicable LRMP (and amendments) Standards and Guidelines, Best Management Practices, and Conservation Measures and Terms and Conditions from appropriate Biological Opinions relating to the project.

Responsible Official

Sierra National Forest Supervisor, Dean A. Gould

Nature of Decision To Be Made

The decision to be made is whether or not to approve the proposed action or any additional alternatives analyzed for the Exchequer Project area.

Preliminary Issues

Preliminary issues include impacts to California spotted owl, Pacific fisher, Sierra Nevada yellow-legged frog, and Yosemite toad and their habitats and impacts from hazardous fuels and risk of uncharacteristic wildfire.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Tribal consultation will be initiated simultaneously. Collaboration with the Dinkey Collaborative has been an ongoing process in the planning of the project.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Dated: March 5, 2015.

Steven Ostoja,

Acting Forest Supervisor.

[FR Doc. 2015–05740 Filed 3–12–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meeting Notice of the Agricultural Research Service—Animal Handling and Welfare Review Panel

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with 7 U.S.C. 3124a, *Federal-State Partnership and Coordination,* the United States Department of Agriculture (USDA) announces an open meeting of the Agricultural Research Service—Animal Handling and Welfare Review Panel (ARS–AHWR) to discuss their report and recommendations on the U.S. Meat Animal Research Center.

DATES: The ARS–AHWR will meet virtually on March 18, 2015, at 1 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will take place virtually at the AT&T Meeting Room below. Please follow the pre-registration instructions to ensure your participation in the meeting.

Call-In instructions for Wednesday, March 18, 2015 at 1:00 p.m. Eastern Daylight Time:

Web Preregistration: Participants may preregister for this teleconference at *http://emsp.intellor.com?p=419075&do=register&t=8.* Once the participant registers, a confirmation page will display dial-in numbers and a unique PIN, and the participant will also

receive an email confirmation of this information.

You may submit written comments to: REE Advisory Board Office, Jamie L. Whitten Building, Room 332A, 1400 Independence Avenue SW., Washington, DC 20250, or via email at *ahwrpanel@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Michele Esch, Executive Director, REE Advisory Board Office, US Department of Agriculture; telephone: (202) 720–3684; fax: (202) 720–6199; or email: *ahwrpanel@usda.gov.*

SUPPLEMENTARY INFORMATION: On Wednesday, March 18, 2015, at 1:00 p.m. Eastern Daylight Time a virtual meeting will be conducted for any interested stakeholders and/or interested parties, to hear the summary of findings and recommendations on the review of the animal handling, care, and welfare at the U.S. Meat Animal Research Center. The Review Panel plans to hear stakeholder input received from this meeting as well as other written comments. The report will be available at *www.ree.usda.gov* on March 9, 2015.

This meeting is open to the public and any interested individuals wishing to attend.

Opportunity for verbal public comment will be offered on the day of the meeting. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to the day of the meeting (by close of business Wednesday, March 18, 2015). All statements will become a part of the official record of the REE Mission Area and will be kept on file for public review in the REE Advisory Board Office.

Done at Washington, DC this 10th day of March 2015.

Catherine E. Woteki,

Under Secretary, REE, Chief Scientist, USDA.

[FR Doc. 2015–05790 Filed 3–12–15; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board (SAB)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Open Meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Date: The meeting will be held Thursday April 16, 2015 from 9:45 a.m. to 5:45 p.m. EST and on Friday April 17, 2015 from 8:15 a.m. to 1:00 p.m. EST. These times and the agenda topics described below are subject to change. Please refer to the Web page *http://www.sab.noaa.gov/Meetings/meetings.html* for the most up-to-date meeting times and agenda.

Place: The meeting will be held at the Marriott Wardman Park Hotel, 2660 Woodley Rd. NW., Washington, DC 20008. Please check the SAB Web site *http://www.sab.noaa.gov/Meetings/meetings.html* for directions to the meeting location.

Status: The meeting will be open to public participation with a 15-minute public comment period on April 16 5:30–5:45 p.m. EST (check Web site to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of two (2) minutes. Individuals or groups planning to make a verbal presentation should contact the SAB Executive Director by April 9, 2015, to schedule their presentation. Written comments should be received in the SAB Executive Director's Office by April 9, 2015, to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after April 9, 2015, will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seating at the meeting will be available on a first-come, first-served basis.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12:00 p.m. on April 9, 2015, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Email: *Cynthia.Decker@noaa.gov.*

Matters To Be Considered: The meeting will include the following topics: (1) Report from the Data Archive and Access Requirements Working Group on GOES–R Level 0 Data; (2) NOAA Response to the SAB Coastal Habitat Restoration Report; (3) SAB Strategy Discussion; (4) Updates from the NOAA Administrator and Chief Scientist; and (5) Working Group Updates.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459). Email: *Cynthia.Decker@noaa.gov;* or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

Dated: March 6, 2015.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–05730 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

National Telecommunications and Information Administration

[Docket No.: PTO–C–2015–0016]

Public Meeting on Facilitating the Development of the Online Licensing Environment for Copyrighted Works

AGENCY: Office of the Secretary, U.S. Department of Commerce; United States Patent and Trademark Office, U.S. Department of Commerce; National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Department of Commerce's Internet Policy Task Force (Task Force) Green Paper on *Copyright Policy, Creativity, and Innovation in the Digital Economy*, released on July 31, 2013, the Task Force has sought and received comments from the public about how the Federal Government (Government) can facilitate the further development of a robust online licensing environment. The Task Force heard a range of stakeholder views at an initial public meeting in December 2013. The Task Force will hold another public meeting on April 1, 2015, to explore this issue further, focusing specifically on how the Government can assist in facilitating the development and use of standard identifiers for all types of works of authorship,

interoperability among databases and systems used to identify owners of rights and terms of use, and a possible portal for linking to such databases and to licensing platforms (similar in its goals to what has been established in the United Kingdom).

DATES: The public meeting will be held on April 1, 2015, from 9:00 a.m. to 4:00 p.m., Eastern Time. Registration will begin at 8:30 a.m.

ADDRESSES: The public meeting will be held at the United States Patent and Trademark Office in the Singapore and Venice Rooms of the Global Intellectual Property Academy on the second floor of the Madison Building, which is located at 600 Dulany Street, Alexandria, VA 22314. All major entrances to the building are accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meeting, contact Hollis Robinson or Ann Chaitovitz, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–9300; email *EfficientOnlineMarketplace@USPTO.gov*. Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272–8400.

SUPPLEMENTARY INFORMATION:

Background

A. Ongoing Government Initiatives

The Department of Commerce's Internet Policy Task Force (Task Force) released *Copyright Policy, Creativity, and Innovation in the Digital Economy* on July 31, 2013 (Green Paper).[1] The Green Paper was the product of extensive public consultation led by the United States Patent and Trademark Office (USPTO) and the National Telecommunications and Information Administration (NTIA). It provided a comprehensive review of the current policy landscape related to copyright and the Internet, and identified important issues that called for attention and possible solutions.

In October 2013, the USPTO and NTIA published a request for public comments relating to three areas of work flowing out of the Green Paper, including whether and how the Government can facilitate the further development of a robust online licensing environment.[2] The request for comments noted that building the online marketplace is fundamentally a function of the private sector, and described how that process has been progressing. It also concluded that there remains a need for more comprehensive and reliable ownership data, interoperable standards enabling communication among databases, and more streamlined licensing mechanisms. As described in the Green Paper, while much progress has been made in the licensing of creative content for online uses, the pace of development has varied from sector to sector, and we are still far from a world in which individuals, business entities and other organizations wishing to license rights to use works online can always easily locate the owners of rights in specific works or large repertoires of works and obtain licenses to engage in the desired activities. This is especially true with respect to high-volume, low-value transactions and uses.

The Task Force therefore posited that there could be an appropriate and useful role for Government in facilitating the process, whether by removing obstacles or taking steps to encourage faster and more collaborative action. It posed a number of questions regarding access to and standardization of rights ownership information, facilitating the effectiveness of the online marketplace, and the role of the Government in such matters. The request for comments also raised the possibility of pursuing the concept of a digital copyright hub similar to that being constructed in the United Kingdom.[3]

At the December 2013 public meeting, two panels addressed issues related to this topic, one discussing access to rights information and one discussing online licensing transactions. An archive of the webcast of the public meeting is available at *http://new.livestream.com/uspto/copyright*. A transcript of the public meeting is available at *http://www.uspto.gov/ip/global/copyrights/121213-USPTO-Green_Paper_Hearing-Transcript.pdf*. Copies of the comments received are available at *http://www.uspto.gov/ip/global/copyrights/green_paper_public_comments.jsp*.

The Copyright Office is also engaged in a number of activities to improve its own public databases of rights information as well as connecting them to those maintained by the private sector. In March 2013, the Copyright Office solicited public comments regarding possible improvements to its registration and recordation functions. It focused on making the registration process more user-friendly, making access to public registration records more robust and versatile, ensuring that the information in those records is accurate and up-to-date, using proper data and metadata standards and integrating with third party databases.[4] The Technical Upgrades Special Project Team delivered a report to the Register on February 18, 2015, suggesting technical upgrades necessary to enable, among other things, improved searchability, collection of appropriate data including identifiers, integration with third party databases, and the development of a data repository.[5]

The Copyright Office has also solicited public comments and held public meetings regarding strategies for the electronic recordation of documents relating to transfers of copyright ownership, including the use of standard identifiers and other metadata standards.[6] In a December 2014 report, Robert Brauneis, the Kaminstein Scholar in Residence, made a number of recommendations, including accommodating standard identifiers in registration and recordation documents to enable interoperability with other databases and developing an application programming interface (API) allowing third parties to develop software to retrieve data from Copyright Office records.[7] In February 2015, the

[1] The Green Paper is available at *http://www.uspto.gov/news/publications/copyrightgreenpaper.pdf*.

[2] The other two areas involved (1) policy issues relating to the legal framework for the creation of remixes; the relevance and scope of the first sale doctrine in the digital environment; the appropriate calibration of statutory damages in the contexts of individual file sharers and of secondary liability for large-scale infringement, and (2) the establishment of a multistakeholder dialogue on improving the operation of the notice and takedown system for removing infringing content from the Internet under the Digital Millennium Copyright Act (DMCA). Request for Comments on Department of Commerce Green Paper, Copyright Policy, Creativity, and Innovation in the Digital Economy, 78 FR 61337 (Oct. 3, 2013). Those topics have been the subjects of a number of roundtables and meetings since October 2013. See *http://www.uspto.gov/ip/global/copyrights/*.

[3] The Copyright Hub homepage is available at *http://www.copyrighthub.co.uk/*.

[4] See U.S. Copyright Office, *Technological Upgrades to Registration and Recordation Functions*, 78 FR 17722 (Mar. 22, 2013), *http://www.copyright.gov/fedreg/2013/78fr17722.pdf*.

[5] See U.S. Copyright Office, *Report and Recommendations of the Technical Upgrades Special Projects Team* (Feb. 2015), *http://www.copyright.gov/docs/technical_upgrades/usco-technicalupgrades.pdf*.

[6] U.S. Copyright Office, *Strategic Plan for Recordation of Documents*, 79 FR 2696 (Jan. 15, 2014), *http://copyright.gov/fedreg/2014/79fr2696.pdf*.

[7] Robert Brauneis, Abraham L. Kaminstein Scholar in Residence, U.S. Copyright Office, *Transforming Document Recordation at the United States Copyright Office* (Dec. 2014), *http://copyright.gov/docs/recordation/recordation-report.pdf*.

Copyright Office issued a Report on Copyright and the Music Marketplace, which examined the current systems for licensing of musical works and sound recordings in the United States and made a number of recommendations for updating and improving those systems.[8] Among these recommendations was one that would involve the use of standard identifiers for music: The creation of a ''general'' music rights organization (GMRO), a non-profit entity designated and regulated by the government, to supplement the activities of music rights organizations (MROs) with regard to licensing musical works. The proposed GMRO would maintain a publicly accessible database of musical works represented by each MRO and by the publishers who directly license interactive performances/downloads, as well as of sound recording data. The proposed GMRO would use standard identifiers, and would actively gather missing data, correct flawed or conflicting data, handle competing ownership claims and develop additional data to match sound recordings with musical works. It would serve as the default licensing and collection agent for musical works (or shares of works) that licensees were unable to associate with an MRO or a direct licensing publisher. The Copyright Office also raised the possibility that its copyright registration database could be modified to incorporate standard identifiers, and stated the belief that the best strategy to address data issues would be to strongly incentivize the universal adoption and dissemination of several data standards.

The Task Force is interested in examining these recommendations as a potential solution to at least some of the licensing problems that have been identified in the music sector. We will also consider alternative proposals, as well as looking at the use of standard identifiers in other creative sectors and identifier schema to enable interoperability among them.[9] Finally, we will look at the desirability and feasibility of U.S. stakeholders establishing or participating in a copyright hub that would include all types of works and facilitate multi-media licensing.

Possible roles for the Government, apart from the Copyright Office's initiatives described above, include promoting greater use of standard identifiers in all sectors as well as interoperability among standards and databases; encouraging the creation of a standardized framework for APIs that could facilitate automatic access to information; working with other countries to prioritize the use of identifiers or standards; participating in the development of international licensing projects; facilitating the creation of or participation in a ''copyright hub;'' and convening stakeholders to take forward any related initiatives.

The April 1 public meeting will delve into specific aspects of these issues, building on the earlier questions, the public submissions, and the December 2013 discussion. Ultimately, the information obtained through this public process will be used to inform the Administration's views and recommendations.

B. Questions for This Public Meeting

We plan to discuss whether the enhanced use and interoperability of standard identifiers across different sectors and geographical borders can help the continued development of online markets, whether the United States should develop or participate in an online licensing platform such as the U.K.'s Copyright Hub, and what the role of the Government should be in furthering any of these efforts.

1. Standard Identifiers

The questions we hope to examine at the meeting include:

- Would greater use of standard identifiers help streamline licensing and facilitate the continued growth of an online marketplace?
- What conditions would likely lead to such greater use in each creative sector? How can the use of identifiers best be encouraged?
- To what extent does every type of work have one or more identifiers, and how and when are they used today?
- Are there ways in which identifiers should be used in order to maximize their usefulness? For example, should they contain or be linked to the relevant licensing information (*e.g.*, ownership information, licensing terms)?
- Would it be advisable to combine separate public or private databases, for either the same or different types of works, into a comprehensive database or repository, or to link them through a hub? If so, how should this be accomplished and by whom?
- Is there a need to make the identifier schema interoperable?
- How can interoperability be ensured across sectors, and across geographical borders?
- Can a standards-based approach facilitate API development to enable seamless data exchange between databases containing unique identifier data? In the field of music, would the creation of a GMRO as proposed by the Copyright Office be sufficient to resolve the issues identified in the Green Paper with respect to access to comprehensive, standardized and interoperable rights ownership information? If not, why not?
- What other options would be possible and desirable, either with or without the need for legislation? Would they require government regulation or oversight?

2. Copyright Hub

In the Green Paper, the Task Force discussed the U.K.'s Copyright Hub, a portal established and operated by industry to make licensing easier, especially for low-value, high-volume requests, by linking to a network of private and public copyright exchanges, rights registries and other copyright-related databases, with the government playing a facilitating and advisory role.[10]

As it has evolved, the Copyright Hub is run by a non-profit company funded by the creative industries, with its technical development designed by the Connected Digital Economy Catapult, funded by the U.K. Government.[11] The public meeting will include representatives from the Copyright Hub, who will describe its status and operations. The discussion will explore whether a similar project would be desirable in the United States, or whether the U.K. Copyright Hub should or could be extended to further incorporate U.S. works and licensing information, and if so, whether and how the Government should be involved.

Public Meeting

On April 1, 2015, the Task Force will hold a public meeting to hear stakeholder views on these topics. We look forward to hearing from all interested stakeholders, including

[8] U.S. Copyright Office, *Copyright and the Music Marketplace* (Feb. 2015), *http://copyright.gov/docs/musiclicensingstudy/copyright-and-the-music-marketplace.pdf.*

[9] These unique identifiers (hereafter referred to as standard identifiers or identifiers) include International Standard Audiovisual Number (ISAN), International Standard Book Number (ISBN), International Standard Music Number (ISMN), International Standard Name Identifier (ISNI), International Standard Recording Code (ISRC), International Standard Serial Number (ISSN), and International Standard Work Code (ISWC), Digital Object Identifier (DOI), Interested Parties Information (IPI), International Standard Text Code (ISTC), Open Researcher and Contributor ID (ORCID) and Entertainment Identifier Registry (EIDR).

[10] Richard Hooper and Ros Lynch, *Copyright works: Streamlining copyright licensing for the digital age* (July 2012), par. 7, *http://www.copyrighthub.co.uk/Documents/dce-report-phase2.aspx.*

[11] More information about the Copyright Hub is available at *http://www.copyrighthub.co.uk/about.*

creators, right holders, businesses that use copyrighted works, Internet intermediaries, and consumer and public interest groups. A draft agenda will be posted one week before the meeting.

The meeting will be webcast. The agenda and webcast information will be available on the Internet Policy Task Force Web site, *http://www.ntia.doc.gov/internetpolicytaskforce*, and the USPTO's Web site, *http://www.uspto.gov*.

The meeting will be open to members of the public to attend, space permitting, on a first-come, first-served basis. Pre-registration for the meeting is available at the ''Register'' tab at: *http://events.SignUp4.com/EfficientOnlineMarketplace*. The meeting will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation, real-time captioning of the webcast or other ancillary aids, should communicate their needs to Hollis Robinson or Ann Chaitovitz, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–9300; email *EfficientOnlineMarketplace@USPTO.gov* at least seven (7) business days prior to the meeting. Attendees should arrive at least one-half hour prior to the start of the meeting, and must present a valid government-issued photo identification upon arrival. Persons who have pre-registered (and received confirmation) will have seating held until 15 minutes before the program begins. Members of the public will have an opportunity to make comments at the meeting.

Dated: March 9, 2015.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2015–05765 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Initiation of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received information sufficient to warrant initiation of a changed circumstances review (''CCR'') of the antidumping duty order on multilayered wood flooring from the People's Republic of China (''PRC''). Based upon a request filed by Sino-Maple (JiangSu) Co., Ltd. (''Sino-Maple''), an exporter of multilayered wood flooring to the United States, the Department is initiating a CCR to determine whether Sino-Maple is the successor-in-interest to Jiafeng Wood (Suzhou) Co., Ltd. (''Jiafeng'') for purposes of the antidumping duty order on multilayered wood flooring from PRC and, as such, is entitled to Jiafeng's cash deposit rate with respect to entries of subject merchandise.

DATES: Effective Date: *March 13, 2015.*

FOR FURTHER INFORMATION CONTACT: James Martinelli or Charles Riggle, 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) 482–2923 or (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 2014, Sino-Maple requested that the Department initiate an expedited CCR to confirm that Sino-Maple is the successor-in-interest to Jiafeng for purposes of determining antidumping duty liabilities.[1] On January 16, 2015, Sino-Maple responded to the supplemental questionnaire issued by the Department on January 9, 2015.[2] On February 4, 2015, the Department extended the time period for determining whether to initiate a CCR by 30 days, until March 8, 2015.[3] On February 10, 2015, Sino-Maple responded to the Department's second supplemental questionnaire, which was issued on February 4, 2015.[4] We received no comments opposing Sino-Maple's request.

Scope of the Order

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.,* ''engineered wood flooring'' or ''plywood flooring.'' Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.,* without a finally finished surface to protect the face veneer from wear and tear) or ''prefinished'' (*i.e.,* a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or

[1] *See* Letter from Sino-Maple to the Department regarding, ''Multilayered Wood Flooring from the PRC: Request of Sino-Maple (Jiangsu) Co., Ltd. and Jiafeng Wood (Suzhou) Co., Ltd. for Changed Circumstances Review'' (December 23, 2014) (''CCR Request'').

[2] *See* Letter from Sino-Maple to the Department, regarding ''Multilayered Wood Flooring from the PRC: Response of Sino-Maple (Jiangsu) Co., Ltd. and Jiafeng Wood (Suzhou) Co., Ltd. to Supplemental Changed Circumstances Review Questionnaire'' (January 16, 2015).

[3] *See* Letter from the Department to Sino-Maple ''Multilayered Wood Flooring from the People's Republic of China: Request for a Changed Circumstances Review'' (February 4, 2015).

[4] *See* Letter from Sino-Maple to the Department ''Multilayered Wood Flooring from the PRC: Response of Sino-Maple (Jiangsu) Co., Ltd. and Jiafeng Wood (Suzhou) Co., Ltd. to Second Supplemental Changed Circumstances Review Questionnaire'' (February 10, 2015) (''Second Supplemental Response'').

connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (''HDF''), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.,* circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (''HTSUS''): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.216(d), the Department will conduct a CCR upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. The information submitted by Sino-Maple claiming that Sino-Maple is the successor-in-interest to Jiafeng demonstrates changed circumstances sufficient to warrant a review.[5] Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department is initiating a CCR to determine whether Sino-Maple is the successor-in-interest to Jiafeng.

In determining whether one company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base.[6] While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.[7] Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.[8]

Based on the information provided in its CCR Request and responses to questionnaires issued by the Department, Sino-Maple has provided sufficient evidence to warrant a review to determine if Sino-Maple is the successor-in-interest to Jiafeng for purposes of the antidumping duty order on multilayered wood flooring from the PRC. However, the Department finds it necessary to issue further questionnaires requesting additional information for this review, as provided for by 19 CFR 351.221(b)(2). For this reason, the Department is not conducting this review on an expedited basis by publishing preliminary results in conjunction with this notice of initiation.

Specifically, the Department intends to issue further questionnaires to Sino-Maple regarding the legal status of its purported predecessor company, Jiafeng. Based on the information provided by Sino-Maple, Jiafeng began a mandatory 180-day liquidation period on December 29, 2014, during which its business license and registration number are suspended.[9] Upon completion of the mandatory 180-day liquidation period, according to Sino-Maple the liquidation of Jiafeng will be complete and the company will be terminated.[10] At that time, the Department intends to issue a supplemental questionnaire requesting that Sino-Maple submit evidence that Jiafeng's liquidation is complete and that Jiafeng has been terminated.

Therefore, the Department will not publish the preliminary results of this review until after Jiafeng has completed the mandatory 180-day liquidation period. The Department will publish in the **Federal Register** a notice of preliminary results of the CCR in accordance with 19 CFR 351.221(b)(4) and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed.

Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In

[5] *See* 19 CFR 351.216(d).

[6] *See, e.g., Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China,* 79 FR 48117, 48118 (August 15, 2014), unchanged in *Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review,* 79 FR 58740 (September 30, 2014).

[7] *Id.*

[8] *See Notice of Final Results of Changed Circumstances Review: Polychloroprene Rubber from Japan,* 69 FR 67890 (November 22, 2004) citing, *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Duty Administrative Review,* 57 FR 20460 (May 13, 1992); and, *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review,* 70 FR 17063 (April 4, 2005).

[9] *See* Second Supplemental Response, at 1, 3.

[10] *Id.* at 1.

accordance with 19 CFR 351.216(e), the Department intends to issue the final results of its antidumping duty CCR not later than 270 days after the date on which the review was initiated.

This notice is published in accordance with sections 751(b)(l) and 777(i)(l) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: March 9, 2015.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–05830 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Proposed Collection; Comment Request; ''Third-Party Submissions and Protests''

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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 must be submitted on or before May 12, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0062 Third-Party Submissions and Protests'' 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.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *Raul.Tamayo@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 *et seq.* to examine an application for patent and, when appropriate, issue a patent. The provisions of 35 U.S.C. 122(c), 122(e), 131, and 151, as well as 37 CFR 1.290 and 1.291, limit the ability of a third party to have information entered and considered in, or to protest, a patent application pending before the Office.

37 CFR 1.290 provides a mechanism for third parties to submit to the USPTO, for consideration and inclusion in the record of a patent application, any patents, published patent applications, or other printed publications of potential relevance to the examination of the application.

A preissuance submission under 37 CFR 1.290 may be made in any non-provisional utility, design, and plant application, as well as in any continuing application. A preissuance submission under 37 CFR 1.290 must include a concise description of the asserted relevance of each document submitted, and must be submitted within a certain statutorily specified time period.

37 CFR 1.291 permits a member of the public to file a protest against a pending application. Protests pursuant to 37 CFR 1.291 are supported by a separate statutory provision from third-party submissions under 37 CFR 1.290 (35 U.S.C. 122(c) v. 35 U.S.C. 122(e)). As a result, there are several differences between protests and third-party submissions.

For example, 37 CFR 1.291 permits the submission of information that is not permitted in a third-party submission under 37 CFR 1.290. Specifically, 37 CFR 1.291 provides for the submission of information other than publications, including any facts or information adverse to patentability, and arguments to that effect. Further, 37 CFR 1.291 requires a protest to include a concise explanation of the relevance of each item of information submitted. Unlike the concise description of relevance required for a preissuance submission under 37 CFR 1.290, which is limited to a description of a document's relevance, the concise explanation for a protest under 37 CFR 1.291 allows for arguments against patentability. Additionally, the specified time period for submitting a protest differs from the time period for submitting third-party submissions, and is impacted by whether the protest is accompanied by the written consent of the applicant.

This information collection (the information collected via third-party submissions under 37 CFR 1.290 and protests under 37 CFR 1.291) is necessary so that the public may contribute to the quality of issued patents. The USPTO will use this information, as appropriate, during the patent examination process to assist in evaluating the patent application.

II. Method of Collection

Electronically when using the USPTO online filing system EFS-Web, or by mail or hand delivery.

III. Data

OMB Number: 0651–0062.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

TABLE 1—INFORMATION COLLECTION INSTRUMENTS AND FORMS

IC No.	Information collection instrument	Form number
1	Third-Party Submissions in Nonissued Application; electronic.	• No Form Associated.
2	Third-Party Submissions in Nonissued Application; paper.	• PTO/SB/429.
3	Protests by the Public Against Pending Applications Under 37 CFR 1.291; paper.	• No Form Associated.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 1,560 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 10 hours to gather the necessary information, prepare the appropriate form or other documents, and submit the information to the USPTO.

Estimated Total Annual Hour Burden: 15,600 hours.

Estimated Total Annual Cost Burden (Hourly): $6,068,400. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for an attorney is $389. Using this hourly rate, the USPTO

estimates $6,068,400 per year for the total hourly costs associated with respondents.

TABLE 2—HOURLY COST BURDEN

IC Number	Information collection instrument	Estimated time for response (minutes) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Total cost ($/hr) (c) × (d) = (e)
1	Third-Party Submissions in Nonissued Applications (electronic).	10 hours	1,500	15,000	$389.00	$5,835,000.00
2	Third-Party Submissions in Nonissued Applications (paper).	10 hours	50	500	389.00	194,500.00
3	Protests by the Public Against Pending Applications Under 37 CFR 1.291 (paper).	10 hours	10	100	389.00	38,900.00
Totals			1,560	15,600		6,068,400.00

Estimated Total Annual Cost Burden (Non-Hourly): $237,619.25 per year. There are no capital start-up, recordkeeping or maintenance costs associated with this information collection. There are, however, annual (non-hour) costs associated with this information collection in the form of filing fees and postage costs.

When submitting the information in this collection to the USPTO electronically, the applicant is strongly urged to retain a copy of the file submitted to the USPTO as evidence of authenticity in addition to keeping the acknowledgment receipt as clear evidence of the date the file was received by the USPTO. The USPTO does not, however, require this recordkeeping, and thus does not consider this action to be a recordkeeping cost imposed on the applicant.

This collection has a non-hourly annual cost burden in the form of filing fees. 37 CFR 1.290 requires the payment of the fee set forth in 37 CFR 1.17(o) for every ten documents, or fraction thereof, listed in each third-party preissuance submission. The USPTO provides an exemption from this fee requirement where a preissuance submission listing three or fewer total documents is the first preissuance submission submitted in an application by a third party, or a party in privity with the third party. Taking the fee and exemption into account, the USPTO estimates that the average fee per submission for the third-party submissions is $180, with the average fee for small entities totaling $90.

There is no fee for filing protests under 37 CFR 1.291 unless the filed protest is the second or subsequent protest by the same real party in interest, in which case the 37 CFR 1.17(i) fee of $130 must be included (the USPTO estimates 1 of the 10 protests filed per year will trigger this fee). The table below illustrates the total amount of and distribution of filing fees associated with this collection.

TABLE 3—NON-HOURLY COST BURDEN—FILING FEES

IC Number	Information collection instrument	Responses (yr) (a)	Filing fee ($) (b)	Total non-hour cost burden (yr) (a) × (b) = (c)
1–2	Third-Party Submissions in Nonissued Applications	1,085	$180	$195,300.00
1–2	Third-Party Submissions in Nonissued Applications (small entity)	465	90	41,850.00
3	Protests by the public against pending applications under 37 CFR 1.291.	1	130	130.00
Total		1,551		237,280.00

This collection also has a non-hourly annual cost burden in the form of postage costs. Customers may incur postage costs when submitting the Information Collection instruments contained within this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average first class postage cost for a one-pound submission mailed in a flat-rate envelope to be $5.75. The USPTO further estimates that the vast majority—roughly 98 percent—of all paper submissions will be delivered by mail, with the remainder delivered by hand delivery, for an estimate that approximately 59 submissions will require postage. Therefore, the estimated postage cost for this collection will be $339.25.

The total non-hour respondent cost burden for this collection in the form of filing fees ($237,280) and postage costs ($339.25) is approximately $237,619.25 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 9, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–05781 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Ocean Exploration Advisory Board (OEAB); Notice of Public Meeting

AGENCY: Office of Ocean Exploration and Research (OER), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ocean Exploration Advisory Board (OEAB). OEAB members will discuss and provide advice on Federal ocean exploration programs, with a particular emphasis on National Oceanic and Atmospheric Administration (NOAA) Office of Ocean Exploration and Research (OER) activities, in the areas of: Strategic planning, current and future exploration priorities, the competitive grants process, citizen exploration, the next National Forum on Ocean Exploration, and other matters as described in the agenda found on the OEAB Web site at *http://oeab/noaa.gov.*

Time and Dates: The announced meeting is scheduled for Tuesday, March 31, 2015, from 8:30 a.m.–4:30 p.m. PDT, and Wednesday, April 1, 2015, from 9:00 a.m.–3:00 p.m. PDT.

ADDRESSES: The meeting will be held at Scripps Institution of Oceanography, Seaside Forum, 8610 Kennel Way, La Jolla, CA 92037.

Status: The meeting will be open to public participation with a 15-minute public comment period on Wednesday, April 1, 2015, at 9:30 a.m. PDT (please check the agenda on the Web site to confirm the time).

The OEAB expects that public statements at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three minutes. The Designated Federal Officer should receive written comments by March 24, 2015, to provide sufficient time for OEAB review. Written comments received after March 24, 2015, will be distributed to the OEAB but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to David McKinnie, Designated Federal Officer, at (206) 526–6950 by March 16, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. David McKinnie, Designated Federal Officer, Ocean Exploration Advisory Board, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE., Seattle, WA 98115, (206) 526–6950.

SUPPLEMENTARY INFORMATION: NOAA established the OEAB under the Federal Advisory Committee Act (FACA) and legislation that gives the agency statutory authority to operate an ocean exploration program and to coordinate a national program of ocean exploration. The OEAB advises NOAA leaderships on strategic planning, exploration priorities, competitive ocean exploration grant programs and other matters as the NOAA Administrator requests.

OEAB members represent government agencies involved in ocean exploration, the private sector, academic institutions, and not-for-profit institutions involved in all facets of ocean exploration—from advanced technology to citizen exploration.

In addition to advising NOAA leadership, NOAA expects the OEAB to play a leadership role in helping to define and develop a national program of ocean exploration—a network of stakeholders and partnerships advancing national priorities for ocean exploration.

Dated: March 6, 2015.

Jason Donaldson,

Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–05775 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 5, 2014, the Department of Commerce (''the Department'') published the *Preliminary Results* of the fifth administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China (''PRC'').[1] We invited parties to comment on the *Preliminary Results.* Based on our analysis of the comments and information received, we have not made changes to the final margin calculations of Shanghai Wells Hanger Co., Ltd. (''Shanghai Wells'').[2] Listed below in the ''Final Results of the Administrative Review'' section of this notice are the final dumping margins. The period of review (''POR'') is October 1, 2012, through September 31, 2013.[3]

DATES: *Effective Date:* March 13, 2015.

FOR FURTHER INFORMATION CONTACT: Josh Startup or Alexis Polovina, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5260 or (202) 482–3927, respectively.

SUPPLEMENTARY INFORMATION:

[1] *See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 65616 (November 5, 2014) (''*Preliminary Results*'').

[2] The Department previously found that Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd. (''HK Wells'') and Hong Kong Wells Ltd. (USA) (''Wells USA'') are affiliated and that Shanghai Wells Hanger Co., Ltd. and HK Wells comprise a single entity (collectively, ''Shanghai Wells''). Because there were no changes in this review to the facts that supported that decision, we continue to find Shanghai Wells, HK Wells, and USA Wells are affiliated and that Shanghai Wells and HK Wells comprise a single entity. *See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review,* 75 FR 68758, 68761 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 27994, 27996 (May 13, 2011).

[3] The deadline for the final results was March 5, 2015, however, due to inclement weather, the government was closed on March 5, 2015. Therefore, the deadline for the final results falls on the next business day, March 6, 2015.

Background

The Department published the *Preliminary Results* on November 5, 2014. On December 5, 2014, M&B Metal Products Inc. (''Petitioner''), Fabriclean Supply Inc. (''Fabriclean''), a U.S. importer and wholesaler, and Ningbo Dasheng, a mandatory respondent, submitted case briefs in the administrative review. On December 10, 2014, Petitioner submitted a rebuttal brief.

Scope of the Order

The merchandise that is subject to the order is steel wire garment hangers. The products subject to the order are currently classified under U.S. Harmonized Tariff Schedule (''HTSUS'') subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise remains dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum,[4] which is hereby adopted by this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building, as well as electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Final Determination of No Shipments

In the *Preliminary Results,* the Department preliminarily determined that Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd., did not have any reviewable transactions during the POR. We have not received any information to contradict this determination. Therefore, for these final results, the Department determines that Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd., did not have any reviewable entries of subject merchandise during the POR. Accordingly, consistent with the Department's refinement to its assessment practice in non-market economy (''NME'') cases, the Department intends to issue appropriate instructions to Customs and Border Protection (''CBP'') based on the final results of the review.[5]

Final Results of the Administrative Review

Regarding the administrative review, the following weighted-average dumping margins exist for the period October 1, 2012, through September 30, 2013:

Exporter	Weighted-average margin (percent)
Shanghai Wells Hanger Co., Ltd.[6]	14.53
PRC-wide Entity[7]	187.25

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[8] Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.[9] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[10] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[11]

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[12]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this

[4] *See* the Department's Memorandum, titled ''Steel Wire Garment Hangers from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Fourth Antidumping Duty Administrative Review and New Shipper Review,'' dated concurrently with this notice (''Issues and Decision Memorandum'').

[5] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[6] Shanghai Wells consists of Shanghai Wells Hanger Co., Ltd., and Hong Kong Wells Ltd.

[7] The PRC-wide entity includes all companies for which the Department initiated a review but did not establish their eligibility for a separate rate: 1) Shaoxing Zhongbao Metal Manufactured Co., Ltd.; 2) Shaoxing Shunji Metal Clotheshorse Co., Ltd.; 3) Shanghai Jianhai International Trade Co., Ltd.; 4) Feirongda Weaving Material Co. Ltd.; 5) Hongye (HK) Group Development Co. Ltd.; 6) Liaoning Metals & Mineral Imp/Exp Corp.; 7) Ningbo Bingcheng Import & Export Co., Ltd.; 8) Ningbo Peacebird Import & Export Co., Ltd.; 9) Shang Zhou Leather Shoes Plant; 10) Shanghai Ding Ying Printing & Dyeing Co. Ltd.; 11) Shanghai Guoxing Metal Products Co. Ltd.; 12) Shanghai Lian Development Co. Ltd.; 13) Shanghai Shuang Qiang Embroidery Factory; 14) Shaoxing Guochao Metallic Products Co., Ltd.; 15) Shaoxing Liangbao Metal Manufactured Co. Ltd.; 16) Shaoxing Meideli Hanger Co. Ltd.; 17) Shaoxing Shuren Tie Co., Ltd.; 18) Shaoxing Zhongdi Foreign Trade Co., Ltd.; 19) Tianjin Innovation International; 20) Tianjin Tailai Import and Export Co. Ltd.; 21) Wesken International (Kunshan) Co. Ltd.; 22) Zhejiang Hongfei Plastic Industry Co. Ltd.; 23) Zhejiang Jaguar Import and Export Co. Ltd.; 24) Shangyu Baoxiang; 25) Shaoxing Dingli; 26) Lucky Cloud; 27) the Shaoxing Entity; and 28) Ningbo Dasheng.

[8] *See* 19 CFR 351.212(b)(1).

[9] *Id.*

[10] *Id.*

[11] *See* 19 CFR 351.106(c)(2).

[12] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above, the cash deposit rate will be established in the final results of these reviews (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 187.25 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (''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. We request a timely written notification of the return or destruction of APO materials, or conversion to judicial protective order. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

List of Topics Discussed in the Final Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
Comment 1: Application of Adverse Facts Available
Comment 2: Selection of the Surrogate Country
Comment 3: Selection of Financial Statements
Comment 4: Whether the Department Should Revise the Surrogate Value for Brokerage and Handling (''B&H'')
Comment 5: Whether the Thai AUV for Corrugated Paper Is Aberrational

[FR Doc. 2015–05828 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–3–2015]

Approval of Subzone Status; Thyssenkrupp Presta Danville, LLC; Danville, Illinois

On January 14, 2015, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Economic Development Corporation of Decatur & Macon County, grantee of FTZ 245, requesting subzone status subject to the existing activation limit of FTZ 245, on behalf of Thyssenkrupp Presta Danville, LLC, in Danville, Illinois.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (80 FR 2914, 1–21–2015). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 245C is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 245's 1,822-acre activation limit.

Dated: March 6, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–05856 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–165–2014)

Approval of Expansion of Subzone 57C; DNP Imagingcomm America Corporation; Concord, North Carolina

On December 10, 2014, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Charlotte Regional Partnership, Inc., grantee of FTZ 57, requesting the expansion of Subzone 57C subject to the existing activation limit of FTZ 57, on behalf of DNP Imagingcomm America Corporation in Concord, North Carolina.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (79 FR 75125, 12–10–2014). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR 400.36(f)), the application to expand Subzone 57C is approved, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 57's 2,000-acre activation limit.

Dated: March 9, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–05833 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD819

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice; scoping workshops.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold scoping workshops for Coastal Migratory Species Amendments 26 & 28.

DATES: The scoping workshops will be held from Monday, March 30 through Tuesday, April 28, 2015 at nine locations throughout the Gulf of Mexico. The scoping workshops will begin at 6 p.m. and will conclude no later than 9

p.m. For specific dates and locations see **SUPPLEMENTARY INFORMATION** below.

ADDRESSES:

Meeting address: The scoping workshops will be held in the following locations: Mobile, AL; Biloxi, MS; Panama City, St. Petersburg and Key West, FL; Grand Isle, LA; and Galveston, Port Aransas and San Antonio, TX.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *ryan.rindone@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The items of discussion in the scoping workshops are as follows:

- Coastal Migratory Pelagics Amendment 26 Scoping Document: CMP Amendment 26 will examine modifications to Gulf of Mexico and South Atlantic king mackerel management, including annual catch limits, annual catch targets, stock boundaries, bag limit sales, and sector-specific accountability measures.
- Coastal Migratory Pelagics Amendment 28 Scoping Document: CMP Amendment 28 will examine modifications to Gulf of Mexico and South Atlantic king mackerel and Spanish mackerel management, including splitting the current federal limited-access king mackerel and federal open-access Spanish mackerel commercial fishing permits into separate Gulf of Mexico and South Atlantic permits.

The scoping workshops will begin at 6 p.m. and conclude at the end of public testimony or no later than 9 p.m. at the following locations:

Monday, March 30, 2015, Renaissance Mobile Riverview Plaza Hotel, 64 South Water Street, Mobile, AL 36602, telephone: (251) 438–4000;

Tuesday, March 31, 2015, Golden Nugget Hotel, 151 Beach Boulevard, Biloxi, MS 39530, telephone: (228) 435–4500;

Monday, April 13, 2015, Hilton Garden Inn, 1101 U.S. Highway 231, Panama City, FL 32405, telephone: (850) 392–1093; Hilton St. Petersburg Carillon Park, 950 Lake Carillon Drive, St. Petersburg, FL 33716, telephone: (727) 540–0050;

Sunday, April 19, 2015, Doubletree Grand Key Resort, 3990 South Roosevelt Boulevard, Key West, FL 33040, telephone: (305) 293–1818;

Thursday, April 23, 2015, Hyatt Place San Antonio Airport, 7615 Jones Maltsberger Road, San Antonio, TX 78216, telephone; (210) 930–2333;

Friday, April 24, 2015, Hampton Inn & Suites, 2208 Highway 361, Port Aransas, TX 78373, telephone: (361) 749–8888;

Monday, April 27, 2015, Hilton Galveston Island Hotel, 5400 Seawall Boulevard, Galveston Island, TX 77551, telephone: (409) 744–5000; and

Tuesday, April 28, 2015, Louisiana Department of Wildlife and Fisheries (LDWF) Fisheries Research Laboratory, 195 Ludwig Annex, Grand Isle, LA 70358.

Copies of the scoping workshop documents can be obtained by calling (813) 348–1630 or visiting *www.GulfCouncil.org.*

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 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 Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working 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: March 10, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05759 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–81–2014]

Foreign-Trade Zone 114—Peoria, Illinois; Authorization of Production Activity, Bell Sports, Inc. (Football Helmets), Rantoul, Illinois

On November 7, 2014, Bell Sports, Inc. submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within FTZ 114, Subzone 114F, in Rantoul, Illinois.

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 68662, 11/18/2014). 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.

Dated: March 6, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–05837 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; Public Key Infrastructure (PKI) Certificate Action Form

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: United States Patent and Trademark Office, Commerce.

Title: Public Key Infrastructure (PKI) Certificate Action Form.

OMB Control Number: 0651–0045.

Form Number(s):

- PTO–2042.

Type of Request: Regular.

Number of Respondents: 4,500.

Average Hours per Response: 0.5.

Burden Hours: 2,250.

Cost Burden: $11,025.

Needs and Uses:

The United States Patent and Trademark Office (USPTO) uses Public Key Infrastructure (PKI) technology to support electronic commerce between the USPTO and its customers. PKI is a set of hardware, software, policies, and procedures that provide important security services for the electronic business activities of the USPTO, including protecting the confidentiality of unpublished patent applications in accordance with 35 U.S.C. 122 and 37 CFR 1.14, as well as protecting international patent applications in accordance with Article 30 of the Patent Cooperation Treaty.

In order to provide the necessary security for its electronic commerce systems, the USPTO uses PKI

technology to protect the integrity and confidentiality of information submitted to the USPTO. PKI employs public and private encryption keys to authenticate the customer's identity and support secure electronic communication between the customer and the USPTO. Customers may submit a request to the USPTO for a digital certificate, which enables the customer to create the encryption keys necessary for electronic identity verification and secure transactions with the USPTO. This digital certificate is required in order to access any secure online systems USPTO provides; including the systems for electronic filing of patent applications and viewing confidential information about unpublished patent applications.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

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 *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Paper copies can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0045 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 *April 13, 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: March 9, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–05779 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Notice of Public Meeting of the Advisory Committee on Commercial Remote Sensing

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: The Advisory Committee on Commercial Remote Sensing (ACCRES) will meet April 28, 2015.

DATES: Date and Time: The meeting is scheduled as follows: April 28, 2015, 9:00 a.m.–4:00 p.m. The first part of the meeting will be closed to the public. The public portion of the meeting will begin at 2:00 p.m.

ADDRESSES: The meeting will be held in the George Washington University Elliott School of International Affairs, Room 505 located at 1957 E St. NW., Washington, DC 20052.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of the meeting of ACCRES. ACCRES was established by the Secretary of Commerce (Secretary) on May 21, 2002, to advise the Secretary through the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for the licensing of commercial remote sensing satellite systems.

Matters To Be Considered

The meeting will be partially open to the public pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409 and in accordance with Section 552b(c)(1) of Title 5, United States Code.

The Committee will receive a presentation on updates of NOAA's commercial remote sensing issues and licensing activities. The Committee will also receive public comments on its activities.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed to ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910.

Additional Information and Public Comments

Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Tahara Dawkins, Designated Federal Officer for ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8136, Silver Spring, Maryland 20910. Copies of the draft meeting agenda can be obtained from Thomas Smith at (301) 713–0573, fax (301) 713–1249, or email *thomas.smith@noaa.gov.*

The ACCRES expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. In general, each individual or group making an oral presentation may be limited to a total time of five minutes. Written comments (please provide at least 15 copies) received in the NOAA/NESDIS/CRSRA on or before April 20, 2015, will be provided to Committee members in advance of the meeting. Comments received too close to the meeting date will normally be provided to Committee members at the meeting.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910; telephone (301) 713–3385, fax (301) 713–1249, email *Tahara.Dawkins@noaa.gov*, or Thomas Smith at telephone (301) 713–0573, email *Thomas.Smith@noaa.gov*.

Tahara D. Dawkins,

Director Commercial Remote Sensing and Regulatory Affairs.

[FR Doc. 2015–05698 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

[Docket Number 150306226–5226–01]

RIN 0660–XC017

Further Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012

AGENCY: First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The First Responder Network Authority (''FirstNet'') publishes this *Second Notice* to request public comment on certain proposed interpretations of its enabling legislation that will inform, among other things, network policies, forthcoming requests

for proposals, and interpretive rules. With the benefit of the comments received from this *Second Notice,* FirstNet may proceed to implement these or other interpretations with or without further administrative procedure.

DATES: Submit comments on or before April 13, 2015.

ADDRESSES: The public is invited to submit written comments to this *Second Notice.* Written comments may be submitted electronically through *www.regulations.gov* or by mail (to the address listed below). Comments received related to this *Second Notice* will be made a part of the public record and will be posted to *www.regulations.gov* without change. Comments should be machine-readable and should not be copy-protected. Comments should include the name of the person or organization filing the comment as well as a page number on each page of the submission. All personally identifiable information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Eli Veenendaal, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192; 703–648–4167; or *elijah.veenendaal@firstnet.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. 1401 *et seq.*)) (the ''Act'') established the First Responder Network Authority (''FirstNet'') as an independent authority within the National Telecommunications and Information Administration (''NTIA''). The Act establishes FirstNet's duty and responsibility to take all actions necessary to ensure the building, deployment, and operation of a nationwide public safety broadband network (''NPSBN'').[1]

As detailed in our ''Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012'' (*''First Notice''*) the rights and obligations of FirstNet, States and territories, and state, federal, local, and tribal public safety entities, among other stakeholders, turn on interpretation of the Act's terms and provisions.[2] In this *Second Notice,* we make preliminary conclusions on a range of issues, including the equipment for use on the FirstNet network, the nature and application of FirstNet's required network policies, FirstNet's presentation of a state plan and its implications for the rights and duties of other stakeholders, and the rights of States choosing to assume responsibility to build and operate a radio access network (''RAN'') in said State. We believe that consideration of these preliminary conclusions and ultimately making final determinations on these matters will further guide all parties with regard to the building, deployment, and operation of the NPSBN.

Consistent with our approach in the *First Notice,* although FirstNet is exempt from the procedural requirements of the Administrative Procedure Act (''APA''),[3] FirstNet desires to solicit public comments on foundational legal issues, in addition to technical and economic issues, to guide our efforts in achieving our mission.[4] Thus, in general FirstNet may pursue APA-like public notice and comment processes such as this *Second Notice,* and we intend to rely upon comments filed in response to this *Second Notice* to inform our actions, including the establishment of network policies, development of requests for proposals (''RFPs''), and other duties FirstNet is assigned under the Act.

With respect to this *Second Notice,* in instances where we have drawn a preliminary conclusion and sought comments thereon, we currently intend to issue a subsequent document indicating final interpretative determinations, taking into consideration the comments received. This subsequent document might not precede release of the above-mentioned RFPs, which will nonetheless incorporate and constitute such final interpretive determinations in light of the received comments. Further, although we may, we do not currently anticipate issuing further public notices and/or opportunities for comment or reply comments on the preliminary conclusions made in this *Second Notice,* and thus encourage interested parties to provide comments in this proceeding.

In instances where we have not drawn a preliminary conclusion, but have sought information and comment on an issue, we may issue additional notices seeking comments on any preliminary conclusions we may reach following review and consideration of the comments responding to this *Second Notice.* That notice, if issued, may then be followed by notice of final determinations. However, because we may not issue such a further notice of preliminary conclusions at all or prior to releasing the above-mentioned RFPs, we again encourage interested parties to provide comments in this proceeding.

II. Issues

A. Technical Requirements Relating to Equipment for Use on the NPSBN

In the *First Notice,* we explored the network elements that comprise the NPSBN. We address below a separate section of the Act concerning equipment for use on the network. Our overarching considerations in these interpretations are the Act's goals regarding the interoperability of the network across all geographies and the cost-effectiveness of devices for public safety.

Section 6206(b)(2)(B) requires FirstNet to ''promote competition in the equipment market, including devices for public safety communications, by requiring that equipment for use on the network be: (a) Built to open, non-proprietary, commercially available standards; (b) capable of being used by any public safety entity and by multiple vendors across all public safety broadband networks operating in the 700 MHz band; and (c) backward-compatible with existing commercial networks to the extent that such capabilities are necessary and technically and economically reasonable.'' [5] Several critical terms in this provision must be interpreted to allow FirstNet to develop requests for proposals and network policies that will fulfill these requirements.

First, we must determine the scope of the ''equipment'' that must satisfy the requirements of Section 6206(b)(2)(B). The Act states that this Section applies only to equipment ''for use on'' the NPSBN, rather than, for example, ''equipment of'' or ''equipment constituting'' the network. Further, the Act makes clear that the range of equipment implicated in the Section must at least include ''devices,'' which, in the telecommunications market, is often a reference to end user devices, rather than equipment used inside the network to provide service to such devices. Finally, whatever the scope of the term ''equipment,'' such equipment

[1] 47 U.S.C. 1426(b).

[2] The pronouns ''we'' or ''our'' throughout this *Second Notice* refer to ''FirstNet'' alone and not FirstNet, NTIA, and the U.S. Department of Commerce as a collective group.

[3] 47 U.S.C. 1426(d)(2).

[4] *See* 79 FR 57058–9 (September 24, 2014).

[5] 47 U.S.C. 1426(b)(2)(B).

must be ''built to open, non-proprietary, commercially available standards.''

In Section 6202, the Act describes the components of the NPSBN itself, including a core network and RAN, and requires each to be based on ''commercial standards.'' [6] Thus, when describing criteria for the equipment with which the network itself is to be constructed, the Act requires use of only equipment built to commercial standards, whereas in describing the equipment of Section 6206(b)(2)(B), the Act requires that such equipment must be built not only to commercial standards, but also ''open, non-proprietary'' standards.[7] Therefore, given the ''for use on'' language of the provision, the distinct addition of the terms ''open, non-proprietary,'' and the separate section of the Act describing and prescribing requirements for the components of the network itself, it appears that the equipment described in Section 6206(b)(2)(B) refers to equipment using the services of the network, rather than equipment forming elements of the NPSBN core network or the RAN.

This interpretation is supported by the other two elements appearing in Section 6206(b)(2)(B). For example, Section 6206(b)(2)(B)(ii) requires that such equipment be ''capable of being used by any public safety entity,'' which would seem inconsistent with a requirement applicable to complex network routing and other equipment used inside the network. Similarly, Section 6206(b)(2)(B)(iii) requires such equipment to be ''backward-compatible with existing commercial networks'' in certain circumstances, which would again make sense in the context of end user devices, but not equipment being used to construct the network. This interpretation is also consistent with section 4.1.5.1, entitled ''Device or UE,'' of the Interoperability Board Report.[8]

Thus, we preliminarily conclude that Section 6206(b)(2)(B) applies to any equipment, including end user devices, used ''on'' (*i.e.,* to use or access) the network, but does not include any equipment that is used to constitute the network. Given the interoperability goals of the Act and that end user devices will need to operate seamlessly across the network regardless of State decisions to assume RAN responsibilities, we also preliminarily conclude that this provision applies whether or not the equipment is to access or use the NPSBN via a RAN in a State that has chosen to assume responsibility for RAN deployment.[9] We seek comments on these preliminary conclusions, and on what if any equipment, other than end user devices, would fall under the scope of Section 6206(b)(2)(B) under this conclusion.

Having preliminarily concluded that Section 6206(b)(2)(B) applies to end user devices, we turn to the requirements of this provision. Section 6206(b)(2)(B)(i) requires that all equipment used to access the NPSBN must be built to ''open, non-proprietary, commercially available standards.'' [10] We seek comments on the scope of these requirements, including in particular the extent to which they impose requirements beyond the minimum requirements identified in the Interoperability Board Report, and whether they would preclude, for example, proprietary operating systems on devices. Such an expansive interpretation could eliminate use of commercial Long-Term Evolution (''LTE'') devices used by public safety entities today.

The Act, however, defines ''commercial standards'' as ''technical standards . . . for network, device, and Internet Protocol *connectivity.*'' [11] We thus preliminarily conclude that the Act's goal of ''promot[ing] competition in the equipment market'' would still be served, as it is today in the commercial market, by applying these requirements to only those parameters necessary to maintain interoperability with the NPSBN—that is, ''connectivity''—and which are included in the Interoperability Board Report or otherwise in FirstNet network policies. We recognize that, for innovation to bring forth improved products for the NPSBN, and for FirstNet and public safety entities to benefit from competition, product differentiation must be allowed to thrive. However, such differentiation must be balanced with the interoperability goals of the Act. Thus, certain network technical attributes must be met by the equipment under the terms of Section 6206(b)(2)(B), but other equipment attributes may be left to individual vendors to develop. We seek comments on this preliminary conclusion and the appropriate delineation between attributes for ''connectivity'' and others.

Beyond the Act's requirement that equipment for use on the network comply with specific types of standards, Section 6206(b)(2)(B)(ii) requires that the equipment be ''capable of being used by any public safety entity and by multiple vendors across all public safety broadband networks operating in the 700 MHz band.'' First, the requirement that the equipment be capable of being used by any public safety entity would appear to serve the cause of both interoperability and competition in the equipment market by ensuring the largest market possible for such devices. We seek comment on the limits of this requirement, including whether use of the word ''capable'' permits sufficient flexibility for product differentiation by public safety discipline or application. For example, we preliminarily conclude that this requirement would not preclude devices primarily designed for police applications so long as such devices were technically capable of being used by, for example, emergency medical services.

Next, we examine the requirement that such equipment be ''capable of being used . . . by multiple vendors.'' [12] We seek comments on the distinction between Congress' use of the terms ''used . . . by multiple vendors'' and, for example, if Congress had used the terms ''manufactured by multiple vendors,'' and whether this distinction should be interpreted as requiring devices that are at least capable of being sold to public safety entities through multiple suppliers who are not themselves manufacturing the devices. We seek comments on how this requirement should be interpreted to further the interoperability goals of the Act.

The final phrase of the requirement—''across all public safety broadband networks operating in the 700 MHz band''—could be interpreted to modify just the vendor clause, but we preliminarily conclude that, taken as a

[6] *See id.* § 1422(b).

[7] *Id.* § 1422(b)(2). We interpret the terms ''commercially available standards'' and ''commercial standards'' as having the same meaning as ''commercial standards'' defined in the Act.

[8] Section 6203 of the Act established the Technical Advisory Board for First Responder Interoperability (''Interoperability Board'') and directed it to develop minimum technical requirements to ensure the interoperability of the NPSBN. 47 U.S.C. 1423. On May 22, 2012, the Interoperability Board, in accordance with the Act, submitted its recommendations to the FCC in a report. *See* Interoperability Board, *Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the Nationwide Public Safety Broadband Network* (''Interoperability Board Report'') (May 22, 2012), *available at http://apps.fcc.gov/ecfs/document/view?id=7021919873.* On June 21, 2012, the FCC completed its review of the Interoperability Board's final report and approved it for transmittal to FirstNet. *See* FCC Order of Transmittal, Recommendations of the Technical Advisory Board for First Responder Interoperability, PS Dkt. No. 12–74, FCC 12–68 (rel. June 21, 2012), *available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-68A1.pdf.*

[9] *See infra* Section II.B.ii. (further discussing the term ''network'' as used in, for example, Section 6206(b)(2)).

[10] 47 U.S.C. 1426(b)(2)(B)(i).

[11] *Id.* § 1401(10) (emphasis added).

[12] *Id.* § 1426(b)(2)(B)(ii).

whole, it appears that Congress desired both the public safety entity clause and multiple vendor clause to be modified by the phrase.[13] We seek comments on this preliminary conclusion. The term 700 MHz band is a defined term under the Act, and includes not just the frequencies licensed to FirstNet, but all frequencies from 698 to 806 megahertz.[14] Thus, we also seek comments on the appropriate definition of, and which ''public safety *broadband* networks'' [15] other than FirstNet would qualify under this clause, and note that the Act contains a separate definition for ''narrowband spectrum.'' [16]

Finally, Section 6206(b)(2)(B) requires equipment for use on the network to be ''backward-compatible with existing commercial networks to the extent that such capabilities are necessary and technically and economically reasonable.'' [17] Such backwards compatibility could prove very valuable for roaming and in the unlikely event that FirstNet's Band 14 network encounters an outage. We seek comments on the scope of the term ''backward-compatible,'' particularly with respect to whether non-LTE networks (including switched-voice networks) are implicated, and the criteria for determining whether such capabilities are necessary and technically and economically reasonable.

B. FirstNet Network Policies

i. Overview

Under Section 6206(b), FirstNet must ''take all actions necessary to ensure the building, deployment, and operation of the [NPSBN].'' [18] In addition to this general charge, subsection (b) of Section 6206 itemizes a long list of specific actions FirstNet must take in fulfilling this obligation.

In the next subsection (c) of Section 6206, however, FirstNet is tasked with establishing ''network policies'' in carrying out these requirements of subsection (b).[19] In particular, under subsection (c)(1), FirstNet must develop the appropriate timetables, coverage areas, and service levels for the requests for proposals referenced in subsection (b), along with four sets of policies covering technical and operational areas.[20] In paragraph (2) of subsection (c), FirstNet is required to consult with State and local jurisdictions regarding the distribution and expenditure of amounts required to carry out the network policies established in paragraph (1).[21]

We explore these requirements below considering the overall interoperability goals of the Act. These network policies, along with the Interoperability Board Report, will form the fundamental basis of such interoperability for public safety, and thus their scope and applicability must be clear to equipment and device manufacturers, network users, and any States that choose to assume RAN responsibilities in their States.

ii. Network Policies

Under Section 6206(c)(1), entitled ''ESTABLISHMENT OF NETWORK POLICIES,'' FirstNet is required to develop five groups of items, the first being ''requests for proposals with appropriate'' timetables, coverage areas, service levels, performance criteria, and similar matters.[22] Unlike the remaining four groups of items in paragraph (1), this first group might not ordinarily be thought of as the subject of a ''policy'' based on a plain language interpretation. The title of the entire paragraph, however, does reference ''policies.'' In addition, the consultation required in paragraph (2) of subsection (c) is with regard to the ''policies established in paragraph (1),'' and expressly includes topics such as ''construction'' and ''coverage areas'' that are the subject of the requests for proposals listed in paragraph (1)(A).[23] Thus, we preliminarily conclude that the items listed in paragraph (1)(A) are ''policies'' for purposes of paragraph (2) and as the term is generally used in subsection (c).

In addition to the appropriate timetables, coverage areas, and other items related to the requests for proposals in paragraph (1)(A), FirstNet must develop policies regarding the technical and operational requirements of the network; practices, procedures, and standards for the management and operation of such network; terms of service for the use of such network, including billing practices; and ongoing compliance reviews and monitoring.[24]

Taken as a whole, these policies, including the elements of the requests for proposals, form the blueprint and operating parameters for the NPSBN. Many of these policies will be informed by the partners chosen to help deploy the network, and will likely change over time, with increasing specificity as FirstNet begins operations. Some of these policies, such as those related to the ''technical and operational requirements of the network,'' will prescribe how the FirstNet core network and RAN will interconnect and operate together, consistent with the Interoperability Board Report. This interaction is among the most important ''technical and operational'' aspects of the network given the Act's definition of these terms and our preliminary interpretations in the *First Notice*.[25] For example, this interaction would determine how the FirstNet core network implements authentication and priority and preemption at the local level, including the framework for such authentication and prioritization provided to local jurisdictions to enable them to control important aspects of such authentication and prioritization. Other technical, operational, and business parameters essential to the nationwide interoperability of the network will be determined by such policies governing core network and RAN interactions. This raises the question as to whether and how FirstNet's policies developed under subsection (1) apply to States that assume responsibility for deployment of the RAN in such States under Section 6302.

The Act does not expressly state whether only FirstNet, or both FirstNet and a State assuming RAN responsibilities must follow the network policies required under Section 6206(c)(1).[26] Sections 6202 (defining the NPSBN) and 6206 (establishing FirstNet's duties) only refer to the ''nationwide public safety broadband network'' or the ''network'', without expressly indicating whether such State RANs are included in the term. We preliminarily conclude below that, given the provisions of the Act, the

[13] *Id.*

[14] *Id.* § 1401(1) (defining 700 MHz band).

[15] *Id.* § 1426(b)(2)(B)(ii) (emphasis added).

[16] 47 U.S.C. 1401(20) (defining narrowband spectrum).

[17] *Id.* § 1426(b)(2)(B)(iii).

[18] *Id.* § 1426(b)(1).

[19] *See id.* § 1426(c)(1).

[20] *See id.*

[21] *See id.* § 1426(c)(2)(A).

[22] 47 U.S.C. 1426(c)(1)(A).

[23] *See id.* § 1426(c).

[24] *See id.* § 1426(c)(1).

[25] 79 FR 57059 (September 24, 2014) (discussing elements of the network).

[26] We preliminarily determined in our *First Notice* that such State RANs must use the FirstNet core network when service is provided to public safety entities. We stated that this preliminary conclusion, which is supported by the express provisions in the Act and sections of the Interoperability Board Report, was also ''supported by the overall interoperability goal of the Act, which would, from a technical and operational perspective, be more difficult to achieve if States deployed their own, separate core networks to serve public safety entities.'' 79 FR 57059 (September 24, 2014). We received comments generally supporting this conclusion overall, with some commenters suggesting that we also provide a measure of flexibility to States assuming RAN responsibility so long as the interoperability goals of the Act were achieved.

Interoperability Board Report, and the overall interoperability goals of the Act and the effect on such interoperability of not having the network policies of Section 6206(c)(1) apply to opt-out RANs, such policies must so apply to ensure interoperability.

Section 6302(e), addressing the process by which a State may submit a plan to assume RAN deployment, states that the alternative RAN plan must demonstrate ''interoperability with the [NPSBN].'' [27] This interoperability demonstration is separate from a State's demonstration that it will comply with the minimum technical interoperability requirements of the Interoperability Board Report, and thus must require a demonstration of interoperability in addition thereto. Similarly, Section 6302(e)(3)(D) requires such States to demonstrate ''the ability to maintain ongoing interoperability with the [NPSBN].'' [28]

A literal reading of these provisions could be interpreted as indicating a distinction between the NPSBN and such State RANs, such that the policies required by Section 6206, which apply to the ''nationwide public safety broadband network'' or ''the network'' could theoretically be interpreted as not directly applying to such RANs. We preliminarily conclude, however, that such an interpretation reads too much into the wording of Section 6302, which could also be interpreted as requiring the State RAN to interoperate with ''the rest of'' the NPSBN.

The Act's primary goal is the creation of an interoperable network based upon a ''single, national network architecture that evolves with technological advancements'' and is comprised of both a core network and RAN.[29] This suggests that network policies established by FirstNet pursuant to Section 6206(c)(1) should apply to all elements of the network, including RANs built by individual States, to ensure interoperability. In addition, Congress did not differentiate between opt-in and opt-out States in the provisions of Section 6206(c)(2) requiring consultation with States on the policies of Section 6206(c)(1), and such consultations would presumably not be required for States assuming RAN responsibility if the policies in question (at least those applicable to RANs following opt-out) did not apply to their RAN deployment.

In the context of the Act, we thus preliminarily conclude that an important aspect of a State's demonstrations of interoperability under Section 6302(e)(3) would be a commitment to adhering to FirstNet's interoperability policies implemented under Section 6206(c) that are applicable to NPSBN RANs. This could be particularly important because such policies will likely evolve over time as the technology, capabilities, and operations of the network evolve. An alternative reading could result in freezing in time the interoperability of an opt-out State RAN contrary to the goals of the Act. We seek comments on these preliminary conclusions.

Notwithstanding these conclusions, however, the policies established under Section 6206(c) would, if not directly, likely apply indirectly to a State seeking to assume State RAN responsibilities. As discussed above, such States must demonstrate interoperability with the NPSBN, and from a practical perspective such interoperability will largely depend, as is the case with FirstNet's deployed core networks and RANs, on compliance with the network policies of Section 6206(c)(1).[30] In addition, such States must also demonstrate ''comparable security, coverage, and quality of service to that of the [NPSBN].'' [31] FirstNet's policies will establish requirements for such security, coverage, and quality of service standards for the NPSBN, and thus States seeking to assume State RAN responsibilities would, practically speaking, need to demonstrate ''comparable'' capabilities to those specified in these policies. The Federal Communications Commission (''FCC'') and NTIA will presumably use these policies in making this comparison at least at the point in time when a State applies to assume RAN responsibilities.

Finally, given that FirstNet has a duty to ensure the deployment and operation of a ''nationwide'' public safety broadband network, we preliminarily conclude that, independent of the interpretations discussed above, FirstNet could require compliance with network policies essential to the deployment and interoperable operation of the network for public safety in all States as a condition of entering into a spectrum capacity lease under Section 6302(e)(3)(C)(iii)(II).[32] Accordingly, in order to ensure the interoperability goals of the Act and for the reasons discussed above, we preliminarily conclude that FirstNet's network policies will either directly or indirectly apply to any State RAN deployment. We note that FirstNet is subject to extensive consultation requirements with States regarding such policies under Section 6206(c)(2), and thus States will have substantial opportunities to influence such policies and, as is discussed more fully below, FirstNet will want to work cooperatively and over time with States in their establishment. We seek comments on these preliminary conclusions.

C. A State's Opportunity To Assume Responsibility for Radio Access Network Deployment and Operation

i. Overview of Statutory Provisions on Deployment of State Networks

Section 6302(e) describes the process for determining whether FirstNet or a State will conduct the deployment of the RAN within such State.[33] As we preliminarily concluded in the *First Notice,* the Act requires FirstNet to provide the core network in all States.[34] The process for determining who will deploy the RAN in a State requires FirstNet to provide States with (a) notice that FirstNet has completed its request for proposal process for the construction and operation of the nationwide network, (b) details of FirstNet's proposed plan for buildout of the NPSBN in such State, and (c) the funding level, as determined by NTIA, for such State.[35] The Governor of a State, after receiving the notice, must then choose to either participate in the deployment of the network as proposed by FirstNet, or conduct its own deployment of a RAN in such State.[36]

It is important to note that the provisions of the Act, and the interpretations discussed below, address what is essentially the final or official plan presented to a State. FirstNet expects to work cooperatively, and in keeping with its consultation obligations, with each State in

[27] *See* 47 U.S.C. 1442(e)(3)(C)(II).

[28] *Id.* § 1442(e)(3)(D).

[29] *See id.* § 1422(b).

[30] It is important to note that Congress required that a State RAN plan demonstrate to the FCC both compliance with the Interoperability Board Report and interoperability with the NPSBN, indicating that the requirements of the Interoperability Report are distinct from those further requirements that may be necessary to interoperate with the NPSBN. *See* 47 U.S.C. 1442(e)(3(C). The Interoperability Board Report focused on ''technical interoperability,'' noting that this term was more limited than general network interoperability. *See* Interoperability Board Report at 23. To establish NPSBN interoperability therefore, we believe a broader set of technical, business, and operational standards must be developed pursuant to Section 6206(c)(1) and demonstrated by any State seeking State RAN build and operation authority. *Id.* § 1426(c)(1).

[31] *Id.* § 1442(e)(3)(D)(iii).

[32] *Id.* § 1442(e)(3)(C)(iii)(II).

[33] *See id.* § 1442(e).

[34] 79 FR 57059 (September 24, 2014) (describing that the core network provides the primary control layer of the network and connects the RAN to the Internet and public switched network).

[35] 47 U.S.C. 1442(e)(1).

[36] *Id.* § 1442(e)(2).

developing its plan, including an iterative approach to plans in order to achieve both a State's local and FirstNet's nationwide goals for the NPSBN. Accordingly, none of the discussions in this *Second Notice* should be interpreted as implying a unilateral or opaque approach to plan development prior to the presentation of the official ''plan'' reflected in the Act.

Following such a FirstNet plan presentation, a decision by the Governor to assume responsibility for deployment of the State's RAN sets in motion an approval process for the State's alternative RAN deployment plan.[37] The FCC must approve the plan.[38] If this alternative RAN plan is approved, the State *may* apply to NTIA for a grant to construct the RAN within the State and *must* apply to NTIA to lease spectrum capacity from FirstNet.[39] Conversely, if a State alternative plan is disapproved, the RAN in that State will proceed in accordance with FirstNet's State plan.[40]

The Act is not entirely clear about the economic and operational effects of an approved alternative State plan. The interpretations discussed below will have substantial effects on the operation, funding, and potentially the viability of the FirstNet program. Congress drew a balance between the interoperability and self-sustainment goals of the Act and preserving the ability of States to make decisions regarding the local implementation of coverage, capacity, and many other parameters if they wanted to exercise such control. FirstNet has a duty to implement the Act in a manner that is faithful to this balance and to the opportunity of States to exercise local deployment control. But in balancing the above interests, Congress was careful not to jeopardize the overall interoperability and self-sustainment goals of the Act in its express provisions. For example, a State's ability to exercise local control of deployment is with respect to the RAN only, not the core network, and the State must demonstrate that its alternative plan for the RAN maintains the overall goals of the Act through, among other things, demonstrating interoperability and cost-effectiveness.

In the discussions below we continue this balancing through our preliminary interpretations of often complex provisions. These interpretations are preliminary, and they attempt to remain faithful to the balance Congress appears to have intended by affording States the right to assume RAN responsibilities, but not at the cost of jeopardizing the interoperability and self-sustainment goals of the Act on which public safety entities and the overall program will depend.

ii. FirstNet Presentation of a State Plan

FirstNet must present its plan for a State to the Governor ''[u]pon the completion of the request for proposal process conducted by FirstNet for the construction, operation, maintenance, and improvement of the [NPSBN] . . . .''[41] The Act does not further define when such process is ''complete.'' The process cited is presumably the request for proposal process detailed in subsections 6206(b) and (c), which describe FirstNet's duty to develop and issue ''requests for proposals.''[42] Because Section 6206 speaks in terms of plural ''requests for proposals,'' the ''process'' referenced in subsection 6302(e) could be interpreted to require completion of all such requests for proposals, particularly given that Section 6302(e) refers to the request for proposal process for the ''nationwide . . . network,'' rather than just a process for the State in question. This would require the completion of requests for proposals for all States prior to any one State receiving a plan from FirstNet.[43]

We tentatively conclude, however, that it is reasonable to interpret subsection 6302(e) to merely require completion of the process for the State in question, rather than the nation as a whole, prior to presentation of the plan to the State, assuming that FirstNet can at that stage otherwise meet the requirements for presenting a plan (and its contents) to such State.[44] First, Section 6206 provides FirstNet with flexibility in deciding how many and of what type of requests for proposals to develop and issue. This flexibility inures to the benefit of public safety and the States by allowing FirstNet to reflect the input of regional, State, local, and tribal jurisdictions under the required consultations of Section 6206. If Section 6302 were read to require all States to await the completion of all such requests for proposals, FirstNet would likely constrain the range of RFPs it might otherwise conduct to avoid substantial delays nationwide, and in doing so constrain its ability to reflect the input from consultative parties.

Second, such a ''wait for all'' approach could, depending on how such requests for proposals are issued, nevertheless substantially delay implementation of the network in many or most States contrary to the Act's apparent emphasis ''to speed deployment of the network.''[45] For example, if a protest or litigation delayed proposals for one State or a region, the entire network could be held hostage by such litigation, creating substantial incentives for gamesmanship. Finally, if Congress had wanted such an extreme result, we believe it would have been more explicit than the generalized reference to ''network'' in subsection (e).[46] Thus, we preliminarily conclude that a State plan can be presented to a State upon the completion of the request for proposal process only to the extent necessary to develop such a plan for such State. We seek comments on this preliminary conclusion.

An additional question regarding the interpretation of the term ''completion'' in subsection 6302(e) concerns the specific stage of the request for proposal process that constitutes such ''completion.'' The process prescribed by the Act itself may impose a practical limit on the extent of such completion. Although we interpret the effects of a State decision to assume RAN deployment responsibilities in detail in subsequent sections of this *Second Notice,* for purposes of our discussion here it is important to note that although a Governor's decision to assume RAN responsibilities is on behalf of his or her State, depending on the interpretations discussed below, an individual State's decision could materially affect all other States and thus the request for proposal process.

For example, depending on such interpretations, if a State chooses to assume RAN responsibilities, it potentially takes with it subscriber fees and/or excess network capacity fees that would have helped fund the FirstNet network in all other States.[47] Independent of funding issues, by assuming RAN responsibilities the State also reduces FirstNet's costs, at least with regard to the RAN, but also the volume of purchase from a potential vendor. The net amount of such reduced funding and costs, and the impact to economies of scale, determines whether all other States will have a net reduction

[37] *See id.* § 1442(e)(3).

[38] *See id.* § 1442(e)(3)(C).

[39] *See id.* § 1442(e)(3)(C)(iii).

[40] *See id.* § 1442(e)(3)(C)(iv).

[41] 47 U.S.C. 1442(e).

[42] *See id.* § 1442(b)(1)(B), § 1442(b)(2).

[43] We note that FirstNet is still in the process of determining whether it will follow a single, nationwide RFP process or regional, State, or other multiple RFP processes.

[44] *See* 47 U.S.C. 1442(e).

[45] *Id.* § 1426(b)(1)(C).

[46] *Id.* § 1442(e).

[47] *See infra* Section II.D.iii.

in available funding and/or increased costs due to the opt-out.[48]

Given this dynamic, the specific States, and number thereof that choose to assume RAN responsibilities will affect, potentially materially, the final awards in the request for proposal process.[49] The funding level in particular will determine the amount and quality of products and services FirstNet can afford for public safety in the request for proposal process to construct the network. In addition, the information on the specific and number of opt-out States is an important factor determining economies of scale and scope represented by the FirstNet opportunity to potential vendors (and thus their pricing to and the determination of costs for FirstNet).

Under the Act, however, FirstNet must ''complete'' the request for proposal process before presenting plans to the States and obtaining this important information. States will, of course, want their plans to provide as much specificity regarding FirstNet's coverage and services as possible, which would ideally be determined on the basis of the final outcomes of the request for proposal process (which, as is discussed above, ideally requires the State opt-out decisions). Accordingly, because of the circularity of these information needs, FirstNet may not be able to provide the level of certainty in State plans that would ordinarily be assumed to emerge from the final award of a contract to a vendor to deploy in a State. Thus, we preliminarily conclude that ''completion'' of the request for proposal process occurs at such time that FirstNet has obtained sufficient information to present the State plan with the details required under the Act for such plan, which we discuss below, but not necessarily at any final award stage of such a process. We seek comments on this preliminary conclusion.

iii. Content of a State Plan

FirstNet must provide to the Governor of each State, or a Governor's designee, ''details of the proposed plan for build out of the [NPSBN] in such State.'' [50] Section 6302 does not provide express guidance as to what are the ''details of the proposed plan'' that must be provided. Other provisions of the Act, however, provide some guidance in this regard.

Because the plan details are to be provided upon completion of the RFP process, we can of course reasonably conclude that such details are contemplated to include outputs of such process, as discussed in the previous section of this *Second Notice*.[51] Further, Section 6206(c)(1)(A) requires that FirstNet include in RFPs ''appropriate'' timetables for construction, coverage areas, service levels, performance criteria, and other ''similar matters for the construction and deployment of such network.'' [52] Therefore, it is reasonable to conclude that Congress expected that FirstNet would be able to include at least certain outcomes of the RFP process on such topics in a State plan for the State in question. This is particularly true with regard to construction and deployment of the RAN, regarding which the Governor must make a decision in response to being presented with the plan. We note that Section 6302(e)(1)(B) states that the details provided are for the buildout of the network ''in such State'' only, although FirstNet may choose to include details of, for example, core functionality that will be implemented nationally or outside the State with benefit to the State.

Other sections of the Act provide further insight as to what should be included in a State plan. A State that seeks to assume responsibility for the RAN in the State must present an alternative plan to the FCC that ''demonstrate[s] . . . interoperability with the [NPSBN].'' [53] Thus, the State must at that point have knowledge of how such interoperability can be achieved, either through receipt of FirstNet network policies or the FirstNet plan for the State, or both. Further, in order for a State to obtain grant funds or spectrum capacity, it must ''demonstrate . . . that the State has . . . the ability to maintain ongoing interoperability with the [NPSBN] . . . and the ability to complete the project within specified *comparable* timelines specific to the State.'' [54] Thus, for example, implicitly the State must have been presented with FirstNet timelines with which NTIA may ''compare'' to the State alternative plan.

In order to obtain grant funds or spectrum capacity, a State must also ''demonstrate . . . the cost-effectiveness of the State plan . . . and . . . comparable security, coverage, and quality of service to that of the [NPSBN].'' [55] Thus, similar to the timelines discussed above, implicitly the FirstNet plan (in combination with FirstNet network policies) must provide the State with sufficient information to enable NTIA to make comparisons of cost-effectiveness, security, coverage, and quality of service. We seek comments on the above preliminary conclusions regarding the minimum legally required contents of a FirstNet plan for a State.[56] Finally, as discussed above, we preliminarily conclude that certain limitations regarding plan content are inherent in the plan process prescribed by the Act.[57]

iv. Governor's Role in the State Plan Process

Section 6302(e)(2), entitled ''State decision,'' is clear that ''the Governor shall choose'' whether a State participates in the FirstNet proposed plan or conducts its own deployment of a RAN in such State.[58] Thus, we preliminarily conclude that the decision of the Governor in this regard will, for purposes of the Act, be binding on all jurisdictions within such State. For example, if the Governor of a State decides the State will participate in FirstNet's plan for buildout of the State, a city or county within the State would not be able to separately choose to deploy a RAN.[59] Aside from the clear language of the Act regarding the Governor's role and decision, such sub-State level opt-out, if permitted, could create potential islands of RANs which do not meet the interoperability and other similar goals of the Act, and FirstNet would have to agree to use of its spectrum in such cases. We note, however, that FirstNet and a State could agree that, as part of FirstNet's plan, FirstNet and the State (or sub-State jurisdictions) could work together to permit, for example, State implementation of added RAN coverage, capacity, or other network components beyond the FirstNet plan to the extent the interoperability, quality of service, and other goals of the Act were met. These further customizations of State deployments over time may form an important aspect of the FirstNet implementation nationwide. These additions have been raised in

[48] We note that FirstNet will be able to impose a user fee for use of the FirstNet core network by such a State, which could make up for, among other things, any added costs to integrate the State RAN with the FirstNet core network.

[49] From a timing standpoint, this holds true during the pendency of such a State's application to assume RAN responsibilities even if such application is ultimately unsuccessful.

[50] 47 U.S.C. 1442(e).

[51] *See supra* Section II.C.ii.

[52] *See* 47 U.S.C. 1422(c).

[53] *Id.* § 1442(e)(3)(C)(ii).

[54] *Id.* § 1442(e)(3)(D) (emphasis added).

[55] *Id.* § 1442(e)(3)(D).

[56] As stated above, however, FirstNet may provide more details than are legally required under the Act.

[57] *See supra* Section II.C.ii.

[58] *See* 47 U.S.C. 1442(e)(2) (emphasis added).

[59] We discuss certain post-State-decision aspects of this issue in subsequent sections of this *Second Notice*.

consultation with state and local jurisdictions and could improve the network and provide additional coverage. We seek comments on the above preliminary conclusions. We also seek comments, considering the provisions of the Act and other applicable law, on the effect of both, a Governor's decision to participate in FirstNet's plan for a State, and a Governor's decision to apply for and assume RAN responsibilities in a State, on tribal jurisdictions in such a State.

v. Timing and Nature of State Decision

Section 6302(e)(2) requires that the Governor make a decision ''[n]ot later than 90 days after the date on which the Governor of a State receives notice under [Section 6302(e)(1)].'' [60] This phraseology raises the question as to whether a Governor could make such a decision prior to receiving such notice.

We preliminarily conclude that the Governor must await such notice and presentation of the FirstNet plan prior to making the decision under Section 6302(e)(2). The language of Section 6302(e)(2) creates a 90-day period ''after the date'' the notice is received, and the decision is clearly designed to be informed by the FirstNet plan.

In addition, any alternative interpretation would not fit within the process contemplated by the Act. Even if a State were able to make a qualifying decision prior to such notice, and we preliminarily conclude it could not, such a decision would trigger the 180-day clock for submitting an alternative plan to the FCC, discussed below. Without a FirstNet plan having been presented, the State's premature decision would not enable the FCC to make the assessments required to approve the State's alternate plan, or if such plan is approved, enable NTIA to review and determine whether to grant an application for grant funds and/or spectrum capacity. For example, without the FirstNet plan, a State would not be able to demonstrate to the FCC that its alternative RAN would be interoperable with the yet-unspecified FirstNet core network interconnection points within the State. Nor would a State be able to demonstrate ''comparable'' timelines, security, coverage, or quality of service, as required by Section 6302(e)(3)(D).[61] Thus, the Governor's premature decision, prior to a FirstNet plan, would likely be unworkable under the requirements in the Act.[62] We seek comments on this preliminary conclusion.

vi. Notification of State Decision

The Act does not require the Governor of a State to provide notice of its decision to participate in the FirstNet proposed network under Section 6302(e)(2)(A) to FirstNet, or any other parties. Rather, notice is only required, as is discussed in detail below, should the Governor of a State decide that the State will assume responsibility for the buildout and operation of the RAN in the State.[63] Thus, we preliminarily conclude that a State decision to participate in the FirstNet proposed deployment of the network in such State may be manifested by a State providing either (1) actual notice in writing to FirstNet within the 90-day [64] decision period or (2) no notice within the 90-day period established under Section 6302(e)(2). We seek comments on these preliminary conclusions.

Read literally, the 90-day period established under Section 6302(e)(2) applies to the Governor's decision, rather than the notice of such decision, which is addressed in Section 6302(e)(3). We preliminarily conclude, however, that it is clear from the language of Section 6302(e)(3) that the notice is to be provided to FirstNet, NTIA, and the FCC ''[u]pon making a decision . . . under paragraph (2)(B).'' [65] Thus, we interpret the requirement to issue such notice as an immediate (*i.e.* same day) requirement, and that Congress did not intend to apply an artificial deadline on the Governor's decision, and then permit an indefinite period to lapse before providing notice of such decision. Such an indefinite period would run contrary to the Act's emphasis on the ''speed of deployment'' of the network for public safety.[66] We seek comments on this preliminary conclusion.

vii. The Nature of FirstNet's Proposed State Plan

The Act describes what FirstNet is to propose to each State as a ''plan.'' [67] Section 6302 describes a process for the implementation of the nationwide public safety broadband network in each State.[68] FirstNet's presentation of a plan to the Governor of each State for buildout in that State and his/her decision to participate in such buildout as proposed by FirstNet or to deploy the State's own RAN are important steps of this process. However, we preliminarily conclude that FirstNet's presentation of a plan to a Governor and his/her decision to either participate in FirstNet's deployment or follow the necessary steps to build a State RAN, do not constitute the necessary ''offer and acceptance'' to create a contract.

Nowhere does the Act use words of contract, such as ''offer,'' ''execute,'' or ''acceptance'' in relationship to the FirstNet plan. For example, a Governor's decision is whether to ''participate'' in the FirstNet plan. The Act provides the Governor with 90 days to make a decision once presented with the plan, which would be an extremely short period within which to negotiate a final contract of this magnitude if a contract were contemplated. Notwithstanding this preliminary conclusion, a State would, however, ultimately benefit from any contractual remedies that FirstNet can enforce against its contracting parties for deployment of the network in the State.

In addition, we believe this interpretation is reasonable given that establishing the plan as a contract between FirstNet and a State would likely be unrealistic in light of the nature of the FirstNet program. For example, as discussed above, the process prescribed in the Act itself may make contract-like promises at the plan stage difficult.[69] In addition, subscriber adoption and fees will form an important funding and self-sustaining basis for FirstNet, dictating at least part of the scope of its ongoing buildout, features, and timing. These levels of subscriber adoption and fees across the network overall will not be known at the State plan stage and will likely be express assumptions thereunder.

Unlike the plan itself, however, when public safety entities subscribe to

[60] 47 U.S.C. 1442(e)(2).

[61] *Id.* § 1442(e)(3)(D)(iii).

[62] The Act's requirement that a State be presented a plan prior to rejecting it also ensures that each State has adequate information to determine whether the State would receive a greater benefit from either participating in the FirstNet proposed network plan for such State or by conducting its own deployment of the RAN in such State. More specifically, the contents of the notice provided under Section 6302(e)(1) will be necessary for a State to make an informed decision as to whether the State has the resources and capability to demonstrate it can meet the minimum technical, operational, funding, and interoperability requirements described throughout Section 6302(e). *See* 47 U.S.C. 1442(e).

[63] *See id.* § 1442(e)(3).

[64] In the absence of language to the contrary, we interpret the days specified in the Act as calendar days and seek any comments on this preliminary interpretation.

[65] 47 U.S.C. 1442(e)(3).

[66] *See e.g.,* 47 U.S.C. 1426(b)(1)(C) (describing the need for use of existing infrastructure to speed deployment of the network); *see also e.g.,* 47 U.S.C. 1426(b)(3) (encouraging FirstNet to seek cost effective opportunities to speed deployment in rural areas).

[67] A plan is defined as ''a detailed proposal for doing or achieving something.'' Oxford Dictionaries, *available at http://www.oxforddictionaries.com/us/definition/english/plan.*

[68] 47 U.S.C. 1442(e).

[69] *See supra* Section II.C.ii.

FirstNet's services, those subscription agreements are expected to take the form of contracts with FirstNet, including contractual remedies in the event FirstNet service does not meet promised-for service levels. Similarly, to the extent FirstNet enters into contracts with State or local agencies for use of local infrastructure, those contracts will be negotiated and presumably contain contractual remedies for both parties.[70] We seek comments on the above preliminary conclusions.

viii. State Development of an Alternative Plan

Section 6302(e)(3)(B) requires, not later than 180 days [71] after a Governor provides a notice under Section 6302(e)(3)(A), that the Governor develop and complete requests for proposals for construction, maintenance, and operation of the RAN within the State.[72] We believe the Act imposes this 180-day period to ensure that the public safety entities in and outside the State gain the benefit of interoperable communications in the State in a reasonable period of time, either through the FirstNet plan or a State plan.

Consistent with our preliminary interpretation of the ''completion'' of the FirstNet request for proposal process,[73] we preliminarily conclude that the phrase ''complete requests for proposals'' means that a State has progressed in such process to the extent necessary to present an alternative that could demonstrate the technical and interoperability requirements described in Section 6302(e)(3)(C)(i).[74] Like FirstNet, States will potentially have gaps in information at the time of their request for proposal process, and subsequently at the time of their submission of an alternative plan. For example, to the extent such States have not negotiated at least the material parameters of a spectrum capacity lease agreement with FirstNet at the time of an RFP, they will be unable to finally determine the terms, which may be materially affected by such parameters, of any covered leasing agreement (''CLA'') the State would enter into to offset some or all their costs of construction. Nor will NTIA have potentially approved of such spectrum capacity leasing rights at that point. Thus, we encourage States that may contemplate such a process to engage FirstNet as early as possible to increase the specificity of the alternative plans they can present to the FCC and NTIA.

In keeping with this interest in timely network deployment, we preliminarily conclude that where a State fails to ''complete'' its request for proposal process in the 180-day period under the Act, the State would forfeit its ability to submit an alternative plan in accordance with paragraph (e)(3)(C).[75] This forfeiture would result in the construction, maintenance, operations, and improvements of the network within the State proceeding in accordance with the FirstNet plan. We expect that the FCC will establish procedures regarding the filing of alternative State plans where States have completed their requests for proposal in a timely fashion. We seek comments on these preliminary conclusions.

ix. Responsibilities of FirstNet and a State Upon a State Decision To Assume Responsibility for the Construction and Operation of Its Own RAN

Under Section 6302(e)(3)(C)(ii), States with alternative plans approved by the FCC may apply to NTIA for a grant to construct a RAN within that state and must apply to NTIA to lease spectrum capacity from FirstNet.[76] We preliminarily conclude that approval by the FCC of an alternative State plan results in that State being solely responsible for the construction, operation, maintenance, and improvement of the RAN in such State in accordance with the State's approved plan, thereby extinguishing any obligation of FirstNet to construct, operate, maintain, or improve the RAN in such State.[77] Certainty as of the date upon which the FCC approves or disapproves the alternative plan is important for FirstNet in determining the final economics of its network and business planning and thus its ability to move forward, with vendors and otherwise, in that and other States. We seek comments on this preliminary conclusion.

The Act, however, does not provide a mechanism for a State, following an FCC-approved State RAN plan, to reinitiate an ''opt-in'' process where FirstNet would assume the duty to build the NPSBN in that State. For example, if the sequence of events ended with a State receiving approval of its alternative plan by the FCC but being unable to reach agreement on a spectrum capacity lease with FirstNet or being denied approval of such spectrum capacity leasing rights or needed grant funds by NTIA, the State subsequently would be unable to operate the RAN in the State. Although we intend to work closely with the FCC, NTIA, and States to try to anticipate and avoid any such unnecessary process issues, we preliminarily conclude that the inability of a State to implement its alternative plan for such reasons would not preclude a State and FirstNet from agreeing to allow FirstNet to implement the RAN in such State. FirstNet's duty is the deployment of the network nationwide, and deployment in all States greatly benefits the nation as a whole. As such, we do not believe Congress intended to put such States in limbo with regard to the NPSBN.

Further, because such uncertainty in any one State would affect the benefits of the NPSBN nationwide, we preliminarily conclude that denial by NTIA of at least the spectrum capacity leasing rights would then permit FirstNet to implement a plan in the State.[78] Absent this interpretation, any one State could indefinitely delay, among other things, construction of the network in such State, the funding derived from spectrum capacity leases in such State, and the positive effects of economies of scale and scope from construction and operation in such State, all to the detriment of all other States and citizens through the effect on the FirstNet program. In the absence of express provisions under the Act, we believe this preliminary interpretation appropriately balances Congress' intent to have a nationwide network implementation as soon as possible with the rights of States to conduct their own RAN deployment if, and only if, they can meet the requirements under Section 6302(e)(3). We seek comments on this preliminary conclusion and any alternative processes that meet the requirements of the Act.

Beyond the above scenarios, if a State initially enters into a spectrum capacity lease with FirstNet and receives all

[70] FirstNet is specifically authorized to make contracts with Federal, State, regional, and local agencies. *See* 47 U.S.C. 1426 (a)(3), (b)(4)(A).

[71] In the absence of language to the contrary, we interpret the days specified in the Act as calendar days.

[72] 47 U.S.C. 1442(e)(3)(B).

[73] *See supra* Section II.C.ii.

[74] *See* 47 U.S.C. 1442(e)(3)(C)(i).

[75] *Id.* § 1442(e)(3)(C).

[76] *Id.* § 1442(e)(3)(C)(iii).

[77] Such a State would, however, at a minimum still require approval from NTIA for spectrum capacity leasing rights and still fulfill their contractual requirements of any spectrum capacity lease negotiated with FirstNet. In addition to FirstNet's obligations under such a spectrum capacity lease, FirstNet would also have to fulfill its obligations, including any supervision obligations, under FCC rules as the licensee of the FirstNet spectrum with regard to any such State's use thereof.

[78] Following denial of the application for a spectrum capacity lease in Section 6302(e)(3)(C)(iii)(II), FirstNet would remain the licensee of the spectrum in question. *See* 47 U.S.C. 1442(e)(3)(C)(iii)(II).

necessary approvals, because of FirstNet's authority to enter into contracts with State and local agencies, we preliminarily conclude that a State may ultimately seek to have FirstNet, assuming mutually acceptable terms, take over some or all RAN responsibilities in the State through a contractual agreement.[79] Given the benefit to the nation of a functioning network within all States, we believe this capability is important in the event, for example, that a State plan fails after approval and execution of a spectrum capacity lease. We seek comments on these preliminary conclusions.

Finally, under Section 6302(e)(3)(C)(iv), if the FCC disapproves an alternative State plan, the construction, maintenance, operation, and improvements of the radio access network in that State will proceed in accordance with the State plan proposed by FirstNet.[80] Thus, we preliminarily conclude that once a plan has been disapproved by the FCC, subject only to the additional review described in Section 6302(h), the opportunity for a State to conduct its own RAN deployment under Section 6302(e) will be forfeited, and FirstNet may proceed in accordance with its proposed plan for that State.[81] This certainty of obligation is important for both FirstNet planning regarding self-sustainability and to ensure that the network is built in a timely manner. We seek comments on these preliminary conclusions.

D. Customer, Operational and Funding Considerations Regarding State Assumption of RAN Construction and Operation

i. Overview

Having discussed above many of the procedural aspects of a State's decision to assume RAN responsibilities, we turn to some of the potential substantive ramifications of such a decision. Importantly, and as is also discussed above, these ramifications can reach beyond the borders of the State making the decision. They include potential effects in and outside the State on public safety customers, FirstNet's costs and available funding nationally, including its ability to meet substantial rural milestones, and the purchasing power of FirstNet on behalf of public safety. In addition to these critical considerations, in order to achieve the goals of the Act following a State decision to assume RAN responsibilities, FirstNet and such a State must in all cases define and implement a potentially complex operational relationship to serve public safety.

In arriving at the preliminary interpretations below, we endeavored to remain faithful to the balance Congress struck between the deployment of a nationwide network as soon as practicable, and the right of States to deploy their own RAN under the conditions outlined in the Act. The most difficult of these preliminary interpretations relate to areas where the Act is either completely silent or provides only inferential guidance. These include topics such as who actually provides service to public safety entities in opt-out States, who receives and may use fees from such services and for what purposes, and whether Congress intended the right to opt-out under the Act to include, particularly with respect to fees for use of excess network capacity, the right to fundamentally affect the complex funding structure of the FirstNet program in all other States in favor of the State opting out.

We discuss below preliminary conclusions regarding these issues, but expect the highly complex legal and operational landscape in these areas to also mature over time, particularly in light of FirstNet consultations, including most importantly the comments received from this *Second Notice*.

ii. Customer Relationships in States Assuming RAN Construction and Operation

The Act does not expressly define which customer-facing roles are assumed by a State or FirstNet with respect to public safety entities in States that have assumed responsibility for RAN construction and operation. Generally speaking all wireless network services to public safety entities will require technical operation of both the RAN, operated by the State in this case, and the core network, operated by FirstNet in all cases as we preliminarily concluded in the *First Notice*.[82] We received predominantly supportive comments in response to this preliminary conclusion in the *First Notice,* with some commenters suggesting flexibility, on a State-by-State basis, in the precise delineation of technical and operational functions performed by the FirstNet core network and States assuming RAN responsibilities in such States.[83] A core network, for example, would typically control critical authentication, mobility, routing, security, prioritization rules, and support system functions, including billing and device services, along with connectivity to the Internet and public switched network. The RAN, however, would typically dictate, among other things, the coverage and capacity of last mile wireless communication to customer devices and certain priority and preemption enforcement points at the wireless interface of the network. Either alone is an incomplete network and each must work seamlessly with the other. As a result, FirstNet and such States must similarly work together to ensure that public safety is provided the critical wireless services contemplated by the Act.

These technical and operational functions and interactions between the RAN and core network, however, can vary to a limited extent that would not necessarily jeopardize the interoperability goals of the Act. FirstNet preliminarily concludes that it will maintain a flexible approach, advocated by some States in their comments to the *First Notice,* to such functions and interactions in order to provide the best solutions to each State so long as the interoperability and self-sustainment goals of the Act are achieved.[84] The allocation of such technical and operational functions,

[79] How such an agreement or the circumstances giving rise to the agreement, if permitted, would be treated by the FCC or NTIA under Section 6302(e)(3) would depend on such decisions, rules, or regulations of the FCC or on NTIA's decisions. *See* 47 U.S.C. 1442(e)(3).

[80] 47 U.S.C. 1442(e)(3)(C)(iv).

[81] *Id.* § 1442(h) (describing the jurisdiction and standard of review for reviewing the disapproval of a plan by the FCC).

[82] *See* 79 FR 57059 (September 24, 2014).

[83] *See, e.g.,* Comments of the State of Florida at 3–4 (stating ''Florida acknowledges that the Act requires FirstNet to build the core network. The Act, does not however, prohibit any other party from building and operating a core network, as long as it meets the interoperability and operational standards promulgated by FirstNet. Florida encourages FirstNet to remain flexible when creating its network architecture to provide options for the various States to best meet their broadband needs in support of their public safety missions.'') *available at http://www.regulations.gov/#!document Detail;D=NTIA-2014-0001-0013; See also, e.g.,* Consolidated Response of the MACINAC Initiative to the Request for Information For Comprehensive Network Solution(s) and Public Notice and Comment Request for Comments at 8 (stating ''MACINAC is not interested in operating a core, nor is it advocating for State-run cores; instead we are suggesting that when considering the line of demarcation between RAN and core, FirstNet must be careful to respect the distinction between technology [the hardware, software, and standards] and the policy and operation of the core services. Public safety entities will be unlikely to support the network unless FirstNet provides States and local governments the means to control and manage services such as billing, location, and device services.'') *available at http://www.regulations.gov/#!documentDetail;D=NTIA-2014-0001-0008.*

[84] FirstNet is continuing to review comments in response to the preliminary conclusions in its *First Notice* and makes no final determinations with respect thereto in this *Second Notice.*

however, does not entirely dictate who assumes public safety customer-facing roles, such as marketing, execution of customer agreements, billing, maintaining service responsibility, and generating and using fees from public safety customers. States assuming RAN responsibilities could, for example, operate as partial resellers or enter into Mobile Virtual Network Operator (''MVNO'')-like arrangements [85] with FirstNet to use part or all of its core network to offer service to public safety entities in a State. Alternatively, such States could act as a RAN supplier to FirstNet, customizing the RAN to local needs but placing the responsibility with FirstNet to market, serve, and bill public safety entities in the State. There are a variety of such possible arrangements, and we preliminarily conclude below that the Act provides sufficient flexibility to accommodate many of them so long as the interoperability and self-sustainment goals of the Act are met.

We first note, as we preliminarily concluded in the *First Notice,* that the State decision is as to whether to control deployment of the RAN, not the core network, and as is discussed above, the RAN alone is insufficient to offer wireless service. Under Section 6302(f), FirstNet is authorized to charge States assuming such RAN responsibilities user fees for ''use of elements of the core network.'' [86] This clause could be interpreted as evidence of Congress' contemplation of such a State's use of the FirstNet core network to provide service to public safety entities in a resale or MVNO-like arrangement. But there are a variety of circumstances, other than providing end user services, under which a State may want to use elements of the FirstNet core network. For example, the FirstNet core network would have to be used to enable RAN sharing as specified by the Interoperability Board Report in connection with a CLA between the State and a third party. In addition, if the State itself subscribed to FirstNet services, because the State is responsible for the RAN, the State and FirstNet would have to negotiate an agreement addressing, among other things, State use of the core network. Thus, this clause alone does not, generally speaking, appear to indicate one way or another who is to be the customer-facing service provider in a State that has assumed RAN responsibility and could provide flexibility in this regard.

Similarly, Section 6302(e)(3)(D) indicates that such a State is to ''operate . . . the State radio access network'' and ''maintain ongoing interoperability with the [NPSBN].'' [87] Neither of these requirements necessarily indicates a customer-facing role. The State is expressly operating the RAN, not the NPSBN as a whole in the State. Thus, these clauses similarly do not appear to be restrictive in this regard.

The Act requires that States seeking to obtain grant funds or spectrum capacity leasing rights must demonstrate ''comparable . . . quality of service to that of [FirstNet].'' [88] This provision implies that States building and operating a RAN are at least providing a ''quality of service'' to someone. For example, the clause could mean that because the RAN is part of the network that FirstNet is using to provide service to a public safety customer, the State must demonstrate that this ultimate level of service from FirstNet will not be diminished relative to what FirstNet would provide under its plan. Alternatively, the provision could be interpreted as contemplating a State providing a quality of service to end user customers. Again, this clause does not appear to clearly require one or the other customer-facing roles.

Another important provision relevant to this determination precludes States that assume RAN responsibility from ''provide[ing] commercial service to consumers or offer[ing] wholesale leasing capacity of the network within the State except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.'' [89] This provision could imply that such States are otherwise contemplated to provide commercial services to non-consumers (*e.g.,* public safety entities) within that State. This interpretation, however, based on implication, is not required by the provision, which could merely be formulated to avoid precluding the intended use of the State RAN for service provision by FirstNet to public safety. The implication may support the flexibility discussed above, although Congress was express and overt elsewhere in the Act in authorizing a customer-facing relationship.[90]

Section 6208 and Section 6302 expressly authorize FirstNet and a State assuming RAN responsibilities, respectively, to enter into CLAs.[91] Only Section 6208, however, which authorizes ''[FirstNet] . . . to assess and collect . . . fees,'' identifies ''user or subscription fee[s] . . . including . . . from . . . any public safety entit[ies].'' [92] That is, Congress expressly authorized both FirstNet and States to enter into CLAs, but only expressly provided for FirstNet to charge public safety entities for user or subscription fees. Because Congress took the step of expressly authorizing the State to exploit federally-licensed spectrum using one method (public private partnerships (''PPPs'')/CLAs), and, unlike FirstNet, not another (subscriber fees), a potential interpretation of the Act with respect to these provisions is that FirstNet is intended to be the customer-facing service provider for public safety entities in States that assume RAN responsibilities, or is at least the only entity permitted to assess subscription fees to public safety entities. Such an interpretation would also be supported by the existence of provisions under the Act, more fully discussed below, requiring FirstNet to reinvest subscriber fees *as well as* excess network capacity fees into the network, whereas the only reinvestment provision expressly applicable to States assuming RAN responsibilities concerns excess network capacity fees. This too could indicate that such States, as RAN providers, were not intended to assess subscription fees because if they were intended to do so, Congress would have required their reinvestment into the network (as they did with State CLA fees).[93]

We preliminarily conclude, however, that although the above provisions could indicate a Congressional intent to have FirstNet be the primary customer-facing entity at least with regard to the fees assessed public safety entities, a reasonable interpretation of all the

[85] In a traditional MVNO relationship, a mobile operator supplies the RAN and some components of the core network to the MVNO.

[86] 47 U.S.C. 1442(f).

[87] *Id.* § 1442(e)(3)(D).

[88] *Id.* § 1442(e)(3)(D)(iii).

[89] *Id.* § 1442(g)(1).

[90] We note that Section 6212 separately precludes FirstNet from providing services directly to consumers, and such a prohibition would presumably cover FirstNet's offer of services in a State that has assumed responsibility for a RAN, raising the question as to why the preclusion of Section 6302 is necessary unless Congress assumed such States were customer-facing to public safety entities. *See* 47 U.S.C. 1432, § 1442. Because Congress permitted such States to enter into agreements to exploit the excess network capacity in such States, the Section 6302 provision serves to limit the type of such agreements to the specified PPPs. *Id.* § 1442(g). Without this provision, States could enter into agreements to exploit excess capacity where the paying party was not aiding in the ''construction, maintenance, operation, and improvement of the network.'' *Id.* § 1442(g). Thus, the provision can serve a separate purpose.

[91] *Id.* § 1428(b), § 1442(e)(3)(c)(i)(II).

[92] *See id.* § 1428.

[93] 47 U.S.C. 1442(g)(2) (requiring revenues gained by a State from such a leasing agreement to be reinvested in the network).

provisions discussed above, including both operational and fee-related, would not preclude opt-out States, as sovereign entities, from charging subscription fees to public safety entities if FirstNet and such States agreed to such an arrangement in the spectrum capacity lease with the States, and the arrangement was part of an alternative plan approved by the FCC and NTIA. We seek comments on this preliminary conclusion.

In addition to affording flexibility with respect to FirstNet's role, because of the lack of definitive language in the Act discussed above, we also preliminarily conclude that the Act does not require that such States be the customer-facing entity entering into agreements with and charging fees to public safety entities in such States. In particular, our conclusion is based on the absence of provisions in the Act requiring such a result, as discussed above, and the inclusion of provisions, such as those regarding the assessment and reinvestment of subscriber fees, that at least clearly authorize, if not contemplate the opposite result.

Accordingly, we preliminarily conclude that the Act provides sufficient flexibility, as discussed above, to allow the determination of whether FirstNet or a State plays a customer-facing role to public safety in a State assuming RAN responsibilities to be the subject of operational discussions between FirstNet and such a State in negotiating the terms of the spectrum capacity lease for such State, in addition to the approval of the State's alternative plan by the FCC and spectrum leasing rights and any grant funds by NTIA. We seek comments on these preliminary conclusions.

Our preliminary interpretations above attempt to maintain the balance between, on the one hand, construction of a nationwide architecture and interoperable operation of the network, and on the other hand, a State's opportunity to design and deploy a RAN that meets the particular coverage, capacity, and other needs of the State. Our interpretations leave room for the flexibility advocated by some States in response to our *First Notice* in order to provide the best solutions in each State while adhering to the goals of the Act.

However, under all these possible scenarios—where an opt-out State or FirstNet is playing customer-facing service provider roles to public safety entities—the splitting of responsibilities for the network at the interface between the RAN and core network will present substantial operational complexities. A resale or MVNO-like arrangement permitting States that assume RAN responsibilities to offer service to public safety entities could create disparities in, among other things, terms and conditions, service/feature offerings and availability, priority and preemption governance schemes, and pricing and billing practices between opt-out States and opt-in States. These disparities, in addition to jeopardizing interoperability, could also reduce subscription to and use of the NPSBN by adding complexity, implementation risk, and confusion among public safety entities. Although some of these disparities could be addressed in the opt-out process and network policies implemented by FirstNet, and/or mitigated in agreements between FirstNet and opt-out States, such a structure could be inconsistent with the goals of the Act to establish ''a nationwide, interoperable public safety broadband network . . . based on a single, national network architecture.'' [94]

FirstNet's customer-facing role in providing services to public safety entities in opt-out States, although potentially mitigating many of the above difficulties, would present different issues, such as RAN coverage and capacity planning, investment, and reimbursement debates between FirstNet and such States.[95] Under the variety of possible scenarios enabled by commercial network standards, FirstNet and States assuming RAN responsibilities will have to work together over many years with the best interests of public safety in mind to address myriad operational issues.[96]

[94] *Id.* § 1422(b). There is also no indication in the Act that the State option to assume RAN responsibilities was enacted to promote competition between FirstNet and such States.

[95] We also note that States are not restricted from using their own funds to build and operate the RAN, nor are they required to apply to NTIA for funding.

[96] For example, if FirstNet is the public safety customer-facing provider, how will future capacity and coverage expansion of the RAN be handled between the parties given that FirstNet sales and service projections will be driving such investments? Alternatively, if the State is the public safety customer-facing provider and wants to expand the RAN or services beyond FirstNet's current core configuration, how will those arrangements be handled? How will roaming agreements between FirstNet and the State, and between either FirstNet or the State (as the service provider) and other carriers be handled? Regardless of the service provider model in States assuming RAN responsibilities, how will radio frequency planning be accomplished on State borders? We therefore also seek comments on the operational parameters implicated in the shared service provision models discussed above.

iii. State Use and Reinvestment of Funds Received From Building and Operating a RAN

FirstNet has three primary sources of funding: (1) Up to $7 billion in cash; (2) subscriber fees; and (3) fees from excess network capacity leases (known as CLAs) that allow FirstNet to sell capacity not being used by public safety to commercial entities.[97] Each of these funding sources is critical to offset the massive costs of the nationwide broadband wireless network envisioned in the Act and the self-sustainability required of FirstNet under the Act.

State opt-out decisions could, however, depending on the interpretations below, materially affect FirstNet's funding and thus its ability to serve public safety, particularly in rural States. If a State receives approval to opt-out it could theoretically tap into or entirely supplant each of the three primary FirstNet funding sources within the boundaries of the State. More precisely, depending on such interpretations, a State that assumes RAN responsibility could tap into or supplant these funding sources in an amount that materially exceeds the amount of resources FirstNet (or a reasonable State plan) would have allocated to serve that State.[98]

For example, once a State receives approval of its alternative RAN plan from the FCC, the State must apply to NTIA for a spectrum capacity lease from FirstNet.[99] Section 6302(g) then permits a State to enter into CLAs, using the spectrum capacity leased from FirstNet to offset the costs of the RAN. The Act does not specify the terms governing the lease nor the amount of spectrum capacity for which a State may apply, only requiring any fees gained to be reinvested into the RAN ''of the State.'' [100] Assuming for the moment that such a State receives all necessary approvals and enters into a lease with FirstNet for use of all of FirstNet's spectrum capacity in the State, and such a State is the billing service provider to public safety entities in the State, then all public safety subscriber and excess network capacity fees generated in the State would go to and remain in the

[97] *See generally* 47 U.S.C. 1428, § 1457.

[98] As used here, resources would be the amounts from all fees (including subscriber and excess network capacity) used to cover costs in the State. In an opt-out scenario, FirstNet would avoid the costs of the RAN, gain core network fees, but potentially lose fees that would have exceeded its costs in the State, as discussed herein. FirstNet's purchasing power with vendors would also decline to the extent of the RAN-related purchases, thereby potentially raising FirstNet's costs to the extent of such reduced purchasing power.

[99] 47 U.S.C. 1442(e)(3)(C).

[100] *Id.* § 1442(g)(2).

State other than any core network fees assessed by FirstNet.

Generally speaking, States with high-density populations may generate subscriber and/or excess network capacity fees for FirstNet that materially exceed their RAN costs to FirstNet. Thus, if such a State opts out of the FirstNet plan, and the Act is interpreted to allow such States to keep any or all of the fees from such States that exceed RAN costs within the State (assuming even an expanded RAN in the State alternative plan relative to FirstNet's plan), then funding for all other States could decline because FirstNet will not receive the funding for use outside the State.[101] That is, because FirstNet must aggregate fee amounts across all States for reinvestment and use by all States,[102] if a State is able to withhold fees materially in excess of those FirstNet was going to allocate to the State (beyond the avoided cost of the RAN and core network fees, and accounting for any plan differences between FirstNet and the State), funding for all other States would materially decline. This circumstance could have a detrimental impact on both the funds available to maintain and improve the NPSBN on an ongoing basis as well as adversely affect the cost of services to public safety users.

Thus, if a State believes it can generate and withhold such fees for its own use under the Act, it may have at least a theoretical economic incentive to opt-out. Again assuming the Act is interpreted this way, our preliminary estimates indicate that very high density States may have such an incentive, although only the request for proposal processes and actual operations will determine this for certain. Accordingly, if the Act is interpreted in this manner, it has a built in incentive structure for a few States to opt-out and retain, for reinvestment or otherwise in such States, fees that could materially reduce FirstNet coverage and services in all other States, including States with more rural areas.

We believe as a general matter that Congress did not intend for a few, high-density States to be able to withhold material funding for all other States under the Act. Such an incentive structure, even if reinvestment in the State network were always required in opt-out States, could result in networks that greatly exceed public safety requirements in a few opt-out States (or funds diverted to State general funds), and networks that do not meet public safety requirements and the goals of the Act in the vast majority of States. Nothing in the Act indicates that such a result was contemplated, particularly given FirstNet's duty to ensure the deployment of a ''nationwide'' network that includes ''substantial rural coverage milestones as part of each phase of the construction and deployment of the network.'' [103] We do not believe this was the balance Congress intended to strike between establishing a nationwide network and providing States an opportunity, under certain conditions, to customize and operate the RAN portion of the network in their States.

Congress' intent in this regard is informed by, among others, the provision in Section 6302(e)(3)(D) that requires that a State wishing to assume RAN responsibilities demonstrate ''the cost-effectiveness of the State plan'' when applying to NTIA not just for grant funds, but also for spectrum capacity leasing rights from FirstNet, which are necessary for the implementation of a State RAN and could exceed the value of any grant funds over the life of the program.[104] Independent of NTIA's determination in assessing such an application, FirstNet, as the licensee of the spectrum and an independent entity within NTIA, must ultimately decide to enter into such a lease, and thus we analyze this provision in considering FirstNet's role and duties in relation to the State's proposed demonstration of the plan's ''cost-effectiveness.'' [105]

If a State presented a plan for a RAN deployment identical to FirstNet's but costing three times as much, a reasonable interpretation of this provision would indicate that if material, the amount in question would render such a plan not cost-effective (assuming the State was not using its own funds or otherwise compensating for the cost difference). Two times the cost of the RAN would be wasted for the rest of the country. This straight-forward analysis of cost-effectiveness implicitly takes into account funding on a national basis, beyond the border of the State in question, because the State itself would receive the same RAN and the cost-inefficiency would only affect other States through FirstNet. Thus, by including a cost-effectiveness test, a straight-forward interpretation of the provision would indicate Congress' intent that State opt-out decisions do not unreasonably affect the resources of the network as a whole, or at the very least that such decisions only allocate resources to provide different or greater RAN coverage in a reasonable manner.[106]

In the case of a high-density State or territory, such as the District of Columbia, the value of public safety user fees and CLAs is likely much greater than a high-quality network's costs. That is, the effective cost of the RAN once subscriber and/or excess network capacity lease fees are taken into account is zero, and surplus fees are generated. Assuming for the moment that the State could generate the same (surplus) CLA fees that FirstNet could in the State, if the State were to present a plan that withheld such surpluses in the State itself, by analogy to the previous example, the rest of the States would be denied the benefits to the NPSBN afforded by the availability of such amounts to reduce the overall cost of services. Even if such a surplus were reinvested in the State's network, spending the surplus on only the network in that State may greatly exceed the reasonable needs of public safety in the State relative to those in other States. In addition to this inefficiency, if the Act were interpreted not to require reinvestment (discussed below) then any surplus fees diverted to State general funds would be drained from the FirstNet program and public safety in all States, including the opt-out State.

Exacerbating this effect, a single State (or even a group of States) negotiating a CLA for only such a State (or group) could yield substantially lower fees overall relative to what FirstNet would have generated. In the example above, the District of Columbia alone would likely generate lower fees than FirstNet would for the spectrum in the District because FirstNet would likely enter into a CLA that spanned the entire metro area of Washington, DC, including parts of Maryland and Virginia that, from a

[101] Funding for that opt-out State's core network would also decline, but FirstNet would be able to assess such a State core network fees under the Act.

[102] *See* 47 U.S.C. 1428.

[103] *Id.* § 1426(b)(1), (3).

[104] *See id.* § 1442(e)(3)(D).

[105] We note that FirstNet's interpretation of this provision and its determination with regard to its duties based on the State's proposed demonstration is independent of and does not limit NTIA. To the extent the ''spectrum capacity lease'' described in Section 6302(e)(3)(C)(iii)(II) is a lease of the spectrum itself, rather than capacity on the network, under applicable FCC rules the FCC ''will allow parties to determine precise terms and provisions of their contract'' consistent with FirstNet's obligations as a licensee under such rules. *See* Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, WT Docket No. 00–230, *Report and Order and Further Notice of Proposed Rulemaking,* FCC 03–113, 18 FCC Rcd 20604, 20637 (2003).

[106] The actual analysis would presumably include any added benefits provided by differences in the State RAN plan, which could justifiably cost more than the FirstNet RAN plan. But material fees captured in the State beyond the cost of even a reasonably enhanced RAN plan could result in inefficiencies.

commercial carrier's perspective, are important to the value of the spectrum in the District. Furthermore, FirstNet's request for proposal process might reveal that a regional or national CLA would generate even greater fees attributable to the District (and the District with surrounding States) because of the seamless spectrum footprint across the region or nation. Of course, the opposite could also be true, that for some reason a State or group of States may be able to generate more fees from a CLA than FirstNet which, depending on the allocation of such fees between the State and FirstNet, could benefit all other States relative to the agreement into which FirstNet would have entered. These are important considerations materially affecting the value of the assets Congress provided to fund the program.

Accordingly, as a threshold matter, with respect to FirstNet's negotiation of a spectrum capacity lease with States seeking to assume RAN responsibilities, we preliminarily conclude that Congress did not intend such leases to enable materially cost-inefficient RAN plans or, more precisely, materially inefficient use of the scarce spectrum resources provided to the program, and it would be FirstNet's duty to consider the effect of any such material inefficiencies on, among other things, more rural States and on the FirstNet program in determining whether and under what terms to enter into such a lease.

The Act directs States with approved alternative RAN plans to ''apply'' to ''NTIA to lease spectrum capacity from [FirstNet].'' [107] It does not guarantee that NTIA will approve spectrum capacity leasing rights for a State, but rather sets out criteria that must be demonstrated to NTIA—including the cost-effectiveness of the plan—prior to receiving approval. FirstNet, however, as an independent authority within NTIA and as the licensee of the spectrum, has a duty to preserve the meaningful right of States to opt-out under the Act, but also additional duties imposed by the Act to ensure the deployment of the network nationwide and duties imposed by FCC rules as a licensee with respect to the spectrum and any capacity subleases thereof. We preliminarily conclude that FirstNet, in the exercise of such duties, can and must take into account, among other things, the considerations discussed above in whether and under what terms to enter into a spectrum capacity lease with a State. We seek comments on this preliminary conclusion.[108]

FirstNet's proposed approach, however, would not result in a binary FirstNet position. FirstNet, in remaining faithful to the balance Congress struck in the Act, would work with States desiring to assume RAN responsibilities to evaluate potential ''win-win'' arrangements where the assets Congress provided are used efficiently but the right of States to assume RAN responsibilities under the Act's criteria is preserved. For example, FirstNet and such a State could agree, as part of the spectrum capacity lease and ultimately as part of the State's alternative plan presented to the FCC and NTIA, to leverage a FirstNet CLA if it presents a materially better fee return to the benefit of both the State in question and all other States. Such a State could become a contracting party with the same covered leasing partner, giving the State control of and responsibility for the RAN. If, taking into account the above-discussed potential effects on the program, a State is nevertheless able to enter into a more favorable CLA with a different covered leasing partner, then FirstNet and the State could agree on how such an agreement would benefit the State and the network as a whole. A variety of approaches could achieve ''win-win'' solutions, and FirstNet would be committed to exploring them within the bounds of the Act. We seek comments on such approaches.

With respect to the user fees generated from public safety customers in a State, we discussed in the previous section of this *Second Notice* our preliminary conclusion that FirstNet or a State assuming RAN responsibilities may ultimately receive such fees depending on the arrangement between FirstNet and the State under the spectrum capacity lease. Here, for the reasons discussed above, we preliminarily conclude that the Act should be interpreted to require that States assuming RAN responsibilities that charge end user subscription fees to public safety entities must reinvest such fees into the network and that FirstNet has a duty to consider both the reinvestment of such fees and the cost-effectiveness considerations discussed above regarding the distribution of such fees in entering into such a spectrum capacity lease.

An alternative interpretation regarding reinvestment of subscriber fees—that Congress intended States to be able to divert such fee amounts to State general funds—would seem to have no basis in the structure and purposes of the Act, which carefully provides a reinvestment requirement for CLA fees assessed by States (and FirstNet) and when authorizing subscriber fees by FirstNet.[109] Subscriber fees may ultimately exceed those derived from CLAs in any one State, and it would make little sense for Congress to have intended loss of the former but retention of the latter for the network, with such losses potentially jeopardizing the interoperability and technical evolution of the network. At a minimum, the ability of States to provide end user services to public safety entities will ultimately depend on the scope of the spectrum capacity lease provided by FirstNet. Accordingly, we preliminarily conclude that, absent clear language to the contrary in the Act, FirstNet could impose such a reinvestment restriction within the terms of such a lease. We seek comments on these preliminary conclusions.

We also preliminarily conclude here that, for the reasons discussed above related to CLAs, FirstNet, in the exercise of its duties, can and must take into account, among other things, the considerations discussed above regarding the effects on other States of a State's plan to retain all subscriber fees in determining whether and under what terms to enter into a spectrum capacity lease with a State. Consistent with our proposed approach to efficiently leverage CLA fees from third parties, FirstNet would explore ''win-win'' solutions with States desiring to assume RAN and customer-facing obligations if subscriber fees with or without CLA fees would materially exceed RAN and related costs in a State. We seek comments on these preliminary conclusions.

We turn now to the interpretation of certain aspects of provisions addressing the reinvestment of CLA fees assuming that a State has received approval from NTIA and entered into a spectrum capacity lease with FirstNet. We note the parallels between FirstNet and the State's provisions addressing the reinvestment of fees. Subsection 6208(d) requires FirstNet to reinvest those

[107] 47 U.S.C. 1442(e)(3)(iii)(II).

[108] We note that even if our preliminary conclusion is incorrect in terms of FirstNet's authority to consider the effects discussed above, in any event the provisions regarding cost-effectiveness of the plan, as interpreted by NTIA, would nevertheless be a required consideration in the application to NTIA for spectrum capacity leasing rights under the Act.

[109] This would be true even if Congress assumed that some of such subscribers could be receiving services for free because the same assumption could have been made with respect to FirstNet fees. That is, the Act does not require the imposition of fees, only authorizes such fees, and then requires that, if assessed, any such fees be reinvested.

amounts received from the assessment of fees under Section 6208 in the NPSBN by using such funds only for constructing, maintaining, operating, or improving the network.[110] Such fees under Section 6208 include basic network user fees and fees related to any CLAs between FirstNet and a secondary user.[111]

Parallel to FirstNet's provision in Section 6208(d), Section 6302(g)(2) requires that any amounts gained from a CLA between a State conducting its own deployment of a RAN and a secondary user must be used only for constructing, maintaining, operating, or improving the RAN of the State.[112] However, the exact parallels between the reinvestment prohibitions in the Act applicable to FirstNet, and those applicable to such States, end there.

Section 6208(a)(2) authorizes FirstNet to charge lease fees related to CLAs. Other than CLAs, however, FirstNet is not expressly authorized to enter into other arrangements involving the sale or lease of network capacity. In potential contrast, Section 6302(g)(1) precludes States from providing ''commercial service to consumers or offer[ing] wholesale leasing capacity of the network within the State *except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.''* Section 6302(g)(2), entitled ''Rule of construction,'' provides that ''[n]othing in this subsection shall be construed to prohibit the State and a secondary user from entering into a covered leasing agreement.'' [113]

These two components of subsection 6302(g) raise questions as to whether (1) there is any type of PPP that is not a CLA, and if so, (2) whether such a PPP would permit commercial use of such capacity more flexibly or less flexibly than a CLA given the difference in their respective requirements. That is, do these provisions of the Act provide States that assume RAN responsibility more or less flexibility in wholesaling capacity than FirstNet? Moreover, if such a non-CLA PPP exists, under the second sentence of Section 6302(g)(2), amounts generated by such an arrangement, unlike those from a CLA, could under the literal terms of Section 6302(g)(2) potentially not be subject to reinvestment in the network as that provision states that it is revenues gained ''from such a leasing agreement'' (ostensibly referring to ''covered leasing agreement'' in the immediately preceding sentence) that must be reinvested.[114]

These potential differences between the Act's treatment of FirstNet and States with regard to capacity leases turn on whether Congress intended a difference between the definition of CLA, explored in the *First Notice,* and a ''public-private partnership for construction, maintenance, operation, and improvement of the network.'' There are several differences in statutory language between the two:

(1) CLAs must be a written agreement, whereas PPPs are not expressly required to be in writing;

(2) CLAs are ''arrangements'', whereas PPPs are ''partnerships'';

(3) PPPs must include ''improvement'' of the network in addition to the ''construction'' and ''operation'' of the network required by both CLAs and PPPs;

(4) CLAs must include the ''manage[ment]'' of the network whereas PPPs must include the ''maintenance'' of the network; and

(5) PPPs need not expressly permit (i) access to network capacity on a secondary basis for non-public safety services and (ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.

We believe, however, that in practical terms the differences in items (1)–(4) above are slight. For example, any significant agreement of this type is likely to be in writing, and most such agreements could include improvement, management, or maintenance of the network in some manner to qualify.

With regard to item (5) above, interpreted consistent with our preliminary conclusions in the *First Notice,* these ''permit[ted]'' uses could provide express flexibility to a CLA party but not a PPP. Nevertheless, Section 6302(g)(2) permits States to enter into CLAs, indicating an intent to include CLAs within the scope of PPPs.[115] We thus preliminarily conclude that, in practical effect, the literal statutory differences result in little difference between the Act's treatment of FirstNet and States that assume RAN responsibility. We seek comments on this preliminary conclusion.

Given this preliminary conclusion, we do not believe Congress intended to permit such States to avoid reinvestment in the network through use of subtle differences in network capacity arrangements. Nothing in the Act indicates that such subtle differences should justify driving scarce resources away from the network and thus, effectively, public safety entities. Nor does anything in the Act indicate that Congress intended the network to be even a partial revenue generator for States. Given the provisions of and overall framework and policy goals of the Act, we preliminarily conclude that Congress intended that any revenues from PPPs, to the extent such arrangements are permitted and different than CLAs, should be reinvested into the network and that the reinvestment provision of Section 6302(g) should be read to require as such.[116] We seek comments on this preliminary conclusion.

Notwithstanding our preliminary legal conclusions above, however, fees—either basic user fees or those from PPPs—used for purposes other than constructing, maintaining, operating, or improving the RAN in a State could potentially severely impact the ability of a State to maintain ongoing interoperability and/or maintain comparable security, coverage, and quality of service to that of the NPSBN over time. Accordingly, we believe the potential loss to the network of either of these revenue streams, and thus State commitments to reinvest such revenue streams if the final interpretation of Section 6302(g) permits such losses, could be considered by NTIA in assessing any State alternate plans and related demonstrations by a State, and could be the subject of negotiated terms in any spectrum capacity lease between FirstNet and such a State in accordance with our preliminary conclusions regarding such leases above.

[110] 47 U.S.C. 1428(b).

[111] *See id.* § 1428(a).

[112] *Id.* § 1442 (g)(2) (emphasis added).

[113] *Id.* § 1442(g)(1).

[114] We note, however, that the reinvestment requirement of Section 6302(g)(2) actually requires reinvestment in ''constructing, maintaining, operating, or improving'' the RAN in the State, which are the four items listed as the subject matter of the PPPs of Section 6302(g)(1), not the CLA items of Section 6208(a)(1), which are ''construct[ing], manag[ing], and operat[ing].'' *See* 47 U.S.C. 1442(g), § 1448(a)(1). If Congress had intended to require only reinvestment of CLA fees, they may have referenced only the three areas that are the subject of CLAs. An alternative interpretation could therefore be that ''such a leasing agreement'' of Section 6302(g)(2) refers back to the term ''wholesale leasing'' in Section 6302(g)(1), using the term ''agreement'' as a generic reference to the PPP. We seek comments on this alternative interpretation. *See id.* § 1442(g)(2), § 1442(g)(1).

[115] If the item (5) ''permit[ed]'' uses were interpreted as limitations on a CLA partner, which we preliminarily concluded in the *First Notice* was not the case, then Section 6302(g)(2) would have the strange result of requiring reinvestment of a narrower class of capacity leases but not broader, more flexible leases. 47 U.S.C. 1442(g)(2). This interpretation makes little sense under the framework of the Act, would permit the draining of one of the most important sources of funding away from State RANs, and thus we preliminarily conclude that Section 6302(g)(2) and the definition of CLAs should not be interpreted in this manner. *Id.*

[116] *Id.* § 1442(g)(2).

III. Ex Parte Communications

Any non-public oral presentation to FirstNet regarding the substance of this *Second Notice* will be considered an ex parte presentation, and the substance of the meeting will be placed on the public record and become part of this docket. No later than two (2) business days after an oral presentation or meeting, an interested party must submit a memorandum to FirstNet summarizing the substance of the communication. FirstNet reserves the right to supplement the memorandum with additional information as necessary, or to request that the party making the filing do so, if FirstNet believes that important information was omitted or characterized incorrectly. Any written presentation provided in support of the oral communication or meeting will also be placed on the public record and become part of this docket. Such ex parte communications must be submitted to this docket as provided in the **ADDRESSES** section above and clearly labeled as an ex parte presentation. Federal entities are not subject to these procedures.

Dated: March 9, 2015.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority.

[FR Doc. 2015–05855 Filed 3–12–15; 8:45 am]

BILLING CODE 3510–TL–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase from People Who are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective:* April 13, 2015.

ADDRESSES: Committee for Purchase from People Who are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On 1/2/2015 (80 FR 34), the Committee for Purchase from People Who are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to furnish the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will provide the service to the Government.

2. The action will result in authorizing a small entity to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type: Janitorial Service.
Service is Mandatory for: GSA PBS Region 5, Enterprise Computing Center, 985 Michigan Avenue, Detroit, MI.
Mandatory Source of Supply: Jewish Vocational Service and Community Workshop, Southfield, MI.
Contracting Activity: General Services Administration, Public Buildings Service, Acquisition Management Division, Dearborn, MI.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–05783 Filed 3–12–15; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a product and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete products previously furnished by such agency.

DATES: Comments must be received on or before*:* 4/13/2015.

ADDRESSES: Committee for Purchase from People Who are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: *For Further Information or to Submit Comments Contact:* Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product

Product Name/NSN: Padfolio with Pen, Department of State Logo, 8–1/2'' x 11''/ 7510–01–NIB–1015.
Mandatory for Purchase by: Department of State Diplomatic Security Service Arlington, VA.
Manadatory Source of Supply: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Department of State, DS Office of Acquisition Management Arlington, VA.
Distribution: C-List.

Services

Service Type: Janitorial Service.
Service is Mandatory for: USDA, Agricultural Research Service Grassland, Soil and Water Research Laboratory, 808 East Blackland Road, Temple, TX.
Mandatory Source of Supply: Rising Star Resource Development Corporation, Dallas, TX.
Contracting Activity: USDA ARS SPA 7MN1, East College Station, TX.

Service Type: Mail Service.
Service is Mandatory for: US Air Force, Dyess AFB, TX.
Mandatory Source of Supply: Training, Rehabilitation, & Development Institute, Inc., San Antonio, TX.

Contracting Activity: Dept of the Air Force, FA4661 7 CONS CD, Dyess AFB, TX.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

Product Name/NSNS: Cap, Operating, Surgical, 6532–00–250–5041, 6532–00–250–5042.

Mandatory Source of Supply: Allied Health Care Services, Clarks Summit, PA.

Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–05782 Filed 3–12–15; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Market Risk Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on April 2, 2015, from 10:00 a.m. to 1:30 p.m., the Market Risk Advisory Committee (MRAC) will hold a public meeting at the CFTC's Washington, DC, headquarters. The MRAC will discuss issues related to: (1) Current risk management techniques employed by Derivatives Clearing Organizations (DCOs) to ensure that the appropriate measures are in place to address the potential default of a significant clearing member; and the (2) evolving structure of the derivatives markets, particularly with respect to Swap Execution Facilities (SEFs).

DATES: The meeting will be held on April 2, 2015 from 10:00 a.m. to 1:30 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by April 9, 2015.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Written statements should be submitted by mail to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, attention: Office of the Secretary, or by electronic mail to: *secretary@cftc.gov*. Please use the title ''Market Risk Advisory Committee'' in any written statement you submit. Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC Web site, *www.cftc.gov*.

FOR FURTHER INFORMATION CONTACT: Petal Walker, MRAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418–5794.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Toll Free: 1–866–844–9416.

International Toll and Toll Free: Will be posted on the CFTC's Web site, *http://www.cftc.gov,* on the page for the meeting, under Related Documents.

Pass Code/Pin Code: CFTC.

After the meeting, a transcript of the meeting will be published through a link on the CFTC's Web site, *http://www.cftc.gov*. All written submissions provided to the CFTC in any form will also be published on the CFTC's Web site. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

Authority: 5 U.S.C. app. 2 10(a)(2).

Dated: March 10, 2015.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–05772 Filed 3–12–15; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Piñon Canyon Maneuver Site Training and Operations Final Environmental Impact Statement

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of the Final Environmental Impact Statement (EIS) for proposed training and operations at Piñon Canyon Maneuver Site (PCMS), CO. PCMS is the maneuver site for Fort Carson and is located near Trinidad, CO, approximately 150 miles southeast of Fort Carson. The Final EIS evaluates the environmental impacts associated with the proposed action, which is to conduct realistic, coordinated, large-scale training that integrates the ground and air resources of Fort Carson's mechanized, infantry, support, and combat aviation units.

In addition to the No Action Alternative, the Final EIS considers two alternatives: Alternative 1A, which would establish new brigade-level training intensity measures, update brigade training and equipment requirements, and enable the Stryker family of vehicles to train at PCMS; and Alternative 1B, which would include Alternative 1A and add enhanced readiness training, to include new activities and infrastructure at PCMS. The proposed action does not include, nor would it require, land expansion of PCMS.

DATES: No decision will be made until 30 days after publication of the Notice of Availability in the **Federal Register**.

ADDRESSES: Written comments may be sent by email to *usarmy.carson.imcom-central.list.dpw-ed-nepa@mail.mil* or by postal service to the Fort Carson NEPA Program Manager, Directorate of Public Works, Environmental Division, 1626 Evans Street, Building 1219, Fort Carson, CO 80913–4362, or call (719) 526–4666.

FOR FURTHER INFORMATION CONTACT: The Fort Carson Public Affairs Office at (719) 526–7525, Monday through Friday, 7:30 a.m. to 4:00 p.m. MST; or by email to: *usarmy.carson.hqda-ocpa.list.pao-officer@mail.mil.*

SUPPLEMENTARY INFORMATION: The Final EIS has been prepared to meet the requirements of the National Environmental Policy Act of 1969 (NEPA) to evaluate the environmental and socioeconomic impacts, as well as cumulative impacts, of implementing proposed actions at PCMS. The Final EIS takes into consideration public, agency, and tribal nation comments received on the Draft EIS.

Soldiers stationed at Fort Carson need to train together, in an integrated manner, during large-scale collective training events. Integrated brigade combat team (BCT) level training is necessary at PCMS; without such training, Fort Carson Soldiers would be forced to train in their tasks in isolation, and not in the integrated manner in which they would fight. The Final EIS affords Fort Carson the opportunity to review its environmental program and the current state of the environment on PCMS.

Alternative 1A would establish a benchmark for brigade-level training intensity using the historic limitation of 4.7 months to allow for land rest and recovery. This alternative would enable Fort Carson's Stryker BCT to conduct

training at PCMS using the Stryker family of vehicles.

Alternative 1B includes Alternative 1A and new training activities and training infrastructure changes at PCMS. Training activities in the Final EIS include electronic jamming systems, laser target sighting, tactical demolition, unmanned and unarmed aerial reconnaissance systems, and light unmanned ground vehicle training. In terms of training infrastructure, PCMS would establish two new drop-zones, and restricted airspace directly over PCMS for use during periods when training activity poses a hazard to non-participating aircraft. The restricted airspace would be activated as required by training scenarios. Among the changes made since publication of the Draft EIS are the removal of aviation rocket (2.75 inch) and flare training, removal of two of the original eight demolition sites from the proposed action, and reduction in the maximum charge per blast at one of the six remaining sites. The decision-maker may select all of the elements in Alternative 1B or only some (or none in the No Action alternative). Alternative 1B is the Army's preferred alternative.

Implementation of the proposed action could have significant impacts to soils, vegetation, wildlife, and water resources. The Final EIS identifies potential mitigation measures to reduce adverse impacts.

Soldier training would be entirely within the existing boundaries of PCMS, except for limited air and convoy operations. The proposed action does not include, nor would it require, any land expansion of PCMS. No additional land will be sought or acquired as a result of this action.

The U.S. Army plans to issue a Record of Decision no earlier than 30 days after the date of the U.S. Environmental Protection Agency's Notice of Availability. The Record of Decision will include adoption of mitigation measures. The Final EIS is available at *http://www.carson.army.mil/DPW/nepa.html.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–05736 Filed 3–12–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0024]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DHRA 07, entitled ''National Language Service Corps Pilot Records'', in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will provide a single enterprise-wide automated Human Resource information system, DCPDS, with a standard configuration for personnel action processing and data retrieval for the DoD civilian workforce.

DATES: Comments will be accepted on or before April 13, 2015. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office Web site at *http://dpcld.defense.gov/.* The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 12, 2014 to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 9, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHRA 07

SYSTEM NAME:

National Language Service Corps Pilot Records (September 11, 2008, 73 FR 52839).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''National Language Service Corps (NLSC) Records.''

SYSTEM LOCATION:

Delete entry and replace with ''National Language Service Corps, 1101 Wilson Boulevard, Suite 1200, Arlington, VA 22209–2248.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''U.S. citizens who apply to become or are members of the NLSC.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Full name, other names used, citizenship, home address, email address, home and mobile telephone numbers, age verification of 18 years, education level, U.S. citizen, security clearance, employment information (*e.g.,* federal employee, political appointee, armed forces), foreign language(s) spoken, foreign language proficiency levels, origin of foreign language(s) spoken, English proficiency levels, and NLSC-assigned control number.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 131, Office of the Secretary of Defense; DoD Directive 5124.02, Under Secretary of Defense for Personnel and

Readiness (USD(P&R)); and 50 U.S.C. 1913, National Language Service Corps.''

PURPOSE(S):

Delete entry and replace with ''To allow U.S. citizens with language skills to self-identify their skills for the purpose of temporary employment on an intermittent work schedule or service opportunities in support of DoD or another department or agency of the United States. The information will be used to determine applicants' eligibility for NLSC membership and to identify and contact NLSC members.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To another department or agency of the United States in need of temporary short-term foreign language services, where government employees are required or desired.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense compilation of systems of records notices may apply to this system.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''NLSC-assigned control number, full name, and home address.''

SAFEGUARDS:

Delete entry and replace with ''Paper records are stored in locked file cabinets, in a locked office in a building with 24 hour guards and closed circuit television. Access to information, whether in paper or electronic records, is restricted to NLSC employees, authorized contractors, system developers, and administrators who require the records in the performance of their official duties. Access to personal information stored electronically is further restricted by the use of usernames and passwords that are changed periodically. Physical entry is restricted by the use of locks, guards at the facility hosting the web portal, and administrative procedures. The concept of identification and authentication ''layered protection'' is used to keep unauthorized users out of the NLSC Records. All personnel granted access must participate in a security training and awareness program. This program consists of both initial security training and annual refresher training.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are destroyed four years after participant ends participation.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, National Language Service Corps, 1101 Wilson Boulevard, Suite 1200, Arlington, VA 22209–2248.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, National Language Service Corps, 1101 Wilson Boulevard, Suite 1200, Arlington, VA 22209–2248.

Signed, written requests should contain the full name, current home address, and the name and number of this system of records notice.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Office of the Secretary of Defense (OSD)/Joint Staff Freedom of Information Act Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should contain the individual's full name, current home address, and the name and number of this system of records notice.''

* * * * *

[FR Doc. 2015–05676 Filed 3–12–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the USMA Board of Visitors (BoV). This meeting is open to the public. For more information about the BoV, its membership and its activities, please visit the BoV Web site at *http://www.usma.edu/bov/SitePages/Home.aspx.*

DATES: The USMA BoV will meet from 1:00 p.m. until 4:30 p.m. on Monday, March 30, 2015. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering West Point in order to gain access to the meeting location. All members of the public are subject to security screening.

ADDRESSES: The meeting will be held in the Haig Room, Jefferson Hall, West Point, NY 10996.

FOR FURTHER INFORMATION CONTACT: Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing to: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996, by email at *deadra.ghostlaw@usma.edu* or *BoV@usma.edu* or by telephone at (845) 938–4200.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: This is the 2015 Organizational Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues.

Proposed Agenda: The Academy leadership will provide the Board with updates on the following matters: Election of 2015 committee Chair and Vice Chair, 2014 Annual Report Update, Federal Advisory Committee Act Final Rule, Swearing in of Board Members. The Board will also be provided updates on the following: Athletic Restructuring, Gift-Funded Construction Approval Process, DoDIG Report on Gift Funds and GFEBS Restructuring, Admissions, Military Service Academy Report on Sexual Assault Report and Statistics from USMA for semester, Strategic Plan/PRR Process, Character Development Strategy, Curriculum Change, Efficacy of Service Academies, Future Agenda Format, and Budget.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Members

of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the meeting of the committee will be held in a Federal Government facility on a military post, security screening is required. A government photo ID is required to enter post. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. The United States Military Academy, Jefferson Hall, is fully handicap accessible. Wheelchair access is available at the south entrance of the building. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson, and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

The committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–05737 Filed 3–12–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 15–07]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 15–07 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: March 9, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAR 04 2015

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-07, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Jordan for defense articles and services estimated to cost $192 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

BILLING CODE 5001–06–C

Transmittal No. 15–07

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Jordan

(ii) *Total Estimated Value:*

Major Defense Equipment*	$150 million
Other	$ 42 million
TOTAL	$192 million

*as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 72 M31 Unitary Guided Multiple Launch Rocket Systems (GMLRS) Rocket Pods (6 rockets per pod for a total of 432), support equipment, spare and repair parts, publications and technical data, personnel training and equipment, systems integration support, U.S. Government and contractor engineering and logistics personnel services, and other related elements of logistics support.

(iv) *Military Department:* Army (WYB, Amendment #1)

(v) *Prior Related Cases, if any:* FMS case WYB–$166M–27Jan10

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(viii) *Date Report Delivered to Congress:* 04 March 2015

POLICY JUSTIFICATION

Jordan—M31 Unitary Guided Multiple Launch Rocket Systems (GMLRS) Rocket Pods

The Government of Jordan has requested a possible sale of 72 M31 Unitary Guided Multiple Launch Rocket Systems (GMLRS) Rocket Pods (6 rockets per pod for a total of 432), support equipment, spare and repair parts, publications and technical data, personnel training and equipment, systems integration support, U.S. Government and contractor engineering and logistics personnel services, and other related elements of logistics support. The estimated cost is $192 million.

This proposed sale will contribute to the foreign policy and national security of the U.S. by helping to improve the security of a partner country that has been and continues to be an important force for political stability and economic progress in the Middle East. It is vital to the U.S. national interest that Jordan develops and maintains a strong and ready self-defense capability. This proposed sale is consistent with the U.S. regional objectives and will not impact the regional stability in the Middle East.

The proposed sale of GMLRS will improve Jordan's capability to meet current and future threats on its borders and provide greater security for its economic infrastructure. The GMLRS will provide the Royal Jordanian Armed Forces (JAF) a long-range precision artillery support capability that will significantly improve U.S.-JAF interoperability and provide for the defense of vital installations. Jordan will have no difficulty absorbing these additional systems into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Missile and Fire Control in Dallas, Texas. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor representatives to Jordan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–07

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. Guided Multiple Launch Rocket System (GMLRS) munitions are the Army's primary Joint Expeditionary, all-weather, 24/7, tactical precision-guided rockets. GMLRS is the primary munitions system for units fielded with the High Mobility Artillery Rocket System (HIMARS) and Multiple Launch Rocket Systems (MLRS) M270A1 rocket and missile launcher platforms. GMLRS provides close, medium, and long range precision and area fires to destroy, suppress, and shape threat forces and protect friendly forces against cannon, mortar, rocket and missile artillery, light material and armor, personnel, command and control, and air defense surface targets. GMLRS integrates guidance and control packages and an improved rocket motor achieving greater range and precision accuracy, requiring fewer rockets to defeat targets, thereby reducing the logistics burden. The highest classification level for release of the GMLRS Pod Unitary High Explosive (HE) Tri Mode is Secret, based upon the software, sale or testing of the end item. The highest level of classification that must be disclosed for production, maintenance, or training is Confidential.

2. The Global Positioning System Precise Positioning Service (GPS PPS) component of the munition is also contained in the Fire Direction System, is classified Secret, and is considered sensitive. To that end, no GPS PPS design information, including GPS software algorithms, will be disclosed in the course of this proposed sale to Jordan. Susceptibility of GMLRS to diversion or exploitation is considered low risk. The GMLRS employs an inertial navigational system that is aided by a Selective Availability Anti-Spoofing Module (SAASM) equipped GPS receiver.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software, the information could be used to develop countermeasures, which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Jordan.

[FR Doc. 2015–05723 Filed 3–12–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Advisory Committee on Arlington National Cemetery (ACANC). The meeting is open to the public. For more information about the Committee, please visit *http://www.arlingtoncemetery.mil/AboutUs/FocusAreas.aspx.*

DATES: The Committee will meet from 9:30 a.m.–3:30 p.m. on March 26, 2015.

ADDRESSES: The meeting will be held at the Women in Military Service for America Memorial, Conference Room, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Ms. Renea C. Yates; Designated Federal Officer for the Committee, in writing at Arlington National Cemetery, Arlington, VA 22211, or by email at *renea.c.yates.civ@mail.mil,* or by phone at 703–614–1248.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations.

Proposed Agenda: The Committee will receive updates on major construction and expansion projects, sustainment planning and visitor enhancements. Additionally, the Committee will review a specific request for placement of a commemorative monument at Arlington National Cemetery to commemorate Vietnam Helicopter Pilots in accordance

with the requirements of Title 38 United States Code § 2409.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The Women in Military Service for America is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Ms. Renea Yates, the Committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Committee, in response to the stated agenda of the open meeting or in regard to the Committee's mission in general. Written comments or statements should be submitted to Ms. Renea Yates, the Committee's Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the Committee. The Designated Federal Officer will review all timely submitted written comments or statements with the Committee Chairperson, and ensure the comments are provided to all members of the Committee before the meeting. Written comments or statements received after this date may not be provided to the Committee until its next meeting. Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) days in advance to the Committee's Designated Federal Official, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Official will log each request, in the order received, and in consultation with the Committee Chair determine whether the subject matter of each comment is relevant to the Committee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the Designated Federal Official.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–05738 Filed 3–12–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0025]

Agency Information Collection Activities; Comment Request; Migrant Student Information Exchange (MSIX) User Guide and Application Form

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 12, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0025 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Pat Meyertholen, 202.260.1394.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Migrant Student Information Exchange (MSIX) User Guide and Application Form.

OMB Control Number: 1810–0686.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 1,598.

Total Estimated Number of Annual Burden Hours: 799.

Abstract: The Department of Education is requesting approval to extend the 1810–0686 information collection that supports statutory requirements for data collection under Title I, Part C MEP. The purpose of the Migrant Student Information Exchange (MSIX) User Guide and Application is to collect data to verify the identity of

users in order to grant them access to the MSIX system for the purpose of transferring migrant student data.

Dated: March 10, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05795 Filed 3–12–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0026]

Agency Information Collection Activities; Comment Request; William D. Ford Federal Direct Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq*.), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 12, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0026 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ian Foss, 202–377–3681.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms.

OMB Control Number: 1845–0018.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 25,842.

Total Estimated Number of Annual Burden Hours: 6,153.

Abstract: These forms serve as the means by which a borrower may request forbearance of repayment on their loans if they meet certain conditions. The U.S. Department of Education and other loan holders use the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific type of forbearance.

Dated: March 10, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05734 Filed 3–12–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0028]

Agency Information Collection Activities; Comment Request; William D. Ford Federal Direct Loan Program Deferment Request Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq*.), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 12, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0028 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ian Foss, 202–377–3681.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that

is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: William D. Ford Federal Direct Loan Program Deferment Request Forms.

OMB Control Number: 1845–0011.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 3,127,832.

Total Estimated Number of Annual Burden Hours: 500,453.

Abstract: These forms serve as the means by which borrowers in the William D. Ford Federal Direct Loan (Direct Loan) and Federal Family Education Loan (FFEL) Programs may request deferment of repayment on their loans if they meet certain statutory and regulatory criteria. The U.S. Department of Education and other loan holders uses the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific deferment type being submitted.

Dated: March 10, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05787 Filed 3–12–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0027]

Agency Information Collection Activities; Comment Request; Student Messaging in GEAR UP Demonstration

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before *May 12, 2015.*

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0027 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marsha Silverberg, (202) 208–7178.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Messaging in GEAR UP Demonstration.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 16,080.

Total Estimated Number of Annual Burden Hours: 4,160.

Abstract: The Student Messaging in GEAR UP Demonstration, sponsored by the Institute of Education Sciences (IES), U.S. Department of Education (ED), is being conducted to test the effectiveness of a promising strategy to improve college-related outcomes in the federal college access program Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). The demonstration will use a randomized controlled trial (RCT) design to test the effectiveness of sending customized messaging to students, first during the summer after high school graduation, and then in the fall and spring of their expected first year of college. Students within high schools that volunteer for the demonstration will be randomly assigned to either receive the messages or not. This ICR requests clearance for the collection of GEAR UP student rosters and administration of a baseline survey. In addition to the baseline survey data that will be collected from students, college-related outcome data will be extracted from national datasets (National Student Clearinghouse Data (NSC) and the Federal Student Aid (FSA) database). Impact and descriptive analyses will be conducted to answer the study research questions. The evaluation plans call for two reports. The first, published in summer 2018, will be based on data collected through 2017 that will look at college advising received in high school and early college-related outcomes (*i.e.,* college enrollment and FAFSA completion). The second report will be available in early 2020, and will investigate college persistence.

Dated: March 10, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05755 Filed 3–12–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–89–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on February 18, 2015, Transcontinental Gas Pipe Line Company, LLC (Transco), PO Box 1396, Houston, Texas 77251, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization to construct its Garden State Expansion Project in two phases. In Phase 1, Transco proposes to: (i) Construct a new meter and regulating station in Burlington County, New Jersey; (ii) uprate an existing electric motor drive to 25,000 horsepower (hp) at Compressor Station 205 in Mercer County, New Jersey; and (iii) construct related appurtenances. In Phase 2, Transco proposes to: (i) Construct a new 30,500 hp, electric-driven compressor station and appurtenances in Burlington County, New Jersey; (ii) uprate two existing electric-driven motors to 16,000 hp each at Compressor Station 205 in Mercer County, New Jersey; and (iii) construct related appurtenances. Transco states that the Garden State Expansion Project will provide 180,000 dekatherms per day of firm capacity to a new delivery point with New Jersey Natural Gas Company. Transco estimates the cost of the proposed project to be approximately $116 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application may be directed to Marg Camardello, Transcontinental Gas Pipe Line Company, LLC, PO Box 1396, Houston, Texas 77251, by telephone at (713) 215–3380.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: March 25, 2015.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05684 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2678–006–CA]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a subsequent license for the Narrows No. 2 Transmission Line Project and has prepared an Environmental Assessment (EA). The project occupies 1.28 acres of public land managed by the United States Army Corps of Engineers and provides service from the Yuba County Water Agency's Narrows No. 2 Powerhouse (a component of FERC Project No. 2246), in Yuba County, to PG&E's Narrows No. 2 Substation, in Nevada County.

The EA contains staff's analysis of the potential environmental effects of the project and alternatives and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly

affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Jim Fargo at (202) 502–6095.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05688 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–4–000]

Gulf South Pipeline Company, LP; Notice of Intent To Prepare an Environmental Assessment for the Planned Coastal Bend Header Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Coastal Bend Header Project (Project) involving construction and operation of facilities by Gulf South Pipeline Company, LP (Gulf South) in southeastern Texas. The Commission will use this EA in its decision-making process to determine whether construction and operation of the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. Your input during the scoping process will help the Commission staff determine what issues need to be evaluated in the EA. The Commission staff will also use the scoping process to help determine whether preparation of an environmental impact statement is more appropriate for this Project based upon the potential significance of the anticipated levels of impact. Please note that the scoping period will close on April 3, 2015. This is not your only public input opportunity; please refer to the Environmental Review Process flow chart in Appendix 1.[1]

Further details on how to submit written comments are in the Public Participation section of this notice. If you sent comments on this project to the Commission before the opening of this docket on November 5, 2014, you will need to file those comments in Docket No. PF15–4–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government officials are asked to notify their constituents of this planned Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, Gulf South could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

Gulf South plans to construct a new gas pipeline in Wharton and Brazoria Counties, Texas, a new compressor station in Wharton County along the new pipeline, and two new compressor stations and upgrades at two compressor stations along Gulf South's existing Index 129 pipeline in Fort Bend, Harris, Polk, and Sabine Counties, Texas. The new pipeline would enable delivery of 1.54 billion cubic feet per day (bcf/d) of natural gas to the proposed Freeport Liquefied Natural Gas (LNG) Export Terminal near Freeport, Texas. The general locations of the planned pipeline facilities are depicted in the figures included in Appendix 2.[2]

Specifically, the Project would include construction and operation of the following facilities:

- 64 miles of 36-inch diameter pipeline, called the Coastal Bend Header, commencing at a new interconnect with Tennessee Gas Pipeline Company, LLC northwest of Hungerford in Wharton County, Texas and terminating at the existing Freeport LNG Stratton Ridge meter site near Clute in Brazoria County, Texas;
- one new 93,500-horsepower (hp) gas-fired compressor station, called the Wilson Compressor Station, in Wharton County, Texas;
- one new 26,000-hp electric motor driven compressor station, called the Brazos Compressor Station, in Fort Bend County, Texas;
- one new 10,000-hp electric motor driven compressor station, called the North Houston Compressor Station, at an existing Gulf South property in Harris County, Texas;
- piping modifications within the fence line at Gulf South's existing Goodrich Compressor Station along the Index 129 pipeline in Polk County, Texas;
- piping modifications and a new 15,900-hp gas-fired compressor unit within the fence line at Gulf South's former Magasco Compressor Station along the Index 129 pipeline in Sabine County, Texas; and
- seven interconnects with various interstate and intrastate gas pipelines, including an interconnect with Gulf South's Index 129 pipeline, which Gulf South plans to construct at a later time under its blanket certificate authority.

Gulf South plans to begin Project construction in spring 2017 if all required permits, certificates, and authorizations are obtained. Gulf South's planned in-service date for Project facilities is spring 2018.

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the Additional Information section on page 7 of this notice.

Land Requirements for Construction

Gulf South is still in the planning phase for the project, and workspace requirements have not been finalized. However, based on currently available plans, approximately 42 percent of the Coastal Bend Header pipeline route parallels existing pipeline, utility, or road rights-of-way. Pipeline construction would directly affect approximately 991 acres of land temporarily during construction, and 480 acres would be retained as permanent right-of-way. Construction of the new Wilson and Brazos Compressor Stations would impact a total of approximately 57 acres temporarily and 20 acres permanently. Construction of the new North Houston Compressor Station would impact approximately 12 acres temporarily and 6 acres permanently, all within Gulf South's existing property line at that site. The upgrades to the existing Goodrich Compressor Station and the former Magasco Compressor Station would impact a total of approximately 15 acres temporarily and 9 acres permanently, all within the existing fence lines of those facilities. Metering, regulating, mainline valve, and other ancillary facilities would affect a total of approximately 16 acres during construction and 13 acres permanently.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned Project under these general headings:

- Geology and soils;
- water resources;
- wetlands and vegetation;
- fish and wildlife including migratory birds;
- threatened and endangered species;
- land use, recreation, and visual resources;
- air quality and noise;
- cultural resources;
- socioeconomics;
- reliability and safety; and
- cumulative environmental impacts.

We will also evaluate reasonable alternatives to the planned Project or portions of the Project, including the no action alternative, and make recommendations on how to minimize or avoid impacts on affected resources.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's Pre-filing Process. The purpose of the Pre-filing Process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA. In addition, representatives from FERC participated in the public open houses sponsored by Gulf South in the Project area in January and February 2015 to explain the environmental review process to interested stakeholders.

Our independent analysis of the issues will be presented in the EA. If the Commission staff determines the preparation of an EA is appropriate, the EA will be placed in the public record and be published and distributed to the public. A comment period will be allotted when the EA is noticed. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section beginning on page 6 of this notice.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this Project to formally cooperate with us in the preparation of the environmental document.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Texas Historical Commission which has been given the role of the State Historic Preservation Officer (SHPO) for Texas, and to solicit the SHPO's view and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[5] We will define the Project-specific Area of Potential Effects in consultation with the SHPO as the Project is further developed. Our environmental document for the Project will document our findings of the impacts on historic properties and summarize the status of consultations under Section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the Project facilities and information provided by Gulf South, comments made to us at Gulf South's open houses, and preliminary consultations with other agencies. It is worth noting that Gulf South has already made several modifications to the pipeline route and other Project facilities filed on December 12, 2014, based on feedback from affected landowners and other stakeholders at the open house meetings and through other ongoing landowner and agency negotiations. The following preliminary list of issues may be changed based on your comments and our analysis:

- Gulf South has identified 92 waterbodies during preliminary field surveys that would be crossed within the proposed Project area. Five are characterized as major waterbodies with crossing widths of greater than 100 feet: Brazos River, Dry Bayou, an unnamed manmade pond, Bastrop Bayou, and Big Slough. Thirty-three of the waterbodies are characterized as intermediate, with a crossing width of greater than 10 feet but less than or equal to 100 feet, and 54 of the waterbodies are characterized as minor, with a crossing width of less than or equal to 10 feet.
- Gulf South has identified 40 wetlands during preliminary field surveys that would be crossed within the Project area. These include 22 palustrine emergent wetlands, 4 palustrine scrub shrub wetlands, and 14

[3] "Us," "we," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, § 1501.6.

[5] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

palustrine forested wetlands, totaling approximately 24 acres.

- Temporary and permanent impacts on land use including farming, ranching, oil and gas production, sulfur extraction, and residential areas, and the development of appropriate mitigation and restoration measures. Gulf South has currently identified only one residence (house) and nine other structures (barns, storage buildings, etc.) within 50 feet of the construction right-of-way.
- Potential impacts on fish and wildlife habitat, including potential impacts on federally- and state-listed threatened and endangered species.
- Potential visual effects of the aboveground facilities on surrounding areas.
- Potential impacts on air quality and noise associated with construction and operation of the pipeline and compression facilities.
- Public safety and hazards associated with the transport of natural gas.
- Potential cumulative impacts associated with the recently authorized Freeport LNG Terminal and any other planned or proposed major projects in the vicinity.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or minimize environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so the Commission receives them in Washington, DC on or before April 3, 2015.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (PF15–4–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

1. You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for interested persons to submit brief, text-only comments on a project;

2. You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

3. You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned Project.

When an EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version, or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 3).

Becoming an Intervenor

Once Gulf South files its application with the Commission, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until a formal application for the Project is filed with the Commission.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF15–4). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, Gulf South has established a Web site for the Project at *http://www.gulfsouthpl.com/ExpansionProjects.aspx?id=4294967425*. The Web site includes a description of the Project, permitting schedules and calendars, frequently asked questions and responses, and links to related press releases and news articles. You can also request additional information directly from Gulf South at (844) 211–6282 or by clicking on the following link on the Gulf South Web site that will take you to an online submittal form: *http://www.gulfsouthpl.com/ExpansionProjects.aspx?ekfrm=4294967452*.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05692 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Wave Energy Prize

AGENCY: Wind and Water Power Technologies Office, Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of release of draft competition rules for public comment.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the availability of the draft Wave Energy Prize competition Rules and Terms and Conditions and requests public comment on the Rules and Terms and Conditions. The prize is designed to achieve game-changing performance enhancements to wave energy conversion (WEC) devices, establishing a pathway to sweeping cost reductions on a commercial scale. The prize consists of three phases—design, build, and test and evaluation. Prize purses to the winner(s): Grand Prize ($1,500,000), 2nd Place Finisher ($500,000), and 3rd Place Finisher ($250,000).

DATES: DOE intends to launch the Wave Energy Prize in April 2015. DOE is currently accepting public comments on the draft Prize Rules and Terms and Conditions through March 20, 2015.

ADDRESSES: Interested persons can find the draft Prize Rules and Terms and Conditions at waveenergyprize.org under the ''About'' tab. To provide feedback, please submit questions and comments to: *info@waveenergyprize.org.*

SUPPLEMENTARY INFORMATION: The America COMPETES Reauthorization Act of 2010 (America COMPETES), Public Law 111–358, enacted January 4, 2011, authorizes Federal agencies to issue competitions to stimulate innovations in technology, education, and science. The Wave Energy Prize leverages the America COMPETES Act to provide incentives to design, build, and test innovative WEC devices using novel WEC concepts.

DOE intends to launch the Wave Energy Prize, a public prize challenge sponsored by DOE's Water Power Program, in April 2015 and is currently accepting public comments on the draft Rules and Terms and Conditions. The prize is designed to increase the diversity of organizations involved in WEC technology development, while motivating and inspiring existing stakeholders. DOE envisions this competition will achieve game-changing performance enhancements to WEC devices, establishing a pathway to sweeping cost reductions on a commercial scale.

The wave energy industry is young and is experiencing many new innovations as evidenced by a sustained growth in patent activity. While the private industry is developing these early-concept WEC devices through design and benchtop prototype testing, funding is hard to secure for performance testing and evaluation of WEC devices in wave tanks at a meaningful scale. This is a problem for the industry since scaled WEC prototype tank testing, validation, and evaluation are key steps in the advancement of WEC technologies through the technical readiness levels to reach commercialization.

Goal of the Wave Energy Prize: The Wave Energy Prize will encourage the development of more efficient WEC devices that double the energy captured from ocean waves, which in turn will reduce the cost of wave energy, making it more competitive with traditional energy solutions.

Economic impact of the Wave Energy Prize: A successful Wave Energy Prize could jump-start private sector innovation critical to the country's long-term economic growth, energy security, and international competitiveness in the wave energy conversion sector.

Why participate in the Wave Energy Prize? The Wave Energy Prize seeks to attract innovative ideas from developers new to the industry and next-generation ideas from existing developers by offering a monetary prize purse and providing an opportunity for tank testing and evaluation of scaled WEC device prototypes at the U.S. Navy's Maneuvering and Seakeeping Basin (MASK) facility in Carderock, MD.

Eligibility: U.S. entities are able to participate in the Wave Energy Prize. This includes U.S. persons and companies as well as foreign companies that are incorporated in and maintain a primary place of business in the United States. Full eligibility requirements for the Wave Energy Prize are set in accordance with those established by America COMPETES, and are fully outlined in the draft Wave Energy Prize Rules document available at: *waveenergyprize.org.* DOE is accepting public comments on these draft Rules and the draft Terms and Conditions through March 20, 2015. See *waveenergyprize.org* for more information.

Issued in Washington, DC, on March 10, 2015.

Jose Zayas,

Wind and Water Power Technologies Office Director, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2015–05770 Filed 3–12–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–90–000]

Texas Eastern Transmission, LP; Notice of Application

March 4, 2015.

Take notice that on February 19, 2015, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization to construct and operate the Gulf Markets Expansion Project (Project). Specifically, the Project will enable Texas Eastern to provide 650 MMcf/d of firm transportation service to the Gulf Coast region of Louisiana and Texas, as well as to provide mainline markets with the opportunity to access growing supply basins in the Northeast, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Bill Hammons, P.O. Box 1396, Houston, Texas 77251, by telephone at (713) 215–2130.

The Project consists of the construction of one new compressor station at Provident City in Lavaca County, Texas; the installation of a new compressor unit at an existing compression station in Opelousas, Louisiana; and other facilities modifications. Texas Eastern proposes rolled-in rate treatment for the Project, and to charge its existing recourse rates for service on the Project. The cost of

the project will be approximately $149.1 million.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: March 25, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05685 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF14–21–000]

Alaska Gasline Development Corporation; BP Alaska LNG, LLC; Conoco Phillips Alaska LNG Company; ExxonMobil Alaska LNG, LLC; TransCanada Alaska Midstream, LP; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Alaska Lng Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Alaska LNG Project involving construction and operation of facilities by Alaska Gasline Development Corporation; BP Alaska LNG, LLC; Conoco Phillips Alaska LNG Company; ExxonMobil Alaska LNG, LLC; and TransCanada Alaska Midstream, LP (Applicants) in Alaska. The Commission will use this EIS in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission and its cooperating agencies will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. Understanding that affected stakeholders may include communities that depend on seasonal subsistence activities, the scoping period will remain open for an extended period, closing on December 4, 2015. This is not your only public input opportunity; please refer to the Environmental Review Process flow chart in attachment 1.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meetings to provide verbal and/or written comments on the project.

A schedule of the public scoping meeting dates, locations, and times will be issued in a separate notice at least one month prior to the date of the meetings.

This notice is being sent to the Commission's current environmental mailing list for this project. The environmental mailing list includes potentially affected landowners (crossed by or adjacent to the project route); landowners within 0.5 mile of compressor station sites, the gas treatment plant (GTP), and the liquefaction terminal; federal, state, and local government agencies; elected officials; environmental and public interest groups; Alaska Native tribes; local libraries and newspapers; and other interested parties. State, local, and tribal government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

The Applicants plan to develop, construct, and operate facilities that would commercialize the natural gas resources on Alaska's North Slope.

The Alaska LNG Project would consist of the following major facilities, associated ancillary facilities would also be needed:

GTP/Associated Pipelines:

- Three parallel treatment systems (trains) with a capacity up to 4.3 billion cubic feet per day;
- a 1-mile-long, large diameter aboveground pipeline to transport gas from the existing central gas facility to the GTP;
- a 60-mile-long 30-inch-diameter pipeline to transport gas from the Point Thomson Unit to the GTP;
- Prudhoe Bay Unit improvements to the West Dock loading and unloading facilities; and
- water reservoir, pump facilities, and a transfer line to provide water to the GTP.

Mainline facilities include:

- About 800 miles of 42-inch-diameter pipeline from the planned GTP to the planned liquefied natural gas (LNG) plant in Nikiski Alaska; and
- Eight natural gas driven compressor stations, four custody transfer meter stations, multiple pig launching/receiving [1] stations, heater stations, cathodic protection facilities; and mainline block valves.

LNG Liquefaction Facilities include:

- Marine terminal facilities;
- three liquefaction trains capable of liquefying 20 million tons per year of LNG; and
- three 160,000 cubic meter storage tanks.

A number of support facilities that are not under FERC jurisdiction would also be undertaken to complete and operate the FERC jurisdictional facilities. These include:

- Updates to existing transportation infrastructure;
- gravel quarries; and
- construction camps.

The planned Alaska LNG Project would start at the GTP and generally follow the existing Trans-Alaska Pipeline System crude oil pipeline (TAPS) and adjacent highways south to Livengood, Alaska. From Livengood, the mainline would diverge from TAPS and generally head south-southwest to Trapper Creek following the Parks Highway and Beluga Highway. Then the project turns south-southeast around Viapan Lake. Finally, it crosses the Cook Inlet in the vicinity of Shorty Creek to Boulder Point on the Kenai Peninsula. A map depicting the general location of project facilities is included as attachment 2.[2]

The Applicants anticipate starting construction in 2018 or early 2019, with construction and startup taking approximately seven years. On this basis, the planned project system would be placed into service about 2025–2026.

Land Requirements for Construction

The planned Alaska LNG Project facilities current design includes about 30,000 acres of land that would be temporarily impacted during construction, with about half of those acres within the permanent (or operational) right-of-way.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of an Authorization under Section 3 of the Natural Gas Act. NEPA also requires us [3] to identify and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to be addressed in the EIS. All comments received during the scoping period will be considered during the preparation of the EIS.

In the EIS, we will discuss impacts that could occur as a result of the construction and operation of the planned project under the following general headings:

- Geology and soils;
- water resources, fisheries, and wetlands;
- vegetation and wildlife;
- endangered and threatened species;
- cultural resources;
- socioeconomics and subsistence;
- land use, recreation, and visual resources;
- air quality and noise;
- public health and safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resources.

Although no formal application has been filed, we have already initiated our NEPA review under the FERC's pre-filing process.[4] The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have already started to meet with the Applicants, jurisdictional agencies, Alaska Native tribes, local officials, and other interested stakeholders to discuss the project and identify issues/impacts and concerns before the FERC receives an application. In addition, with this NOI, we are formally initiating government-to-government consultation with federally-recognized Alaska Native tribes.

We participated in 14 public open house meetings in Alaska hosted by the Applicants in October 2014 through January 2015. Additionally, we have begun meeting with interested state and federal agencies to discuss their possible involvement in the scoping process and the preparation of the EIS.

Our independent analysis of the issues will be presented in the EIS. The draft EIS will be published and distributed for a 45-day public review and comment period. We will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section of this notice.

With this notice, we are asking agencies with jurisdiction and/or state-wide special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EIS. Cooperating agencies will be expected to provide project-wide perspectives on environmental issues. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

The FERC is the lead federal agency in preparing the EIS to satisfy the requirements of NEPA. In accordance

[1] A pipeline ''pig'' is an internal device to clean or inspect the pipeline. A pig launcher/receiver is an aboveground facility where pigs are inserted into or retrieved from the pipeline.

[2] Attachments 1 (Process Flow Chart), 2 (General Location Map), and 3 (Mailing List/Environmental Document Request Form) are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (*www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room at 202–502–8371. For instructions on connecting to eLibrary, refer to the ''Availability of Additional Information'' section at the end of this notice. The General Project Map and Mailing List/Environmental Document Request Form were sent to all those receiving this notice in the mail.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

[4] The FERC granted the Applicants' request to begin the pre-filing process on September 12, 2014.

with the 2004 Interagency Agreement on the safety and security review of waterfront import/export LNG facilities, the U.S. Coast Guard and U.S. Department of Transportation will participate as cooperating agencies. Further, under our 2002 Memorandum of Understanding [5] with the U.S. Army Corps of Engineers (COE), U.S. Bureau of Land Management (BLM), and U.S. Department of Energy (DOE), these permitting agencies will participate as cooperating agencies in the preparation of the EIS to satisfy their NEPA responsibilities.

The COE has jurisdictional authority pursuant to Section 404 of the Clean Water Act, which governs the discharge of dredged or fill material into waters of the United States, and Section 10 of the Rivers and Harbors Act, which regulates any work or structures that potentially affect the navigability of a waterway.

Under Section 3 of the Natural Gas Act, Title 15 of the U.S. Code, Part 717b, the DOE would authorize the export of natural gas, including LNG, to countries with which the United States has not entered into a free trade agreement requiring national treatment for trade in natural gas, unless it finds that the proposed export will not be consistent with the public interest. For the Project, the purpose and need for DOE's action is to respond to the Alaska LNG application, filed with DOE on July 18, 2014 (FE Docket No. 14–96–LNG) seeking authorization to export domestic natural gas as LNG for a 30-year term commencing the earlier of the date of first export or 12 years from the date that the requested authorization is granted. DOE's authorization of the Alaska LNG application would allow the export of LNG to any country with the capacity to import LNG and with which trade is not prohibited by U.S. law or policy.

The BLM must issue a permit because the project would cross federally administered lands in Alaska. As a cooperating agency, the BLM would adopt the EIS per Title 40 of the Code of Federal Regulations, Part 1506.3 to meet its responsibilities under NEPA regarding the Applicants' application for a Right-of-Way Grant and Temporary Use Permit for crossing federally administered lands. Impacts on resources and programs, and the proposed project's conformance with land use plans, will be considered in the BLM's decision.

Currently Identified Environmental Issues

We have already identified a number of issues that we think deserve attention based on the public open houses, interagency meetings, and our review of the information provided by the Applicants. This preliminary list of issues may be changed based on your comments and our analysis.

- Permafrost, Soils, and Reclamation

—Construction limitations and slope stabilization in steep terrain and permafrost.
—Potential for problematic reclamation due to poor soils and permafrost conditions.
—Material, design, and operations and maintenance procedures/specifications for permafrost and subsidence locations for installation and on-going future maintenance and integrity management.
—Potential for introduction or spread of invasive and/or noxious species of vegetation during and after construction.

- Cultural Resources

—Impacts on traditional Alaska Native culture, historic sites, and landscapes.

- Water Resources and Wetlands

—Effects of construction and operation on waterbodies and wetlands.
—Effects of dredging, dock construction, and dumping dredged material into ocean waters.

- Fish, Wildlife, Vegetation, and Sensitive Species

—Effects of project construction on fish and wildlife and their habitat, including federally listed threatened and endangered species, marine mammals, migratory birds, and big game species.
—Effects of water depletion from hydrostatic test water withdrawals and ice road construction.

- Seismic Activity and Geohazards

—Pipeline and facility design in seismically active areas.
—Construction in geohazard areas.

- Land Use, Recreation, and Special Interest Areas

—Impacts on potential wilderness areas.
—Impacts on existing conservation system units (*e.g.,* Denali National Park).
—Private land crossings.
—Impacts on recreation (*e.g.,* fishing, hunting, boating, camping, hiking, skiing, mushing, and snowmachining).

- Socioeconomics

—Effects of construction workforce demands on public services and temporary housing.
—Economic impacts on local communities.
—Environmental Justice.

- Subsistence and Public Health

—Effects of construction and operation on fish, wildlife, marine mammal, and plant species used for subsistence.
—Impacts on access to subsistence resources.
—Health impacts on local communities.

- Air Quality and Noise
- Reliability and Safety
- Cumulative Impacts

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office(s) (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly

[5] The *Interagency Agreement on Early Coordination of Required Environmental and Historic Preservation Reviews Conducted in Conjunction with the Issuance of Authorizations to Construct and Operate Interstate Natural Gas Pipelines Certificated by the Federal Energy Regulatory Commission* was put into place in May of 2002.

[6] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

recorded, please send your comments so that the Commission receives them in Washington, DC on or before December 4, 2015. This is not your only public input opportunity; please refer to the Environmental Review Process flowchart in attachment 1.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF14–21–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

In addition to the methods listed above, we will also hold public scoping meetings and mail notices to our environmental mailing list identifying the date, time, and locations of these meetings later this year.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version, or would like to remove your name from the mailing list, please return the attached Information Request (attachment 3).

Becoming an Intervenor

Once the Applicants file its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF14–21). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Further, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information. Finally, additional information about the project can be seen from the Applicant's Web site at *http://ak-lng.com.*

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05691 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR15–20–000]

Express Pipeline LLC; Notice of Petition for Declaratory Order

Take notice that on February 27, 2015, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2014), Express Pipeline LLC filed a petition for a declaratory order seeking approval of a committed rate structure and related contract terms to support the cost of additional tanks, pumps, and piping to ''debottleneck, '' a constraint point on its system, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the

''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on March 20, 2015.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05687 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–95–000]

Columbia Gas Transmission, LLC; Notice of Application

Take notice that on February 20, 2015, Columbia Gas Transmission, LLC (Columbia) 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations seeking authorization to replace approximately 34 miles of existing 20-inch diameter pipeline with like size pipeline in Greene, Washington, and Allegheny counties, Pennsylvania, and install necessary appurtenant facilities associated with the replacement pipeline (Tri-County Project), all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Tyler R. Brown, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe Suite 2500, Houston, TX 77056, or call (713) 386–3797.

On May 27, 2014, Commission staff granted Columbia's request to use the pre-filing process and assigned Docket No. PF14–11–000 to staff activities involving the Tri-County Project. Now, as of the filing of this application on February 20, 2015, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP15–95–000 as noted in the caption of this Notice.

Specifically, Columbia will replace pipe in three segments. Segment 1 begins at Columbia's Hero-Jollytown regulator station in Greene County, and continues 15 miles north to Columbia's existing Waynesburg Compressor Station. Segment 2 begins at a point near Columbia's existing Redd Farm Compressor Station 4 in Washington County, and continues approximately 11 miles in a northerly direction to the existing Sharp Farm station. Segment 3 begins at Columbia's Sharp Farm station, and continues 12 miles north to the terminus of Line 1570 where it intersects with 20-inch Line 1485 in Allegheny County. Columbia states that the total cost of the replacement project is approximately 136 million dollars. Additionally, Columbia is requesting a pre-determination for rolled-in rate treatment since the primary purpose of the Tri-County Project is to replace existing bare steel pipeline due to the age and condition of the facilities.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: March 25, 2015.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05686 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC15–60–000]

National Grid USA; Notice of Request for Waiver

Take notice that on March 4, 2015, National Grid USA, on behalf of certain of its subsidiary operating companies [1] submitted a request for a waiver granting a permanent standing extension, until 150 days after its fiscal year end of March 31 each year, to submit the Federal Energy Regulatory Commission (Commission) Form 1, Form 1–F, and Form 2–A Supplemental Statements with CPA Certifications as well as the first quarter Form 3–Qs that would otherwise be due earlier in the year.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 25, 2015.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05683 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

[1] These companies include Massachusetts Electric Company, Nantucket Electric Company, New England Hydro-Transmission Corporation, New England Hydro-Transmission Electric Company, Inc., New England Power Company, The Narragansett Electric Company, Niagara Mohawk Power Corporation, National Grid LNG, LP, New England Electric Transmission Corporation, and National Grid Generation, LLC.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2744–000]

North East Wisconsin Hydro, LLC; Notice of Authorization for Continued Project Operation

On February 28, 2013 the North East Wisconsin Hydro, LLC, licensee for the Menominee-Park Mill Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Menominee-Park Mill Hydroelectric Project is located on Menominee River in Marinette County, Wisconsin and in Menominee County, Michigan.

The license for Project No. 2744 was issued for a period ending February 28, 2015. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2744 is issued to the licensee for a period effective March 1, 2015 through February 29, 2016 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before February 29, 2016, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, North East Wisconsin Hydro, LLC, is authorized to continue operation of Menominee-Park Mill Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Dated: March 4, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–05690 Filed 3–12–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0850; FRL–9922–40]

Chlorpyrifos Registration Review; Revised Human Health Risk Assessment; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice; Extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of January 14, 2015, concerning the availability of the chlorpyrifos registration review; revised human health risk assessment. This document extends the comment period for 45 days, from March 16, 2015 to April 30, 2015.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0850, must be received on or before: April 30, 2015.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES**

in the **Federal Register** document of January 14, 2015 (80 FR 1909) (FRL–9920–64).

FOR FURTHER INFORMATION CONTACT: Joel Wolf, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0228; email address: *wolf.joel@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of January 14, 2015. In that document, EPA announced the availability of the chlorpyrifos registration review; revised human health risk assessment. EPA received several requests to extend the comment period. EPA is hereby extending the comment period, which was set to end on March 16, 2015 to April 30, 2015.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of January 14, 2015. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 19, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–05844 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9924–30–OAR]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet on May 5, 2015. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's Web site: *http://www2.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac.* MSTRS listserver subscribers will receive notification when the agenda is available on the Subcommittee Web site. To subscribe to the MSTRS listserver, send an email to *Etchells.elizabeth@epa.gov.*

DATES: Tuesday, May 5, 2015 from 9:00 a.m. to 4:30 p.m. Registration begins at 8:30 a.m.

ADDRESSES: The meeting is currently scheduled to be held at the Hilton Alexandria Old Town at 1767 King St., Alexandria, VA 22314. However, this date and location are subject to change and interested parties should monitor the Subcommittee Web site (above) for the latest logistical information.

FOR FURTHER INFORMATION CONTACT: Elizabeth Etchells, Designated Federal Officer, Transportation and Climate Division, Mailcode 6406A, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Ph: 202–343–9231; email: *Etchells.elizabeth@epa.gov.*

Background on the work of the Subcommittee is available at: *http://www2.epa.gov/caaac/mobile-sources-technical-review-subcommittee-mstrs-caaac.* Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Etchells at the address above by April 29, 2015. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

For Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Ms. Etchells (see above). To request accommodation of a disability, please contact Ms. Etchells, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 25, 2015.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

[FR Doc. 2015–05845 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2015–0107; FRL–9924–26–OSWER]

Agency Information Collection Activities; Proposed Collection; Comment Request; Identification, Listing and Rulemaking Petitions (Renewal)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Identification, Listing and Rulemaking Petitions (Renewal) (EPA ICR No. 1189.25, OMB Control No. 2050–0053) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through June 30, 2015. 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: Comments must be submitted on or May 12, 2015.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2015–0107, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

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: Melissa Kaps, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–6787; fax number: 703–308–0514; email address: *kaps.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency to implement a comprehensive program for the safe management of hazardous waste. In addition, Congress wrote that ''[a]ny person may petition the Administrator for the promulgation, amendment or repeal of any regulation'' under RCRA (section 7004(a)).

40 CFR parts 260 and 261 contain provisions that allow regulated entities to apply for petitions, variances, exclusions, and exemptions from various RCRA requirements.

The following are some examples of information required from petitioners under 40 CFR part 260. Under 40 CFR 260.20(b), all rulemaking petitioners must submit basic information with their demonstrations, including name, address, and statement of interest in the proposed action. Under § 260.21, all petitioners for equivalent testing or analytical methods must include specific information in their petitions and demonstrate to the satisfaction of the Administrator that the proposed method is equal to, or superior to, the corresponding method in terms of its sensitivity, accuracy, and reproducibility. Under § 260.22, petitions to amend part 261 to exclude a waste produced at a particular facility (more simply, to delist a waste) must meet extensive informational requirements. When a petition is submitted, the Agency reviews materials, deliberates, publishes its tentative decision in the **Federal Register**, and requests public comment. The EPA also may hold informal public hearings (if requested by an interested person or at the discretion of the Administrator) to hear oral comments on its tentative decision. After evaluating all comments, the EPA publishes its final decision in the **Federal Register**.

Form Numbers: None.

Respondents/affected entities: Business and other for-profit.

Respondent's obligation to respond: Mandatory (RCRA 7004(a)).

Estimated number of respondents: 2,603.

Frequency of response: On occasion.

Total estimated burden: 68,923 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $12,504,987, includes $9,660,864 annualized O&M costs and $2,844,124 annualized labor costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: February 25, 2015.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2015–05850 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9019–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 03/02/2015 through 03/06/2015

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20150057, Draft EIS, APHIS, 00, PROGRAMMATIC—Asian Longhorned Beetle Eradication Program, Comment Period Ends: 04/27/2015, Contact: Jim E. Warren 202–316–3216.

EIS No. 20150058, Final EIS, USA, CO, Pinon Canyon Maneuver Site (PCMS) Training and Operations, Review Period Ends: 04/13/2015, Contact: Pamela M. Klinger 210–466–1595.

EIS No. 20150059, Draft EIS, NMFS, WA, The Makah Tribe Request to Hunt Gray Whales, Comment Period Ends: 06/11/2015, Contact: Steve Stone 503–231–2317.

EIS No. 20150060, Draft Supplement, TVA, TN, Integrated Resource Plan, Comment Period Ends: 04/27/2015, Contact: Charles P. Nicholson 865–632–3582.

EIS No. 20150061, Draft EIS, CALTRANS, CA, SR 710 North Improvements, Comment Period Ends: 07/06/2015, Contact: Garrett Damrath 213–897–0357.

*EIS No. 20150062, Draft EIS, USFS, CA,*Westside Fire Recovery Project, Comment Period Ends: 04/13/2015, Contact: Wendy Coats 530–841–4470.

The U.S. Department of Agriculture's Forest Service requested and was granted approval to shorten the public comment period for this Draft EIS from 45 to 30 days, reflecting the President's Council on Environmental Quality (CEQ) alternative arrangements granted in accordance with 40 CFR 1506.11.

Dated: March 10, 2015.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015–05862 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9924–34–OA]

Notification of a Teleconference and a Face-to-Face Meeting of the Science Advisory Board Economy-Wide Modeling Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science

Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Economy-Wide Modeling Panel. The SAB Staff Office also announces a public face-to-face meeting of the SAB Economy-Wide Modeling Panel.

DATES: The public teleconference will be held on July 15, 2015 from 2:00 p.m. to 5:00 p.m. (Eastern Time). The public face-to-face meeting will be held on October 22 and 23, 2015 from 9:00 a.m. to 5:00 p.m. each day (Eastern Time).

ADDRESSES: The teleconference will be held by telephone only. The face-to-face meeting will take place at the George Washington University, Milken Institute School of Public Health, Convening Center A and B, 950 New Hampshire Avenue NW., Washington, DC 20052. The public also can view the October 22 and 23, 2015 meeting via a non-interactive, live webcast that will be broadcast on the internet. The connection information to view the webcast will be provided on the meeting Web page at the time of the meeting. The meeting Web page may be found by going to *http://epa.gov/sab* and clicking on the calendar then the meeting date.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public teleconference or public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2073 or via email at *stallworth.holly@epa.gov*. General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Economy-Wide Modeling Panel will hold a public teleconference to receive a background briefing from EPA's National Center for Environmental Economics and the Office of Air and Radiation on economic analysis for air regulations at EPA and challenges for the potential use of economy-wide modeling in this context. The teleconference will provide an orientation for the public and the Panel on EPA's draft final charge and annotated outlines of several white papers to be authored by EPA. Subsequently, the SAB Economy-Wide Modeling Panel will hold a face-to-face meeting on October 22 and 23, 2015 to deliberate on EPA's charge questions. The EPA-authored white papers will be provided to the Panel and the public prior to the October face-to-face meeting. The October 22 and 23, 2015 face-to-face meeting will address the first two sections of the charge, on social costs and benefits. The remaining two sections, on economic impact analysis and results interpretation, will be discussed at a subsequent face-to-face meeting to be scheduled. At the October 22 and 23, 2015 face-to-face meeting, EPA's National Center for Environmental Economics and the Office of Air and Radiation will also provide background briefings specific to the charge. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Background information on the SAB Economy-Wide Modeling Panel can be found at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Economywide%20modeling?OpenDocument*.

Availability of the meeting materials: Agendas will be posted on the SAB Web site prior to the July 15, 2015 teleconference and the October 22 and 23, 2015 face-to-face meeting. To locate meeting materials, go to *http://epa.gov/sab* and click on the calendar and then the respective meeting dates. EPA's review document(s), charge to the Panel and other background materials are also available at the URL above. For questions concerning EPA's review materials on economy-wide modeling, please contact Dr. Ann Wolverton, EPA National Center for Environmental Economics at *wolverton.ann@epa.gov* or 202–566–2278.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the panel and the EPA review documents, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB panel to consider or if it relates to the clarity or accuracy of the technical information.

Oral Statements: In general, individuals or groups requesting an oral presentation at the meeting will be limited to five minutes per speaker for the face-to-face meeting and three minutes per speaker for the teleconference. Interested parties should contact Dr. Holly Stallworth, DFO, in writing (preferably via email), at the contact information noted above, by July 6, 2015 to be placed on the list of public speakers for the teleconference and by October 13, 2015 to be placed on the list of speakers for the face-to-face meeting.

Written Statements: Written statements should be received in the SAB Staff Office by July 6, 2015 to be considered for the teleconference and by October 13, 2015 to be considered for the face-to-face meeting. Written statements should be supplied to the DFO, preferably in electronic format via email. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 3, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–05801 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2015–0108, FRL–9924–25–OSWER]

Agency Information Collection Activities; Proposed Collection; Comment Request; RCRA Expanded Public Participation.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), RCRA Expanded Public Participation (EPA ICR No. 1688.08, OMB Control No. 2050–0149) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through June 30, 2015. 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: Comments must be submitted on or before May 12, 2015.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2015–0108, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

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: Michael Pease, (5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–0008; fax number: 703–308–8433; email address: *pease.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Section 7004(b) of RCRA gives the EPA broad authority to provide for, encourage, and assist public participation in the development, revision, implementation, and enforcement of any regulation, guideline, information, or program under RCRA. An example of this is at 40 CFR 124.31(a) and (b), facilities applying for an initial part B permit or a part B permit renewal, where the renewal application is proposing a change that would qualify as a Class 3 permit modification under 40 CFR 270.42, are required to hold at least one meeting with the public prior to submitting the part B permit application to the permitting agency. The applicant must submit a summary of the meeting, along with the list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, to the permitting agency as part of the part B application (§ 124.31(c)). Under 40 CFR 124.31(d), applicants must provide public notice (*i.e.,* newspaper advertisement, visible and accessible sign, and broadcast media announcement) of the pre-application meeting at least 30 days prior to the meeting. The applicant also mush provide a copy of the notice to the permitting agency and to the appropriate units of State and local government.

In addition, the statute specifies certain public notices (*i.e.,* radio, newspaper, and a letter to relevant agencies) that the EPA must provide before issuing any RCRA permit. The statute also establishes a process by which the public can dispute a permit and request a public hearing to discuss it. The EPA carries out much of its RCRA public involvement at 40 CFR parts 124 and 270.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are Businesses and other for-profit.

Respondent's obligation to respond: mandatory (RCRA 7004(b)).

Estimated number of respondents: 33.

Frequency of response: On occasion.

Total estimated burden: 3,005 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $195,914, which includes $192,365 annualized labor costs and $3,549 annualized capital or O&M costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: March 2, 2015.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2015–05842 Filed 3–12–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (3064–0135)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the FDIC is soliciting comment on renewal of the information collection described below.

DATES: Comments must be submitted on or before May 12, 2015.

ADDRESSES: Interested parties are invited to submit written comments to

the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/*.
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper, Counsel, (202.898.3877), or John Popeo, Counsel, (202.898.6923), MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary Kuiper or John Popeo, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently-approved collection of information:

Title: Asset Purchaser Eligibility Certification.

OMB Number: 3064–0135.

Form Number: FDIC 7300/06, ''Purchaser Eligibility Certification;'' 7300/07 ''Pre-Qualification Request;'' and 7300/08, ''Contact Information Form.''

Affected Public: Business or other financial institutions.

Frequency of Response: On occasion.

Estimated Number of Respondents: 600.

Estimated Time Per Response: 1.0 hour (Purchaser Eligibility Certification, 30 minutes; Pre-Qualification Request, 20 minutes; and Contact Information Form, 10 minutes).

Total Annual Burden: 600 hours.

General Description of Collection: The FDIC uses the Purchaser Eligibility Certification form, FDIC Form No. 7300/06, to identify prospective bidders who are not eligible to purchase assets of failed institutions from the FDIC. Specifically, section 11(p) of the Federal Deposit Insurance Act prohibits the sale of assets of failed institutions to certain individuals or entities that profited or engaged in wrongdoing at the expense of those failed institutions, or seriously mismanaged failed institutions. The Pre-Qualification Request form, FDIC Form No. 7300/07, is designed to determine which prospective bidders are qualified to bid on particular types of assets offered by the FDIC. In addition, the FDIC uses the Contact Information Form, FDIC Form No. 7300/08, to determine the type of assets a prospective bidder is interested in, and to facilitate communication with the prospective bidder.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (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. All comments will become a matter of public record.

Dated at Washington, DC, this 9th day of March 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–05696 Filed 3–12–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: *Tuesday March 17, 2015 at 10 a.m. and its continuation on Thursday March 19, 2015 at the conclusion of the open meeting.*

PLACE 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2015–05884 Filed 3–11–15; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Federal Maritime Commission.
Time and Date: March 18, 2015; 10:00 a.m.
Place: 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.
Status: The first portion of the meeting will be held in Open Session; the second in Closed Session.
Matters to be Considered:

Open Session

1. Briefing on Monitoring the Latin American Trades

Closed Session

1. Briefing on Consumer Affairs and Dispute Resolution Services Inter-Agency Outreach.
2. S. 2444—Howard Coble Coast Guard and Maritime Transportation Act of 2014.

Contact Person for More Information: Karen V. Gregory, Secretary, (202) 523 5725

Karen V. Gregory,

Secretary.

[FR Doc. 2015–05955 Filed 3–11–15; 4:15 pm]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 201227.

Title: Pacific Ports Operational Improvements Agreement.

Parties: Ocean Carrier Equipment Management Association, Inc.; West Coast MTO Agreement; Maersk Line A/S; APL Co. Pte Ltd.; American President Lines, Ltd.; CMA CGM S.A.; Cosco Container Lines Company Limited; Evergreen Line Joint Service Agreement FMC Agreement No. 011982; Hamburg-Sud; Alianca Navegacao e Logistica Ltda.; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hapag-Lloyd USA; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha Line; Kawasaki Kisen

Kaisha, Ltd.; APM Terminals Pacific, Ltd.; California United Terminals, Inc.; Eagle Marine Services, Ltd.; International Transportation Service, Inc.; Long Beach Container Terminal, Inc.; Seaside Transportation Service LLC; Trapac, Inc.; Total Terminals LLC; West Basin Container Terminal LLC; Yusen Terminals, Inc.; Pacific Maritime Services, L.L.C.; SSA Terminals, LLC; and SSA Terminal (Long Beach), LLC.

Filing Party: Jeffrey F. Lawrence, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

Synopsis: The Agreement would authorize the parties to discuss, exchange information, and reach agreement with respect to measures towards improving the efficiency of operations of West Coast port facilities, reducing congestion at such facilities, inspection, safety and efficient use of equipment, and related port operational matters. It would also authorize the parties to agree on rules, regulations, practices and terms and conditions relating to the foregoing matters.

By Order of the Federal Maritime Commission.

Dated: March 9, 2015.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–05714 Filed 3–12–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 9, 2015.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *MSB Financial, MHC, and MSB Financial Corp., Millington,* both in Millington, New Jersey, to convert to stock form and merge with and into MSB Financial Corp., Millington, New Jersey (a newly formed holding company), and subsequently MSB Financial Corp., will acquire 100 percent of the voting shares of Millington Saving Bank, Millington, New Jersey. MSB Financial Corp, also has applied to become a bank holding company.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Normangee Bancshares, Inc.,* Normangee, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Normangee State Bank, Normangee, Texas.

Board of Governors of the Federal Reserve System, March 10, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–05793 Filed 3–12–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 9, 2015.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *MSB Financial, MHC, and MSB Financial Corp., Millington,* both in Millington, New Jersey, to convert to stock form and merge with and into MSB Financial Corp., Millington, New Jersey (a newly formed holding company), and subsequently MSB Financial Corp., will acquire 100 percent of the voting shares of Millington Saving Bank, Millington, New Jersey. MSB Financial Corp, also has applied to become a bank holding company.

Board of Governors of the Federal Reserve System, March 10, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–05792 Filed 3–12–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their

views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 30, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Michael J. Hackworth and Jennifer Hackworth Thompson, as co-trustees of the L. Dwayne Hackworth Irrevocable Trust, individually, and as members of a family control group which consists of the Trust and L. Dwayne Hackworth,* all of Ellington, Missouri; to acquire voting shares of Greenville Bancshares, Inc., Piedmont, Missouri, and thereby indirectly acquire voting shares of Peoples Community Bank, Greenville, Missouri.

Board of Governors of the Federal Reserve System, March 10, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–05791 Filed 3–12–15; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–PMAB–2015–01; Docket No. 2015–0002; Sequence No. 3]

The President's Management Advisory Board (PMAB); Notification of Upcoming Public Advisory Meeting

AGENCY: Office of Executive Councils, U.S. General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: The President's Management Advisory Board (PMAB), a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), will hold a public meeting on Friday, March 27, 2015.

DATES: *Effective:* March 13, 2015.

Meeting date: The meeting will be held on Friday, March 27, 2015, beginning at 9:00 a.m. Eastern Standard Time (EST), ending no later than 1:00 p.m. Eastern Standard Time (EST).

ADDRESSES: The meeting will be held at Eisenhower Executive Office Building, 1650 Pennsylvania Avenue NW., Washington, DC 20504.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Golson, Designated Federal Officer, President's Management Advisory Board, Office of Executive Councils, General Services Administration, 1800 F Street NW., Washington, DC 20405, at *brad.golson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The PMAB was established to provide independent advice and recommendations to the President and the President's Management Council on a wide range of issues related to the development of effective strategies for the implementation of best business practices to improve Federal Government management and operation.

Agenda

The main purpose of this meeting is for the PMAB to discuss employee engagement challenges in Federal agencies. Additionally, the PMAB will be briefed on the government-wide benchmarking initiative, and their counsel will be sought on effective internal customer service metrics specifically related to shared services. Lastly, the PMAB will discuss effective ways for the federal agencies to engage with the private sector in an effort to learn about best practices that can be applied to government.

Meeting Access

The PMAB will convene its meeting in the Eisenhower Executive Office Building at 1650 Pennsylvania Avenue NW., Washington, DC 20504. Due to security, there will be no public admittance to the Eisenhower Building to attend the meeting. However, the meeting is open to the public; interested members of the public may view the PMAB's discussion at *http://www.whitehouse.gov/live.* Members of the public wishing to comment on the discussion or topics outlined in the Agenda should follow the steps detailed in Procedures for Providing Public Comments below.

Availability of Materials for the Meeting

Please see the PMAB Web site: (*http://www.whitehouse.gov/administration/advisory-boards/pmab*) for any materials available in advance of the meeting and for meeting minutes that will be made available after the meeting. Detailed meeting minutes will be posted within 90 days of the meeting.

Procedures for Providing Public Comments

In general, public statements will be posted on the PMAB Web site (*http://www.whitehouse.gov/administration/advisory-boards/pmab*). Non-electronic documents will be made available for public inspection and copying in PMAB offices at GSA, 1800 F Street NW., Washington, DC 20405, on official business days between the hours of 10:00 a.m. Eastern Standard Time (EST) and 5:00 p.m. Eastern Standard Time (EST). You can make an appointment to inspect statements by telephoning 202–695–9554. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. Any statements submitted in connection with the PMAB meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

Electronic or Paper Statements: The public is invited to submit written statements for this meeting until 12:30 p.m. Eastern Standard Time (EST) on Thursday, March 26, 2015, by either of the following methods: Submit electronic statements to Mr. Brad Golson, Designated Federal Officer at *brad.golson@gsa.gov;* or send paper statements in triplicate to Mr. Golson at the PMAB GSA address above.

Dated: March 9, 2015.

Giancarlo Brizzi,

Acting Associate Administrator, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2015–05718 Filed 3–12–15; 8:45 am]

BILLING CODE 6820–BR–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Proposed priorities; National Institute on Disability, Independent Living, and Rehabilitation Research; Disability and Rehabilitation Research Projects Program

AGENCY: Administration for Community Living, HHS.

CFDA Number: 84.133A–5 and 84.133A–6.

ACTION: Notice of Proposed priorities.

SUMMARY: The Administrator of the Administration for Community Living proposes priorities for the Disability and Rehabilitation Research Projects (DRRPs) Program administered by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). Specifically, this notice proposes priorities for a Center on Knowledge Translation for Employment Research and Projects for Translating Disability and Rehabilitation Research into Practice. We take this action to focus research attention on areas of national need. We intend these priorities to contribute to improved outcomes for people with disabilities through improved uptake of

research-based knowledge generated by NIDILRR-sponsored research.

DATES: We must receive your comments on or before April 13, 2015.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, or commercial delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail or Commercial Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Barrett. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice of proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html*.

The Plan identifies a need for research and training regarding employment, community living and participation, and health and function of individuals with disabilities. To address this need, NIDILRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise, and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs, and policies to improve community living and participation, employment, and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their family members in formats that are appropriate and meaningful to them.

This notice proposes two priorities that NIDILRR intends to use for one or more competitions in fiscal year (FY) 2015 and possibly later years. NIDILRR is under no obligation to make an award under these priorities. The decision to make an award will be based on the quality of applications received and available funding. NIDILRR may publish additional priorities, as needed.

Invitation to Comment: We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the final priorities, we urge you to identify clearly the specific topic within each priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments by following the instructions found under the ''Are you new to the site?'' portion of the Federal eRulemaking Portal at *www.regulations.gov*. Any comments sent to NIDILRR via postal mail or commercial delivery can be viewed in Room 5142, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Disability and Rehabilitation Research Projects

The purpose of NIDILRR's DRRPs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act by developing methods, procedures, and rehabilitation technologies that advance a wide range of independent living and employment outcomes for individuals with disabilities, especially individuals with the most significant disabilities. DRRPs carry out one or more of the following types of activities, as specified and defined in 34 CFR 350.13 through 350.19: Research, training, demonstration, development, utilization, dissemination, and technical assistance.

An applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds (34 CFR 350.40(a)). The approaches an applicant may take to meet this requirement are found in 34 CFR 350.40(b). Additional information on the DRRP program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#DRRP*.

Program Authority: 29 U.S.C. 762(g) and 764(a).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priorities

This notice contains two proposed priorities.

Proposed Priority 1: Center on Knowledge Translation for Employment Research

Background

There continues to be a wide disparity in employment rates between individuals with and without disabilities. As of October 2014, the employment rate for individuals with disabilities was 17.7 percent while that of individuals without disabilities was 65.2 percent (U.S. Department of Labor, 2014). This disparity in employment rates is seen across all age groups and for both men and women.

Using the best available research findings to inform practice and policy can contribute to improvements in outcomes for individuals with disabilities (Dijkers, 2009). While there are research findings in several areas related to the employment of individuals with disabilities, the use of those findings in the disability employment field to improve employment practices, policies, systems, and outcomes is not optimal (Center on Knowledge Translation for Employment research [SEDL], 2011).

The National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) has adopted the conceptual framework of knowledge translation (KT) to help promote the effective use of research findings. Within the disability employment context, KT refers to a multidimensional, active process of ensuring that new knowledge and products gained via research and development reach practitioners, employers, policy makers, and individuals with disabilities and others; are understood by these audiences; and are used to improve the employment and participation outcomes of individuals with disabilities. KT is built upon continuing interactions and partnerships within and between different groups of knowledge creators and users. Using KT to facilitate partnerships between researchers and key stakeholders in the field of disability employment research is critical, given the limited experience that employers have with hiring, maintaining, and promoting individuals with disabilities. At the same time, potential employees with disabilities have a relative lack of experience in the paid labor force. KT strategies can be used to promote the use of research-based knowledge among employers, potential employees with disabilities, employment service providers, and other stakeholders as they seek to improve employment outcomes among individuals with disabilities.

The promise of KT for influencing employment practice and outcomes has yet to be fulfilled because there is still limited information available related to effective strategies for knowledge translation in the disability employment context (*e.g.*, Becker et al., 2007; Graham et al., 2013; Hall et al., 2014). Thus, NIDILRR aims to sponsor research to identify or develop KT strategies that are designed to promote the use of disability employment research findings to improve employment outcomes of individuals with disabilities.

References

Becker, D.R., Baker, S.R., Carlson, L., Flint, L., Howell, R., Lindsay, S., Moore, M., Reeder, S., & Drake, R.E. (2007). Critical strategies for implementing supported employment. *Journal of Vocational Rehabilitation, 27*(1), 13–20.

Center on Knowledge Translation for Employment Research (2011). *Promising and proven practices in employment.* Retrieved from *http://kter.org/products/Promising_Proven_Practices_0411.pdf.*

Dijkers, M.P.J.M. for the NCDDR Task Force on Systematic Review and Guidelines. (2009). *When the best is the enemy of the good: The nature of research evidence used in systematic reviews and guidelines.* Austin, TX: SEDL.

Graham, C., Inge, K., Wehman, P., Murphy, K., Revell, W.G., & West, M. (2013). Moving employment research into practice: Knowledge and application of evidence-based practices by State vocational rehabilitation agency staff. *Journal of Vocational Rehabilitation 39*(1), 75–81.

Hall, A., Bose, J., Winsor, J., & Migliore, A. (2014). Knowledge translation in job development: Strategies for involving families. *Journal of Applied Research in Intellectual Disabilities, 27*(5), 489–492.

U.S. Department of Labor, Bureau of Labor Statistics (2014). Table A6. Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted. Retrieved from *http://www.bls.gov/news.release/empsit.t06.htm.*

Proposed Priority 1

Center on Knowledge Translation for Employment Research

The Administrator of the Administration for Community Living proposes a priority for a Disability and Rehabilitation Research Project to serve as the Center on Knowledge Translation for Employment Research (Center). The purpose of the proposed Center on KT for Employment Research is to promote the use of employment research findings to improve practices and policies that support improved employment outcomes of individuals with disabilities. The center will achieve this purpose by (1) working with employment-focused NIDILRR grantees to identify research findings that can be used to improve employment outcomes for individuals with disabilities, (2) identifying areas in which stakeholders' needs for research-based knowledge are most pressing, and (3) investigating and promoting effective strategies to increase the appropriate use of the best available research-based knowledge in the field.

Under this priority, the Center must be designed to contribute to the following outcomes:

(a) Increased understanding of processes and practices that will lead to successful knowledge translation in the field of employment for individuals with disabilities;

(b) Increased adoption and use of relevant research findings funded by NIDILRR and other entities, to improve employment of individuals with disabilities; and

(c) Increased capacity of NIDILRR's employment-focused grantees to plan and engage in knowledge translation activities.

The Center must contribute to these outcomes by conducting rigorous research, development, technical assistance, dissemination, and utilization activities to increase successful knowledge translation of employment research to improve employment of individuals with disabilities. In planning and conducting all activities, the Center must partner with relevant stakeholders such as employment-focused researchers, individual with disabilities, consumer organizations, employers, State and Federal agencies, and others as appropriate.

Proposed Priority 2: Projects for Translating Disability and Rehabilitation Research into Practice.

Background

A critical part of the mission of the National Institute on Disability, Independent Living and Rehabilitation Research (NIDILRR) is promoting the effective use of new research-based knowledge to improve the outcomes of individuals with disabilities. NIDILRR has adopted the conceptual framework of knowledge translation to help guide its efforts to promote the effective use of research-based knowledge. Knowledge translation in the NIDILRR context refers to a multidimensional, active process of ensuring that new knowledge and products gained via research and development are relevant to the users' needs, reach intended users; are understood by these users; and are used to improve participation of individuals with disabilities in society.

NIDILRR has increasingly emphasized the importance of translating research-based findings and products from

NIDILRR-funded projects into practice, policy, or other uses by placing knowledge translation requirements in all grant opportunity announcements, and by funding a number of dedicated knowledge translation centers to provide technical assistance to grantees in this endeavor. These efforts have successfully promoted the use of new research-based knowledge and products by facilitating the identification of research questions that are relevant to the knowledge needs of targeted users, incorporating user input into the planning and implementation of research and development projects, and by facilitating the dissemination of research-based findings and products in usable formats.

However, grantees often complete their research or development activities without sufficient time or funds to translate their research-based findings into usable products, or to promote the use and adoption of such findings by stakeholders. NIDILRR believes that a funding program that provides additional time and resources for these KT activities will help to further promote the use and adoption of research-based findings and products from NIDILRR-funded work which will, in turn, help to support its mission to improve the lives of individuals with disabilities.

Proposed Priority: Projects for Translating Disability and Rehabilitation Research into Practice.

The Administrator of the Administration for Community Living proposes a priority for Disability and Rehabilitation Research Projects (DRRP). These DRRP grants will serve as Projects for Translating Disability and Rehabilitation Research into Practice. The purpose of these projects is to support the translation of research findings or products of past or present NIDILRR-funded grants into use or adoption by their stakeholders. Under this priority, grantees must successfully move NIDILRR-sponsored research-based findings or products into actual use or adoption in real-life contexts. Grantees under this priority must also document and disseminate the knowledge translation methods that they used to facilitate the adoption or use of findings or products by stakeholders.

Each knowledge translation grant under this priority must be conducted in partnership with relevant stakeholders. These stakeholders must be actively engaged in the planning, implementation, and evaluation of all knowledge translation grant activities. Grantees under this priority must contribute to the following outcomes:

(1) Use or adoption of NIDILRR-sponsored findings or products by relevant stakeholders;

(2) Changes in policy, practice, or systems that are intended to improve the lives of individuals with disabilities as a result of the use or adoption of NIDILRR-sponsored findings or products; and

(3) Increased understanding of promising practices for knowledge translation in disability, independent living, and rehabilitation research.

Grantees under this priority must contribute to these outcomes by—

(a) Identifying research-based findings or products from a NIDILRR-funded grant or grants that are ready for use or adoption in real-world settings, as well as the context or setting in which they will be used or adopted;

(b) Identifying or developing, and then implementing a knowledge translation plan to facilitate the use or adoption of findings or products in (a) by key stakeholders; and

(c) Identifying measures to evaluate the success of the uses or adoptions achieved under (b).

Final Priorities

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these priorities, we invite applications through a notice in the **Federal Register** or in a Funding Opportunity Announcement posted at *www.grants.gov*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive Order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed priorities only upon a reasoned determination that its benefits would justify its costs. In choosing among

alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to ones envisioned by the proposed priorities have been completed successfully, and the proposed priorities would generate new knowledge through research. The new DRRPs would generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities.

Intergovernmental Review: This program is not subject to Executive Order 12372.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 3, 2015.

Kathy Greenlee,

Administrator.

[FR Doc. 2015–05333 Filed 3–12–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Wellstone Centers for Muscular Dystrophy.

Date: April 27–28, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suite at the Chevy Chase Pavilion, Washington, DC 20115.

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01–G, Bethesda, MD 20892–9304, (301) 435–6878, *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 9, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05706 Filed 3–12–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–0198]

Current Good Manufacturing Practice Requirements for Combination Products; Draft Guidance for Industry and Food and Drug Administration Staff; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period by 30 days to April 29, 2015, for the notice entitled ''Current Good Manufacturing Practice Requirements for Combination Products; Draft Guidance for Industry and Food and Drug Administration Staff; Availability,'' that appeared in the **Federal Register** of January 27, 2015 (80 FR 4280). In that document, FDA announced the availability of a draft guidance for industry and FDA staff and requested comments. The Agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the draft guidance. Submit either electronic or written comments by April 29, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Current Good Manufacturing Practice Requirements for Combination Products'' to the Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: John Barlow Weiner, Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring,

MD 20993–0002, 301–796–8930, email: *John.Weiner@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 27, 2015 (80 FR 4280), FDA published a notice with a 60-day comment period to request comments on the draft guidance for industry and FDA staff entitled ''Current Good Manufacturing Practice Requirements for Combination Products.''

The Agency received a request for a 30-day extension of the comment period for the draft guidance. The request conveyed concern that the current 60-day comment period does not allow sufficient time to respond. FDA has considered the request and is extending the comment period for the draft guidance for 30 days, until April 29, 2015. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying further FDA action on this guidance document.

II. Comments

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

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/RegulatoryInformation/Guidances/ucm126198.htm* or *http://www.regulations.gov.*

Dated: March 9, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05674 Filed 3–12–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Advisory Committee for Women's Services (ACWS); Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Advisory Committee for Women's Services (ACWS) on April 15, 2015.

The meeting will include discussions on lesbian, bisexual and transgender issues; high-risk/high-need girls and young women; supporting women in co-ed settings—core competencies, practices and strategies; SAMHSA's Pregnant and Post-Partum Women Grant Program; and a conversation with the SAMHSA Administrator.

The meeting is open to the public and will be held at SAMHSA, 1 Choke Cherry Road, Rockville, MD 20850, in the Rock Creek Conference Room. Attendance by the public will be limited to space available. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions should be forwarded to the contact person (below) on or before April 7, 2015. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations are encouraged to notify the contact person on or before April 7, 2015. Five minutes will be allotted for each presentation.

The meeting may be accesed via telephone. To attend on site, obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at: *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx,* or communicate with SAMHSA's Designated Federal Officer, Ms. Nadine Benton (see contact information below).

Substantive meeting information and a roster of Committee members may be obtained either by accessing the SAMHSA Committees' Web site at: *http://www.samhsa.gov/about-us/advisory-councils/advisory-committee-women%E2%80%99s-services-awcs,* or by contacting Ms. Benton.

Committee Name: Substance Abuse and Mental Health Services Administration Advisory Committee for Women's Services (ACWS).

Date/Time/Type: Wednesday, April 15, 2015, from 9:00 a.m. to 5:15 p.m. EDT: Open.

Place: SAMHSA, 1 Choke Cherry Road, Rock Creek Conference Room, Rockville, Maryland 20850.

Contact: Nadine Benton, Designated Federal Official, SAMHSA's Advisory Committee for Women's Services, 1 Choke Cherry Road, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0127, Fax: (240) 276–2252, Email: *nadine.benton@samhsa.hhs.gov.*

Summer King,

Statistician, SAMHSA.

[FR Doc. 2015–05816 Filed 3–12–15; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet via web conference on April 9, 2015, from 10:00 a.m. to 3:30 p.m. E.D.T.

The Board will meet in closed session to discuss confidential research data, as well as proposed revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs. Therefore, this meeting is closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(4), 5 U.S.C. 552b(c)(9)(B), and 5 U.S.C. App. 2, Section 10(d).

Meeting information and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees Web site, *http://www.samhsa.gov/about-us/advisory-councils/drug-testing-advisory-board-dtab,* or by contacting Dr. Cook.

Committee Name: Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention Drug Testing Advisory Board.

Dates/Time/Type: April 9, 2015, from 10:00 a.m. to 3:30 p.m. E.D.T.: CLOSED.

Place: SAMHSA Building, 1 Choke Cherry Road, Rockville, Maryland 20850.

Contact: Janine Denis Cook, Ph.D., Designated Federal Official, CSAP Drug Testing Advisory Board, 1 Choke Cherry Road, Room 7–1043, Rockville, Maryland 20857, *Telephone:* 240–276–2600, *Fax:* 240–276–2610, *Email: janine.cook@samhsa.hhs.gov.*

Janine Denis Cook,

Designated Federal Official, DTAB, Division of Workplace Programs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2015–05749 Filed 3–12–15; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 13, 2015.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Rural Health Network Development Program

OMB No.: 0906–xxxx–NEW.

Abstract: This program is authorized under Section 330A(f) of the Public Health Service (PHS) Act, as amended (42 U.S.C. 254c(f). This authority authorizes the Federal Office of Rural Health Policy (FORHP) to support grants for eligible entities to promote, through planning and implementation, the development of integrated health care networks that have combined the functions of the entities participating in the networks in order to: (i) Achieve efficiencies; (ii) expand access to, coordinate, and improve the quality of essential health care services; and (iii) strengthen the rural health care system as a whole.

The Rural Health Network Development Program is designed to assist rural health care providers acclimate to the evolving health care environment by addressing relevant topics to the health care environment as identified by the rural community. The program also enables rural health networks to continue to be a focus of innovation in maximizing limited rural health resources in times of economic hardship and decreased access to health care services that can be modeled in other communities, both rural and urban.

This is a 3-year competitive program for mature networks composed of at least three members that are separate, existing health care provider entities.

Need and Proposed Use of the Information: For this program, performance measures were drafted to provide data to the program and to enable HRSA to provide aggregate program data. These measures cover the principal topic areas of interest to the Federal Office of Rural Health Policy, including: (a) Network infrastructure; (b) network collaboration; (c) sustainability; and (d) network assessment. Several measures will be used for this program.

A 60-day notice was published in the **Federal Register** on December 22, 2014 (79 FR 6335). There were no comments.

Likely Respondents: The respondents would be Rural Health Network Development Program grant recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Performance Improvement and Measurement System (PIMS) Database	54	1	54	6.7	361.8
Total	54	1	54	6.7	361.8

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2015–05733 Filed 3–12–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of the Establishment of the Disability, Independent Living and Rehabilitation Research Advisory Council (DILRRAC)

AGENCY: Administration for Community, HHS.

ACTION: Notice.

SUMMARY: Pursuant to the Rehabilitation Act of 1973, Section 205(a), as amended (29 U.S.C. 765), Public Law 92–463 as amended (5 U.S.C., App) and the Federal Advisory Committee Act, the Administration for Community Living (ACL), announces the establishment of the Disability, Independent Living and Rehabilitation Research Advisory Council (DILRRAC).

The DILRRAC will provide the following duties: (1) Advise the Director of the National Institute on Disability, Independent Living and Rehabilitation

Research (NIDILRR) in the development, implementation and revision of the 5-year plan, ensuring priorities and activities are aligned with the tenets of the Plan; (2) provide input regarding the activities relative to the prioritization and integration of funding priorities, goals and timetables for implementation of activities to be conducted under Section 205 of the Rehabilitation Act; (3) ensure that the Director considers input of individuals with disabilities, organizations representing individuals with disabilities, providers of services furnished under this chapter, researchers in the rehabilitation field, and any other appropriate persons or entitles; (4) review accomplishments and results of covered activities, and recommend and facilitate strategies for widespread dissemination in accessible formats, to rehabilitation practitioners, providers of independent living and other community-based services, individuals with disabilities, and the individuals' representatives, and individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs.

FOR FURTHER INFORMATION CONTACT: Dr. Kristi Wilson Hill, Designated Federal Officer, DILRRAC; Deputy Director, NIDILRR, Potomac Center Plaza, Room 5153, 550 12th Street SW., Washington, DC 20202, telephone (202) 245–6301 or fax (202) 245–7372.

The Director of NIDILRR has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other council management activities on behalf of the ACL and NIDILRR.

Dated: March 2, 2015.

John Tschida,

Director, National Institute on Disability, Independent Living and Rehabilitation Research.

[FR Doc. 2015–05882 Filed 3–12–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Subsidized and Transitional Employment Demonstration (STED) and Enhanced Transitional Jobs Demonstration (ETJD).

[*OMB No.:* 0970–0413]

Description: The Administration for Children and Families (ACF) within the U.S. Department of Health and Human Services (HHS) is conducting a national evaluation called the Subsidized and Transitional Employment Demonstration (STED). At the same time, the Employment and Training Administration (ETA) within the Department of Labor (DOL) is conducting an evaluation of the Enhanced Transitional Jobs Demonstration (ETJD). These evaluations will inform the Federal government about the effectiveness of subsidized and transitional employment programs in helping vulnerable populations secure unsubsidized jobs in the labor market and achieve self-sufficiency. The projects will evaluate thirteen subsidized and transitional employment programs nationwide, including a test of the effects of an expanded Earned Income Tax Credit for low-income individuals without dependent children. ACF and ETA are collaborating on the two evaluations. In 2011, ETA awarded grants to seven transitional jobs programs as part of the ETJD, which is testing the effect of combining transitional jobs with enhanced services to assist ex-offenders and noncustodial parents improve labor market outcomes, reduce criminal recidivism and improve family engagement.

The STED and ETJD projects have complementary goals and are focusing on related program models and target populations. Thus, ACF and ETA have collaborated on the design of data collection instruments to promote consistency across the projects. In addition, two of the seven DOL-funded ETJD programs are being evaluated as part of the STED project. ACF is submitting information collection requests on behalf of both collaborating agencies.

Data for the study is being and will continue to be collected from the following three major sources: Baseline forms, follow-up surveys (at 6, 12, and 30 months after study entry), and implementation research and site visits. Data collection for all but one STED site has been reviewed and approved by OMB (see OMB #0970–0413).

This notice is specific to a request for approval of the contact information form and baseline information form for a new STED site. These forms will collect important demographic and other information from all study participants in this site prior to the point of random assignment. These data will be important for describing the study sample and for estimating program effects for particular groups of interest.

Respondents: Study participants in the treatment and control groups at one additional STED site.

ANNUAL BURDEN ESTIMATES—NEW INSTRUMENTS

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Participant contact information form	4,002	1,334	1	.08	107
Participant baseline information form	4,002	1,334	1	.25	334

Estimated Total Annual Burden Hours: 441.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families and the Employment and Training Administration are 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: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@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 agencies, including whether the information shall have practical utility; (b) the accuracy of the agencies' 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.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2015–05776 Filed 3–12–15; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Applications for New Awards; National Institute on Disability, Independent Living, and Rehabilitation Research—Small Business Innovation Research Program—Phase I

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

Overview Information

National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) Small Business Innovation Research Program (SBIR)—Phase I.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133S–1.

DATES:

Applications Available: March 13, 2015.

Note: On July 22, 2014, President Obama signed the Workforce Innovation Opportunity Act (WIOA). WIOA was effective immediately. One provision of WIOA transferred the National Institute on Disability and Rehabilitation Research (NIDRR) from the Department of Education to the Administration for Community Living (ACL) in the Department of Health and Human Services. In addition, NIDRR's name was changed to the Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR). For FY 2015, all NIDILRR priority notices will be published as ACL notices, and ACL will make all NIDILRR awards. During this transition period, however, NIDILRR will continue to review grant applications using Department of Education tools. NIDILRR will post previously-approved application kits to grants.gov, and NIDILRR applications submitted to grants.gov will be forwarded to the Department of Education's G–5 system for peer review. We are using Department of Education application kits and peer review systems during this transition year in order to provide for a smooth and orderly process for our applicants.

Deadline for Transmittal of Applications: May 12, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the SBIR program is four-fold:

- Stimulate technological innovation.
- Foster and encourage participation in innovation and entrepreneurship by socially and economically disadvantaged small businesses (SDBs), and by women-owned small businesses.
- Strengthen the role of small business in meeting Federal research and development (R&D) needs.
- Increase private-sector commercialization of innovations derived from U.S. Department of Health and Human Services (Department) R&D funding, thereby increasing competition, productivity, and economic growth.

Background

The Small Business Innovation Development Act of 1982 (Act), Pub. L. 97–219, established the SBIR program. The Act requires certain agencies, including the Department, to reserve a statutory percentage of their extramural R&D budgets for two phases of the three-phase SBIR program (see *http://sbir.gov/about/about-sbir* for more information on the program).

Phase I awards are to determine, insofar as possible, the scientific or technical merit, feasibility, and commercial potential of R&D projects submitted under the SBIR program. Phase I awards are for amounts up to $75,000 and for a period of up to six months. Phase II projects continue the development of Phase I projects. Funding is based on the results achieved in Phase I and the scientific and technical merit and commercial potential of the proposed Phase II project. Only Phase I grantees are eligible to apply for Phase II funding. Phase II awards are for amounts up to $575,500 over a period of two years.

In Phase III, the small business grantee pursues commercial applications of the Phase I and II R&D. The SBIR program does not fund Phase III.

All SBIR projects funded by NIDILRR must address the needs of individuals with disabilities. (See 29 U.S.C. 760.) Project activities may include:

- Conducting manufacturing-related R&D that encompasses improvements in existing methods or processes, or wholly new processes, machines, or systems, that benefit individuals with disabilities;
- Exploring the uses of technology to ensure equal access to education, employment, community environments, and information for individuals with disabilities; and
- Improving the quality and utility of disability and rehabilitation research.

Note: An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299, published April 4, 2013) (the Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

Priorities: Under this competition we are particularly interested in applications that address one or more of the following five program priorities.

Invitational Priorities: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. We do not give an application that meets one of these invitational priorities a competitive or absolute preference over other applications.

Each of the following invitational priorities relates to innovative research utilizing new technologies to address the needs of individuals with disabilities. These priorities are:

(1) Increased independence of individuals with disabilities in community settings, including educational settings, through the development of technology to support access to these settings and promote integration of individuals with disabilities.

(2) Enhanced sensory or motor function of individuals with disabilities through the development of technology to support improved functional capacity.

(3) Enhanced workforce participation through the development of technology to increase access to employment, promote sustained employment, and support employment advancement for individuals with disabilities.

(4) Enhanced community living and participation for individuals with disabilities through the development of accessible information technology including cloud computing, software, systems, and devices that promote access to information in educational, employment, and community settings, and voting technology that improves access for individuals with disabilities.

(5) Improved health-care interventions and increased use of related resources through the development of technology to support

independent access to community health-care services for individuals with disabilities.

Applicants should describe the approaches they expect to use to collect empirical evidence demonstrating the effectiveness of the technology they are proposing. This empirical evidence should facilitate the assessment of the efficacy and usefulness of the technology.

Note: In responding to all invitational priorities, NIDILRR encourages applicants to adhere to universal design principles and guidelines. The term ''universal design'' is defined as ''the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design'' (The Center for Universal Design, 1997). Universal design of consumer products minimizes or alleviates barriers that reduce the ability of individuals with disabilities to effectively or safely use standard consumer products. (For more information see: *www.trace.wisc.edu/docs/consumer_product_guidelines/consumer.pcs/disabil.htm*).

Program Authority: The Small Business Innovation Development Act of 1982, Pub. L. 97–219, as amended (15 U.S.C. 631 and 638), and title II of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760 *et seq.*).

Applicable Regulations: (a) The Department of Health and Human Services General Administrative Regulations in 45 CFR part 75 (b) Audit Requirements for Federal Awards in 45 CFR part 75 Subpart F; (c) 45 CFR part 75 Non-procurement Debarment and Suspension; (d) 45 CFR part 75 Requirement for Drug-Free Workplace (Financial Assistance).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $750,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 and any subsequent year from the list of unfunded applicants from this competition.

Estimated Range of Awards: $70,000–$75,000.

Estimated Average Size of Awards: $75,000.

Maximum Award: We will reject any application that proposes a budget exceeding $75,000 for a single budget period of up to six months. The Administrator of the Administration for Community Living may change the maximum amount through a notice published in the **Federal Register**.

Note: The maximum award amount includes direct and indirect costs and fees.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 6 months. We will reject any application that proposes a project period that exceeds a single budget period of up to six months. The Administrator of the Administration for Community Living may change the project period through a notice published in the **Federal Register**.

III. Eligibility Information

1. *Eligible Applicants:* Entities that are, at the time of award, small business concerns as defined by the Small Business Administration (SBA). This definition is included in the application package.

If it appears that an applicant organization does not meet the eligibility requirements, we will request an evaluation by the SBA. Under circumstances in which eligibility is unclear, we will not make an SBIR award until the SBA makes a determination that the applicant is eligible under its definition of small business concern.

Technology, science, and engineering firms with strong research capabilities in any of the priority areas listed in this notice are encouraged to participate. Consultative or other arrangements between these firms and universities or other nonprofit organizations are permitted, but the small business concern must serve as the grantee. For Phase I projects, at least two-thirds of the research or analytic activities must be performed by the small business concern grantee.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other:* The total of all consultant fees, facility leases or usage fees, and other subcontracts or purchase agreements may not exceed one-third of the total funding award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via grants.gov, or by contacting Patricia Barrett: U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

If you request an application from Patricia Barrett, be sure to identify this competition as follows: CFDA number 84.133S–1.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. You are not required to double space titles, headings, footnotes, references, captions, or text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the one-page abstract, the resumes, the bibliography, or the letters of support; related applications or awards; or the documentation of previous Phase II awards (required only if the small business concern has received more than 15 Phase II awards in the prior five fiscal years). However, the page limit does apply to all of the application narrative section.

We will reject your application if you exceed the page limit or if you apply other standards and exceed the equivalent of the page limit.

Note: Please submit an appendix that lists every collaborating organization and individual named in the application, including staff, consultants, contractors, advisory board member, and anyone else whose selection as a peer reviewer might constitute a conflict of interest. We will use this information to help us screen for conflicts of interest with our reviewers.

b. Submission of Proprietary Information:

Given the types of projects that may be proposed in applications for the SBIR program, your application may include trade secrets or confidential commercial and financial information that you consider proprietary. The Department's regulations define ''trade secrets of confidential commercial and financial information'' in 45 CFR 5.65.

Consistent with E. O. 12600, please designate in your application any information that you feel is exempt from

disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 45 CFR 5.65.

3. *Submission Dates and Times:*

Applications Available: March 13, 2015.

Deadline for Transmittal of Applications: May 12, 2015.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail if you qualify for an exception to the electronic submission requirement, please refer to section IV. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

5. *Intergovernmental Review:* This program is not subject to E. O. 12372.

6. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

7. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov. and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your SAM registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

8. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the SBIR Program, CFDA number 84.133S–1, must be submitted electronically using the Government-wide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the SBIR Program at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.133, not 84.133S).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

9. *Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133S–1), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Administrator of the Administration for Community Living of the U.S. Department of Health and Human Services.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and are listed in the application package.

2. *Review and Selection Process:* Final award decisions will be made by the Administrator, ACL. In making these decisions, the Administrator will take into consideration: ranking of the review panel; reviews for programmatic and grants management compliance; the reasonableness of the estimated cost to the government considering the available funding and anticipated results; and the likelihood that the proposed project will result in the benefits expected. Under section 75.205, item (3) history of performance is an item that is reviewed.

In addition, in making a competitive grant award, the Administrator of the Administration for Community Living also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Health and Human Services 45 CFR part 75.

3. *Special Conditions:* Under 45 CFR part 75, the Administrator of the Administration for Community Living may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 45 CFR part 75, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we send you a Notice of Award (NOA); or we may send you an email containing a link to access an electronic version of your NOA. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the NOA. The NOA also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 45 CFR part 75 should you receive funding under the competition. This does not apply if you have an exception under 45 CFR part 75.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Administrator of the Administration for Community Living. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Administrator of the Administration for Community Living under 45 CFR part 75. The Administrator of the Administration for Community Living may also require more frequent performance reports under 45 CFR part 75. For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDILRR assesses the quality of its funded projects through a review of grantee performance and accomplishments. Each year, NIDILRR examines a portion of its grantees to determine:

- The number of products (*e.g.*, new or improved tools, methods, discoveries, standards, interventions, programs, or devices developed or tested with NIDILRR funding) that have been judged by expert panels to be of high quality and to advance the field.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, U.S. Department of Health and Human Services, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov*.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 3, 2015.

John Tschida,

Director, National Institute on Disability, Independent Living, and Rehabilitation Research.

[FR Doc. 2015–05329 Filed 3–12–15; 8:45 am]

BILLING CODE 4154–01—P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Transcriptomic Approaches to Development in Down Syndrome.

Date: April 9, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01–G, Bethesda, MD 20892–9304, (301) 435–6878, *wedeenc@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Increasing HIVTC for Adolescents.

Date: April 13–14, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Carla T. Walls, Ph.D., Scientific Review Branch, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6898, *wallsc@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis; Genetic/Genomic Approaches to Human Dysmorphology.

Date: April 20, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis.

Date: April 21–22, 2015.

Time: 8:00 a.m. to 5:00 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: Rita Anand, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd. Room 5B01, Bethesda, MD 20892, 301–496–1487, *anandr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 9, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05707 Filed 3–12–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10102]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 12, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10102 National Implementation of the Hospital CAHPS Survey

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. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* National Implementation of the Hospital CAHPS Survey; *Use:* The HCAHPS (Hospital Consumer Assessment of Healthcare Providers and Systems) Survey, also known as the CAHPS® Hospital Survey or Hospital CAHPS®, is a standardized survey instrument and data collection methodology that has been in use since 2006 to measure patients' perspectives of hospital care. While many hospitals collect information on patient satisfaction, HCAHPS created a national standard for collecting and public reporting information that enables valid comparisons to be made across all hospitals to support consumer choice. *Form Number:* CMS–10102 (OMB control number 0938–0981; *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 4,200; *Total Annual Responses:* 3,100,000; *Total Annual Hours:* 413,230. (For policy questions regarding this collection contact William Lehrman at 410–786–1037).

Dated: March 10, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–05796 Filed 3–12–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0397]

Agency Information Collection Activities; Proposed Collection; Comment Request; State Enforcement Notifications

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 invites comments on reporting requirements contained in existing FDA regulations governing State enforcement notifications.

DATES: Submit either electronic or written comments on the collection of information by May 12, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our 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.

State Enforcement Notifications—21 CFR 100.2(d) (OMB Control Number 0910–0275)—Extension

Section 310(b) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 337(b)) authorizes a State to enforce certain sections of the FD&C Act in their own name and within their own jurisdiction. However, before doing so, a State must provide notice to FDA according to 21 CFR 100.2. The information required in a letter of notification under § 100.2(d) enables us to identify the food against which a State intends to take action and to advise that State whether Federal enforcement action against the food has been taken or is in process. With certain narrow exceptions, Federal enforcement action precludes State action under the FD&C Act.

We estimate 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 respondents	Total annual responses	Average burden per response	Total hours
100.2(d)	1	1	1	10	10

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated reporting burden for § 100.2(d) is minimal because enforcement notifications are seldom used by States. During the last 3 years, we have not received any new enforcement notifications; therefore, we estimate that one or fewer notifications will be submitted annually. Although we have not received any new enforcement notifications in the last 3 years, we believe these information collection provisions should be extended to provide for the potential future need of a State government to submit enforcement notifications informing us when it intends to take enforcement action under the FD&C Act against a particular food located in the State.

Dated: March 9, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05668 Filed 3–12–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Ear, Nose, and Throat Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ear, Nose, and Throat Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 30 and May 1, 2015 from 8 a.m. to 6 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900.

Contact Person: Patricio Garcia, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1535, Silver Spring MD 20993–0002, *Patricio.Garcia@fda.hhs.gov,* 301–796–6875, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On April 30, 2015, the committee will discuss and make recommendations regarding the classification of Hearing Protectors, Circumaural Hearing Protectors, Middle Ear Inflation Devices, Tactile Hearing Aid Devices, and Vestibular Analysis Apparatuses. These devices are considered preamendments devices since they were in commercial distribution prior to May 28, 1976, when the Medical Devices Amendments became effective. Hearing Protectors are currently regulated under the heading, ''Protector, Hearing (Insert),'' Product Code EWD, as unclassified under the 510(k) premarket notification authority. Circumaural Hearing Protectors are currently regulated under the heading, ''Protector, Hearing (Circumaural),'' Product Code EWE, as unclassified under the 510(k) premarket notification authority. Middle Ear Inflation Devices are currently regulated under the heading, ''Device, Inflation, Middle Ear,'' Product Code MJV, as unclassified under the 510(k) premarket notification authority. Tactile Hearing Aid Devices are currently regulated under the heading, ''Hearing Aid, Tactile,'' Product Code LRA, as unclassified under the 510(k) premarket notification authority. Vestibular Analysis Apparatuses are currently regulated under the heading, ''Apparatus, Vestibular Analysis,'' Product Code LXV, as unclassified under the 510(k) premarket notification authority. FDA is seeking committee input on the risks, safety and effectiveness and the regulatory classification of Hearing Protectors, Circumaural Hearing Protectors, Middle Ear Inflation Devices, Tactile Hearing Aid Devices, and Vestibular Analysis Apparatuses.

On May 1, 2015 the committee will discuss key issues related to a potential pre- to post-market shift in clinical data requirements for modifications to cochlear implants in pediatric patients. These issues are categorized into three broad areas for discussion:

1. Cochlear implant changes (*e.g.* sound processing features, patient characteristics) that may be suitable for this pre- to post-market shift in clinical data requirements.

2. Appropriate premarket clinical data requirements to support pre- to post-market shift (*e.g.* leveraging clinical data from adults and/or older children).

3. Clinical study design considerations (*e.g.* study endpoints and test metrics, subject characteristics) for post market studies to confirm safety and effectiveness and inform future labeling.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 22, 2015. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:45 a.m. on April 30, 2015 and between approximately 1 p.m. and 2 p.m. on May 1, 2015. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 14, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 16, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact at James Clark at *James.Clark@fda.hhs.gov,* or 301–796–5293 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 9, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05675 Filed 3–12–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Nominations for Organizations To Serve as Non-Voting Liaison Representatives to the Chronic Fatigue Syndrome Advisory Committee (CFSAC)

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

Authority: 42 U.S.C. 217a, Section 222 of the Public Health Service (PHS) Act, as amended. The committee is governed

by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App 2), which sets forth standards for the formation and use of advisory committees.

SUMMARY: The Office of the Assistant Secretary for Health (OASH), within the Department of Health and Human Services (HHS), is soliciting nominations from qualified organizations to be considered for non-voting liaison representative positions on the Chronic Fatigue Syndrome Advisory Committee (CFSAC). CFSAC provides advice and recommendations to the Secretary of HHS, through the Assistant Secretary for Health (ASH), on a broad range of issues and topics related to myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS). The issues can include factors affecting access and care for persons with ME/CFS; the science and definition of ME/CFS; and broader public health, clinical, research, and educational issues related to ME/CFS. These three non-voting liaison representative positions will be occupied by individuals who are selected by their organizations to serve as representatives of organizations concerned with ME/CFS. Organizations will be designated to occupy the positions for a two-year term to commence during the 2015 calendar year. Nominations of qualified organizations are being sought for these three non-voting liaison representative positions. The organizations chosen for representation on CFSAC will be selected by the Designated Federal Officer (DFO) or designee during the 2015 calendar year. Details of nomination requirements are provided below.

DATES: Nominations must be received no later than 5 p.m. ET on April 20, 2015, at the address listed below.

ADDRESSES: All nominations should be sent to Barbara F. James, Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee, Office on Women's Health, Department of Health and Human Services, 200 Independence Avenue SW., Room 728F.3, Washington, DC 20201. Nomination materials, including attachments, may be submitted electronically to *cfsac@hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara F. James, Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee, Office on Women's Health, Department of Health and Human Services, 200 Independence Avenue SW., Room 728F.3, Washington, DC 20201. Inquiries can be sent to *cfsac@hhs.gov.*

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002. The purpose of the CFSAC is to provide advice and recommendations to the Secretary of HHS, through the ASH, on issues related to ME/CFS. CFSAC advises and makes recommendations on a broad range of topics including: (1) The current state of knowledge and research; and the relevant gaps in knowledge and research about the epidemiology, etiologies, biomarkers and risk factors relating to ME/CFS; and identifying potential opportunities in these areas; (2) impact and implications of current and proposed diagnosis and treatment methods for ME/CFS; (3) development and implementation of programs to inform the public, health care professionals, and the biomedical, academic, and research communities about ME/CFS advances; and (4) partnering to improve the quality of life of ME/CFS patients. Management and support services for Committee activities are provided by staff from the HHS Office on Women's Health, within the OASH. The CFSAC charter is available at *http://www.hhs.gov/advcomcfs/charter/index.html.*

CFSAC meetings are held not less than two times per year. The CFSAC membership consists of 11 voting members, including the Chair. The voting members are composed of seven biomedical research scientists with demonstrated expertise in biomedical research applicable to ME/CFS and four individuals with expertise in health care delivery, private health care services or insurers, or voluntary organizations concerned with the problems of individuals with ME/CFS. CFSAC also includes seven non-voting *ex officio* member representatives from the Agency for Healthcare Research and Quality, Centers for Disease Control and Prevention, Centers for Medicare and Medicaid Services, Food and Drug Administration, Health Resources and Services Administration, National Institutes of Health, and Social Security Administration.

In 2012, the CFSAC structure was expanded to include three non-voting liaison representative positions. Continued authorization was given for the Committee structure to include the three non-voting liaison representative positions when the charter was renewed on September 5, 2014. These positions will be occupied by individuals who are selected by their organizations to serve as the official representative for organizations that are concerned with ME/CFS. Organizations will occupy these positions for a two-year term.

Nominations

The OASH is requesting nominations of organizations to fill three non-voting liaison representative positions for the CFSAC. The organizations will be selected by the DFO or designee during the 2015 calendar year.

Selection of organizations that will serve as non-voting liaison representatives will be based on the organization's qualifications to contribute to the accomplishment of the CFSAC mission, as described in the Committee charter. In selecting organizations to be considered for these positions, the OASH will give close attention to equitable geographic distribution and give priority to U.S.-chartered 501(c)(3) organizations that operate within the United States and have membership with demonstrated expertise in ME/CFS and related research, clinical services, or advocacy and outreach on issues concerning ME/CFS.

Organizations that currently have non-voting liaison representatives serving on CFSAC are also eligible for nomination or to nominate themselves for consideration.

The individual designated by the selected organization to serve as the official liaison representative will perform the associated duties without compensation, and will not receive per diem or reimbursement for travel expenses. The organizations that are selected will cover expenses for their designated representative to attend, at a minimum, one in-person CFSAC meeting per year during the designated term of appointment.

To qualify for consideration of selection to the Committee, an organization should submit the following items:

(1) A statement of the organization's history, mission, and focus, including information that demonstrates the organization's experience and expertise in ME/CFS and related research, clinical services, or advocacy and outreach on issues of ME/CFS, as well as expert knowledge of the broad issues and topics pertinent to ME/CFS. This information should demonstrate the organization's proven ability to work and communicate with the ME/CFS patient and advocacy community, and other public/private organizations concerned with ME/CFS, including public health agencies at the federal, state, and local levels.

(2) two to four letters of recommendation that clearly state why the organization is qualified to serve on CFSAC in a non-voting liaison representative position. These letters

should be from individuals who are not part of the organization.

(3) A statement that the organization is willing to serve as a non-voting liaison representative of the Committee and will cover expenses for their representative to attend in-person, at a minimum, one CFSAC meeting per year in Washington, DC, during the designated term of appointment.

(4) A current financial disclosure statement (or annual report) demonstrating the organization's ability to cover expenses for its selected representative to attend, at a minimum, one CFSAC meeting per year in Washington, DC, during the term of appointment.

Submitted nominations must include these critical elements in order for the organization to be considered for one of the liaison representative positions.

Nomination materials should be typewritten, using a 12-point font and double-spaced. All nomination materials should be submitted (postmarked or received) by April 20, 2015.

Electronic submissions: Nomination materials, including attachments, may be submitted electronically to *cfsac@hhs.gov.*

Telephone and facsimile submissions cannot be accepted.

Regular, Express or Overnight Mail: Written documents may be submitted to the following addressee only: Barbara F. James, Designated Federal Officer, CFSAC, Office on Women's Health, Department of Health and Human Services, 200 Independence Avenue SW., Room 728F.3, Washington, DC 20201.

HHS makes every effort to ensure that the membership of federal advisory committees is fairly balanced in terms of points of view represented. Every effort is made to ensure that a broad representation of geographic areas, sex, ethnic and minority groups, and people with disabilities are given consideration for membership on federal advisory committees. Selection of the represented organizations shall be made without discrimination against the composition of an organization's membership on the basis of age, sex, race, ethnicity, sexual orientation, disability, and cultural, religious, or socioeconomic status.

Dated: February 24, 2015.

Barbara F. James,

Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. 2015–05887 Filed 3–12–15; 8:45 am]

BILLING CODE 4150–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0722]

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 14 and 15, 2015, from 8 a.m. to 6 p.m.

Addresses: FDA is opening a docket for interested persons to submit electronic or written comments regarding this meeting. The Docket No. is FDA–2015–N–0722. Please see the *Procedure* section of the notice for further information.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Natasha Facey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1552, Silver Spring, MD 20993–0002, 301–796–5290, *Natasha.Facey@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On May 14 and 15, 2015, the committee will discuss recent reports and epidemiologic investigations of transmission of infections associated with the use of duodenoscopes in endoscopic retrograde cholangiopancreatography (ERCP) procedures in hospitals in the United States.

FDA is convening this committee to seek expert scientific and clinical opinion related to reprocessing of duodenoscopes and other endoscopes, as well as automated endoscope reprocessors, based on available scientific information. The committee will make recommendations on: (1) The effectiveness of cleaning, high level disinfection, and sterilization methods; (2) the amount and type of premarket validation data and information needed to support labeling claims and technical instructions; (3) the appropriate use of other risk mitigations, such as surveillance cultures; (4) best practices and guidelines for reprocessing duodenoscopes and endoscopes at user facilities to minimize the transmission of infections; and (5) recommended approaches for ensuring patient safety during ERCP procedures, including a discussion of appropriate patient selection.

Recommendations on these issues will assist FDA in minimizing patient exposure to infectious agents that may result from reprocessed duodenoscopes and endoscopes.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

CDRH plans to provide a live Webcast of the May 14 and 15, 2015, meeting of the Gastroenterology and Urology Devices Panel. While CDRH is working to make Webcasts available to the public for all advisory committee meetings held at the White Oak campus, there are instances where the Webcast transmission is not successful; staff will work to re-establish the transmission as soon as possible. The link for the Webcast is available at: *https://collaboration.fda.gov/gudpm052015/.*

Further information regarding the Webcast, including the Web address for the Webcast, will be made available at least 2 days in advance of the meeting at the following Web site: *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/Gastroenterology-UrologyDevicesPanel/default.htm.* Select the link for 2015 Meeting Materials.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 30, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on May 14 and between approximately 9 a.m. and 10 a.m. on May 15. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 15, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 20, 2015.

FDA is opening a docket for public comment on this document. The Docket No. is FDA–2015–N–0722. The docket will close on May 28, 2015. Interested persons are encouraged to use the docket to submit electronic or written comments regarding this meeting. Comments received on or before April 30, 2015, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit a single copy of electronic comments or two paper copies of any mailed comments. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Divisions of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, at *AnnMarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 9, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05710 Filed 3–12–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60 Day Comment Request; Assessment of NHLBI's Global Health Initiative Collaborating Centers of Excellence (NHLBI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Deshiree Belis, 6705 Rockledge Drive, Suite 6070, Bethesda, MD 20892, or call non-toll-free number (301)-435–1032, or Email your request to: *deshiree.belis@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Assessment of NHLBI's Global Health Initiative Collaborating Centers of Excellence, 0925-New, National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH).

Need and Use of Information Collection: This collection proposes to conduct a one-time outcome evaluation of the NHLBI Global Health Initiative Centers of Excellence (GHI COE) Program to examine the extent to which the program achieved its intended objectives in developing sustainable research and research training capacity, and advancing information about the prevention and treatment of chronic non-communicable chronic cardiovascular and pulmonary diseases (CVPD) in low- and middle-income country (LMIC) populations. The outcome evaluation will utilize a mixed-methods approach to comprehend each COE's processes, short term outcomes, and sustainability outcomes/efforts. Specifically, the evaluation will involve triangulating quantitative data sources (*e.g.,* archived systematic reporting data), and qualitative data sources (*e.g.,* archival data and key informant interview data). Data collected will be used to develop a Case Study report for each COE outlining their experience with implementing their program as well as a comprehensive cross-site Lessons Learned Report describing knowledge and experiences from the overall program, including similarities and differences across a variety of

project settings and conditions. Findings from interviews will be incorporated into the Case Studies report and Lessons Learned report, which will be used by CTRIS to inform NHLBI and NIH stakeholders about structural issues relevant to planning both global and domestic biomedical research and training programs with diverse operational conditions and challenges. Additionally, COEs may utilize the Case Studies report as a marketing tool to attract additional funding and media coverage.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 36.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Principal Investigators	9	1	1	9
Training Directors	9	1	1	9
Developed Country Partners	9	1	1	9
Trainees	9	1	1	9

Dated: February 23, 2015.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2015–05722 Filed 3–12–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0100]

Agency Information Collection Activities: Petition for Remission or Mitigation of Forfeitures and Penalties Incurred

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Petition for Remission or Mitigation of Forfeitures and Penalties Incurred (CBP Form 4609). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours, but no changes to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 13, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 77019) on December 23, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Petition for Remission or Mitigation of Forfeitures and Penalties Incurred.

OMB Number: 1651–0100.

Form Number: Form 4609.

Abstract: CBP Form 4609, Petition for Remission or Mitigation of Forfeitures and Penalties Incurred, is completed and filed with the CBP Port Director by individuals who have been found to be in violation of one or more provisions of the Tariff Act of 1930, or other laws administered by CBP. Persons who violate the Tariff Act are entitled to file a petition seeking mitigation of any statutory penalty imposed or remission of a statutory forfeiture incurred. This petition is submitted on CBP Form 4609. The information provided on this form is used by CBP personnel as a basis for granting relief from forfeiture or penalty. CBP Form 4609 is authorized by 19 U.S.C. 1618 and provided for by 19 CFR 171.1. It is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%204609.pdf*

Action: CBP proposes to extend the expiration date of this information collection with a change to the burden hours resulting from updated estimates of the number of responses. There are no changes to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,610.

Estimated Number of Total Annual Responses: 1,610.

Estimated Time per Response: 14 minutes.

Estimated Annual Burden Hours: 376.

Dated: March 4, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–05756 Filed 3–12–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2015–0008]

Privacy Act of 1974; Department of Homeland Security/United States Customs and Border Protection–016 Nonimmigrant and Immigrant Information System

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974 and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of record notices, the Department of Homeland Security (DHS) proposes to update and reissue the following legacy record system, Department of Homeland Security/United States Customs and Border Protection–016 Nonimmigrant Information System. This system of records notice has been updated to include system name, security classification, system location, purpose(s), storage, retention and disposal, and notification procedures. The previous final rule exempts this system from certain aspects of the Privacy Act, and will continue to do so. This notice also includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in DHS's inventory of systems of records, located on the DHS Web site at *http://www.dhs.gov/system-records-notices-sorns.*

DATES: Written comments must be submitted on or before April 13, 2015.

ADDRESSES: You may submit comments, identified by docket number DHS–2015–0008 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: John Connors, (202) 344–1610, Privacy Officer, United States Customs and Border Protection, Privacy and Diversity Office, 1300 Pennsylvania Ave. NW., Washington, DC 20229. For privacy questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) United States Customs and Border Protection (CBP) proposes to update and reissue a current DHS system of records titled, ''DHS/CBP–016 Nonimmigrant Information System System of Records.''

DHS is updating and reissuing a DHS/CBP system of records under the Privacy Act (5 U.S.C. 552a) to reflect CBP's current and future practices regarding the processing of foreign nationals entering the United States. CBP inspects all persons applying for admission to the United States. As part of this inspection process, CBP establishes the identity, nationality, and admissibility of persons crossing the border and may create a border crossing record, which would be covered by DHS/CBP–007 Border Crossing Information System of Records Notice (78 FR 31958, published on May 28, 2013), or additional CBP records, which would be covered by the DHS/CBP–011 TECS System of Records Notice (73 FR 77799, published December 19, 2008) during this process. Similarly, CBP has authority to keep records of departures from the United States.

In addition to information collected from the alien during the inspection process, CBP primarily uses two immigration forms to collect information from nonimmigrant aliens as they arrive in the United States: The I–94, Arrival/Departure Record; and the I–94W, Nonimmigrant Visa Waiver Arrival/Departure Form (for aliens applying for admission under the visa waiver program (VWP)). Separately, Canadian nationals that travel to the U.S. as tourists or for business and Mexican nationals who possess a nonresident alien Mexican Border Crossing Card are not required to complete an I–94 upon arrival. However, their information is maintained in Nonimmigrant and Immigrant Information System (NIIS). Additionally, DHS/CBP implemented an Electronic System for Travel Authorization (ESTA) to permit nationals of VWP countries to submit their biographic and admissibility information online in advance of their travel to the United States. Applicants under this program will have access to their accounts so that they may check the status of their ESTA and make limited amendments. ESTA is covered by privacy documentation including the DHS/CBP Electronic System for Travel Authorization SORN (79 FR 65414, published on November 3, 2014).

In accordance with the Privacy Act of 1974 and as part of DHS's ongoing effort to review and update legacy system of record notices, DHS/CBP proposes to update and reissue the following system of records notice, DHS/CBP–016 Nonimmigrant and Information System (73 FR 77739, published December 19, 2008), as a DHS/CBP system of records notice titled, DHS/CBP–016 Nonimmigrant and Immigrant Information System System of Records. DHS/CBP changed the system name to reflect changes to the system, changed the security classification to reflect storage of records on a classified network, changed the system location to reflect a new location, changed the purpose to allow for replication of data for analysis and vetting, updated the storage due to the change in security classification, updated the retention and disposal to reflect that records will follow the same retention schedule, and changed the notification procedure to reflect that DHS/CBP will now also review replicated records.

Consistent with DHS's information sharing mission, information stored in the DHS/CBP–016 Nonimmigrant and Immigrant Information System System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies

consistent with the routine uses set forth in this system of records notice.

Additionally, the exemptions for this system of records notice will remain in place. This updated system will be included in the DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the Federal Government agencies collect, maintain, use and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is a description of the DHS/CBP–016 Nonimmigrant and Immigrant Information System System of Records.

In accordance with 5 U.S.C. 552a(r), a report concerning this record system has been sent to the Office of Management and Budget and to the Congress.

System of Records:

Department of Homeland Security DHS/United States (U.S.) Customs and Border Protection (CBP)–016.

SYSTEM NAME:

DHS/CBP–016 Nonimmigrant and Immigrant Information System.

SECURITY CLASSIFICATION:

Unclassified. The data may be retained on the classified networks but this does not change the nature and character of the data until it is combined with classified information.

SYSTEM LOCATION:

Records are maintained in the operational system at CBP Headquarters in Washington, DC and at CBP field offices. Records are replicated from the operational system and maintained on the DHS unclassified and classified networks. This computer database is located at the U.S. Customs and Border Protection (CBP) National Data Center. Computer terminals are located at customhouses, border ports of entry, airport inspection facilities under the jurisdiction of the Department of Homeland Security and other locations at which DHS authorized personnel may be posted to facilitate DHS's mission. Terminals may also be located at appropriate facilities for other participating government agencies that have obtained system access pursuant to a Memorandum of Understanding.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Categories of individuals covered by this system are nonimmigrant aliens entering and departing the United States.

CATEGORIES OF RECORDS IN THIS SYSTEM:

The Nonimmigrant and Immigrant Information System (NIIS) is a dataset residing on the CBP Information Technology (IT) platform and in paper form. It contains arrival and departure information collected from foreign nationals entering and departing the United States on such forms as the I–94 and I–94W, or through interviews with CBP officers. This information consists of the following data elements, as applicable:

- Full Name (first, middle, and last);
- Date of birth;
- Email address, as required;
- Travel document type (*e.g.,* passport information, permanent resident card), number, issuance date, expiration date and issuing country;
- Country of citizenship;
- Date of crossing both into and out of the United States;
- Scanned images linked through the platform;
- Airline and flight number;
- City of embarkation;
- Address while visiting the United States;
- Admission number received during entry into the United States;
- Whether the individual has a communicable disease, physical or mental disorder, or is a drug abuser or addict;
- Whether the individual has been arrested or convicted for a moral turpitude crime, drugs, or has been sentenced for a period longer than five years;
- Whether the individual has engaged in espionage, sabotage, terrorism, or Nazi activity between 1933 and 1945;
- Whether the individual is seeking work in the United States;
- Whether the individual has been excluded or deported, or attempted to obtain a visa or enter the United States by fraud or misrepresentation;
- Whether the individual has ever detained, retained, or withheld custody of a child from a U.S. citizen granted custody of the child;
- Whether the individual has ever been denied a U.S. visa or entry into the U.S., or had a visa cancelled (if yes, when and where);
- Whether the individual has ever asserted immunity from prosecution; and
- Any change of address while in the United States.

Authority for Maintenance of the System:

The legal authority for NIIS comes from the Immigration and Nationality Act, 8 U.S.C. 1103, 1184, 1354; the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458; the Homeland Security Act of 2002, Public Law 107–296; 5 U.S.C. 301; and the Federal Records Act, 44 U.S.C. 3101.

PURPOSE(S):

NIIS is a repository of records for persons arriving in or departing from the United States as nonimmigrant visitors and is used for entry screening, admissibility, and benefits purposes. The system provides a central repository of contact information for such aliens while in the United States and also captures arrival and departure information for determination of future admissibility.

DHS maintains a replica of some or all of the data in the operating system on the unclassified and classified DHS networks to allow for analysis and vetting consistent with the above stated purposes and this published notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the United States Attorney or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings.

I. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the officer making the disclosure.

J. To an organization or individual in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life or property.

K. To an appropriate federal, state, local, tribal, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

L. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, for the purpose of protecting the vital interests of a data subject or other persons, (*e.g.,* to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats; appropriate notice will be provided of any identified health threat or risk).

M. To federal and foreign government intelligence or counterterrorism agencies or components when CBP becomes aware of an indication of a threat or potential threat to national or international security, or when such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

N. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations when DHS is aware of a need to use relevant data for purposes of testing new technology and systems designed to enhance national security or identify other violations of law.

O. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS/CBP stores records in this system electronically in the operational system as well as on the unclassified and classified network or on paper in secure facilities in a locked drawer behind a locked door. DHS/CBP stores the records on magnetic disc, tape, digital media, and CD–ROM. The data is stored electronically at the CBP and DHS Data Center for current data and offsite at an alternative data storage facility for historical logs, system backups, and in paper form.

RETRIEVABILITY:

These records may be searched on a variety of data elements including name, addresses, place and date of entry or departure, or country of citizenship as listed in the travel documents used at the time of entry to the United States. An admission number, issued at each entry to the United States to track the particular admission, may also be used to identify a database record.

SAFEGUARDS:

All NIIS records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include all of the following: restricting access to those with a ''need to know''; using locks, alarm devices, and passwords; compartmentalizing databases; auditing software; and encrypting data communications.

NIIS information is secured in full compliance with the requirements of the

DHS IT Security Program Handbook. This handbook establishes a comprehensive program, consistent with federal law and policy, to provide complete information security, including directives on roles and responsibilities, management policies, operational policies, and application rules, which will be applied to component systems, communications between component systems, and at interfaces between component systems and external systems.

One aspect of the DHS comprehensive program to provide information security involves the establishment of rules of behavior for each major application, including NIIS. These rules of behavior require users to be adequately trained regarding the security of their systems. These rules also require a periodic assessment of technical, administrative, and managerial controls to enhance data integrity and accountability. System users must sign statements acknowledging that they have been trained and understand the security aspects of their systems. System users must also complete annual privacy awareness training to maintain current access.

NIIS transactions are tracked and can be monitored. This allows for oversight and audit capabilities to ensure that the data is being handled consistent with all applicable federal laws and regulations regarding privacy and data integrity.

RETENTION AND DISPOSAL:

NIIS data is subject to a retention requirement. The information collected and maintained in NIIS is used for entry screening, admissibility, and benefits purposes and is retained for seventy-five (75) years from the date obtained. However, NIIS records that are linked to active law enforcement lookout records, CBP matches to enforcement activities, and/or investigations or cases will remain accessible for the life of the law enforcement activities to which they may become related. The current disposition for paper copy is 180 days from date of departure. Records replicated on the unclassified and classified networks will follow the same retention schedule.

SYSTEM MANAGER AND ADDRESS:

Assistant Commissioner, Office of Information Technology, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to CBP's FOIA Officer, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

When seeking records about yourself from this system of records or any other CBP system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information CBP may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

In processing requests for access to information in this system, CBP will review not only the records in the operational system but also the records that were replicated on the unclassified and classified networks, and based on this notice provide appropriate access to the information.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

The system contains certain data received on individuals, passengers and crewmembers that arrive in, depart from, or transit through the United States. This system also contains information collected from carriers that operate vessels, vehicles, aircraft, and/or trains that enter or exit the United States and from the individuals upon crossing the U.S. border.

Basic information is obtained from individuals, the individual's attorney/representative, CBP officials, and other federal, state, local, and foreign agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption shall be asserted with respect to information maintained in the system that is collected from a person or submitted on behalf of a person, if that person, or his or her agent, seeks access or amendment of such information.

This system, however, may contain information related to an ongoing law enforcement investigation because the information regarding a person's travel and border crossing was disclosed to appropriate law enforcement in conformance with the above routine uses. As such pursuant to 5 U.S.C. 552a(j)(2) and (k)(2), DHS will claim exemption from (c)(3); (e)(8); and (g) of the Privacy Act of 1974, as amended, as is necessary and appropriate to protect this information.

Dated: February 27, 2015.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2015–05804 Filed 3–12–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0145]

Cooperative Research and Development Agreement—Coast Guard Response Boat-Medium Data Recorder

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent; request for comments.

SUMMARY: The Coast Guard announces its intent to enter into a Cooperative Research and Development Agreement (CRADA) with Vector Controls, Inc. (Vector) to develop changes to the response boat-medium (RB–M) onboard engine data bus that will convert Society of Automotive Engineers (SAE) J1939 format to the National Marine Electronics Association (NMEA) 0183/2000 data format. A test schedule has been proposed in which Vector will develop and install the required RB–M control system software upgrades and relevant additional equipment; a Coast Guard field unit will operate the RB–M in normal operations; and the Coast

Guard Research and Development Center (R&DC) will install a dedicated data recorder system and conduct periodic data downloads for demonstration purposes. While the Coast Guard is currently considering partnering with Vector, the Coast Guard solicits public comment on the possible nature of and participation of other parties in the proposed CRADA. In addition, the Coast Guard also invites other potential non-Federal participants, who have the interest and capability to bring similar contributions to this type of research, to consider submitting proposals for consideration in similar CRADAs.

DATES: Comments must be submitted to the online docket via *http://www.regulations.gov,* or reach the Docket Management Facility, on or before April 13, 2015.

Synopses of proposals regarding future CRADAs must reach the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) on or before April 13, 2015.

ADDRESSES: Submit comments using one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail* or *hand deliver*—Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hours for hand delivery are 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or wish to submit proposals for future CRADAs, contact Jay Carey, Project Official, Surface Branch, U.S. Coast Guard Research and Development Center, 1 Chelsea Street, New London, CT 06320, telephone 860–271–2702, email *Jay.R.Carey@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on this notice. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Do not submit detailed proposals for future CRADAs to the Docket Management Facility. Instead, submit them directly to the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) .

Comments should be marked with docket number USCG–2015–0145 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ × 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Discussion

CRADAs are authorized under 15 U.S.C. 3710(a).[1] A CRADA promotes the transfer of technology to the private sector for commercial use, as well as specified research or development efforts that are consistent with the mission of the Federal parties to the CRADA. The Federal party or parties agree with one or more non-Federal parties to share research resources, but the Federal party does not contribute funding.

CRADAs are not procurement contracts. Care is taken to ensure that CRADAs are not used to circumvent the contracting process. CRADAs have a specific purpose and should not be confused with other types of agreements such as procurement contracts, grants, and cooperative agreements.

Under the proposed CRADA, the R&DC will collaborate with one non-Federal participant. Together, the R&DC and the non-Federal participant would develop the changes required to convert the current engine data format used on the USCG RB–M (Society of Automotive Engineers (SAE) J1939) to a widely used format in marine electronics (NMEA 0183/2000). The RDC will provide Vector access to an operational RB–M at a Coast Guard field unit on or about May 1, 2015. The Coast Guard plans to operate a dedicated data recorder system on the RB–M for 90 days then return the vessel to its standard operational configuration.

We anticipate that the Coast Guard's contributions under the proposed CRADA will include the following:

(1) Develop the demonstration test plan to be executed under the CRADA;

(2) Provide the test vessel, test vessel support, facilities, and all required approvals as required for a 90-day demonstration under the CRADA;

(3) Conduct a Privacy Threshold Analysis (PTA) as required for the demonstration to be conducted under this CRADA;

(4) Conduct a Privacy Impact Assessment as required for the demonstration to be conducted under this CRADA;

(5) Collect and analyze demonstration test plan data in accordance with the CRADA demonstration test plan; and

(6) Develop the Demonstration Final Report, which will document the methodologies, findings, conclusions, and recommendations of this CRADA work.

We anticipate that the non-Federal participants' contributions under the proposed CRADA will include the following:

(1) Provide any equipment and software upgrades required to conduct the demonstration as described in the demonstration test plan developed under this CRADA;

(2) Provide technical oversight as required to conduct the demonstration as described in the demonstration test plan developed under this CRADA;

(3) Provide the technical data package for all equipment, including dimensions, weight, power requirements, interface specifications, and other technical considerations for the additional components to be utilized under this CRADA;

(4) Provide shipment and delivery of all equipment required for the demonstration to be conducted under this CRADA; and

(5) Provide travel and other associated personnel and other expenses as required.

The Coast Guard reserves the right to select for CRADA participants all, some, or no proposals submitted for this CRADA. The Coast Guard will provide

[1] The statute confers this authority on the head of each Federal agency. The Secretary of DHS's authority is delegated to the Coast Guard and other DHS organizational elements by DHS Delegation No. 0160.1, para. II.B.34.

no funding for reimbursement of proposal development costs. Proposals and any other material submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified and have no more than five single-sided pages (excluding cover page, DD 1494, JF–12, etc.). The Coast Guard will select proposals at its sole discretion on the basis of:

(1) How well they communicate an understanding of, and ability to meet, the proposed CRADA's goal; and

(2) How well they address the following criteria:

(a) Technical capability to support the non-Federal party contributions described; and

(b) Resources available for supporting the non-Federal party contributions described.

Currently, the Coast Guard is considering Vector for participation in this CRADA. This consideration is based on the fact that Vector has demonstrated its technical ability as the developer and manufacturer of the current RB–M propulsion control system. However, we do not wish to exclude other viable participants from this or future similar CRADAs.

This is a technology demonstration effort. The goal of this CRADA is to develop the changes required to convert the current data format used on the USCG RB–M (J1939) to a widely used format in marine electronics (NMEA 0183/2000). Special consideration will be given to small business firms/consortia, and preference will be given to business units located in the U.S. This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: February 24, 2015.

B.N. Macesker,

Executive Director, U.S. Coast Guard Research and Development Center.

[FR Doc. 2015–05418 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2015–0083]

Prince William Sound Regional Citizens' Advisory Council Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of recertification.

SUMMARY: The purpose of this notice is to inform the public that the Coast Guard has recertified the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) as an alternative voluntary advisory group for Prince William Sound, Alaska. This certification allows the PWSRCAC to monitor the activities of terminal facilities and crude oil tankers under the Prince William Sound Program established by statute.

DATES: This recertification is effective for the period from March 1, 2015 through February 28, 2016.

FOR FURTHER INFORMATION CONTACT: LT Tom Pauser, Seventeenth Coast Guard District (dpi), by phone at (907) 463–2812, email *thomas.e.pauser@uscg.mil* or by mail at P.O. Box 25517, Juneau, Alaska 99802.

SUPPLEMENTARY INFORMATION:

Background and Purpose

As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster a long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

On October 18, 1991, the President delegated his authority under 33 U.S.C. 2732(o) to the Secretary of Transportation in E.O. 12777, section 8(g) (see 56 FR 54757; October 22, 1991) for purposes of certifying advisory councils, or groups, subject to the Act. On March 3, 1992, the Secretary redelegated that authority to the Commandant of the USCG (see 57 FR 8582; March 11, 1992). The Commandant redelegated that authority to the Chief, Office of Marine Safety, Security and Environmental Protection (G–M) on March 19, 1992 (letter #5402).

On July 7, 1993, the USCG published a policy statement, 58 FR 36504, to clarify the factors that shall be considered in making the determination as to whether advisory councils, or groups, should be certified in accordance with the Act.

The Assistant Commandant for Marine Safety and Environmental Protection (G–M), redelegated recertification authority for advisory councils, or groups, to the Commander, Seventeenth Coast Guard District on February 26, 1999 (letter #16450).

On September 16, 2002, the USCG published a policy statement, 67 FR 58440, that changed the recertification procedures such that applicants are required to provide the USCG with comprehensive information every three years (triennially). For each of the two years between the triennial application procedures, applicants submit a letter requesting recertification that includes a description of any substantive changes to the information provided at the previous triennial recertification. Further, public comment is not solicited prior to recertification during streamlined years, only during the triennial comprehensive review.

On March 1, 2003, the Coast Guard was transferred from the Department of Transportation (DoT) to the Department of Homeland Security (DHS) and retained the previous delegations that were provided while it was in the DoT.

The Alyeska Pipeline Service Company pays the PWSRCAC $2.9 million annually in the form of a longterm contract. In return for this funding, the PWSRCAC must annually show that it ''fosters the goals and purposes'' of OPA 90 and is ''broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.'' The PWSRCAC is an independent, nonprofit organization founded in 1989. Though it receives federal oversight like many independent, non-profit organizations, it is not a federal agency. The PWSRCAC is a local organization that predates the passage of OPA 90. The existence of the PWSRCAC was specifically recognized in OPA 90 where it is defined as an ''alternate voluntary advisory group.''

Alyeska funds the PWSRCAC, and the Coast Guard makes sure the PWSRCRC operates in a fashion that is broadly consistent with OPA 90.

Recertification

By letter dated February 24, 2015, the Commander, Seventeenth Coast Guard certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on February 28, 2016.

Dated: February 24, 2015.

D.B. Abel,

Rear Admiral, U.S. Coast Guard Commander, Seventeenth Coast Guard District.

[FR Doc. 2015–05806 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2015–0006]

Privacy Act of 1974; Department of Homeland Security Federal Emergency Management Agency 004 Non-Disaster Grant Management Information Files System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, ''Department of Homeland Security/Federal Emergency Management Agency—004 Grant Management Information Files System of Records'' and rename it, ''Department of Homeland Security/Federal Emergency Management Agency—004 Non-Disaster Grant Management Information Files System Records.'' This system of records allows the Department of Homeland Security/Federal Emergency Management Agency to collect and maintain records from points of contact for state, local, tribal, territorial, and other entities applying for Federal Emergency Management Agency grant programs that are not disaster related. The Federal Emergency Management Agency collects grant management information to determine eligibility for Department of Homeland Security grant awards for non-disaster grants and for the issuance of awarded funds. As a result of a biennial review of this system, records have been updated within the (1) system name, (2) authorities, (3) purpose, and (4) routine uses. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before April 13, 2015. This updated system will be effective April 13, 2015.

ADDRESSES: You may submit comments, identified by DHS–2015–0006 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Eric M. Leckey (202) 212–5100, Privacy Officer, Federal Emergency Management Agency, Washington, DC 20472. For privacy issues please contact: Karen L. Neuman (202) 343–1717, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) proposes to update, rename, and reissue a current DHS system of records titled, ''DHS/FEMA—004 Grant Management Information Files System of Records.'' As part of the Department's process for reviewing and streamlining compliance documentation and to increase transparency, DHS/FEMA is proposing to: 1) update the system of records to include only non-disaster grant programs and FEMA assistance to state, local, tribal, territorial, or other entities; and 2) rename the system of records notice to DHS/FEMA—004 Non-Disaster Grant Management Information Files System of Records.

The goal of FEMA's non-disaster related grant programs is to provide funding to enhance the capacity of state, local, tribal, and territorial emergency responders to prevent, respond to, and recover from a weapon of mass destruction terrorism incident involving chemical, biological, radiological, nuclear, explosive devices, and cyber-attacks. FEMA's non-disaster grant programs currently provide funds to all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of Northern Mariana Islands, Guam, the U.S. Virgin Islands, certain types of non-profit organizations, and some private entities. FEMA non-disaster related grant programs are directed at a broad spectrum of state and local emergency responders, including firefighters, emergency medical services, emergency management agencies, law enforcement, and public officials. The source of the information collected by FEMA generally comes from state, local, tribal and territorial governments, port authorities, transit authorities, non-profit organizations, and private companies seeking grant funding. The nature of data collected by FEMA includes basic public information about the agency or organization, the organization's financial information, and the organization's demonstrated need for the non-disaster grant funds.

Many of FEMA's non-disaster related grant programs implement objectives addressed in the Robert T. Stafford Disaster Relief and Emergency Assistance Act; a series of post 9/11 laws as outlined in the Authorities Section; the post-Katrina Emergency Management Reform Act (PKEMPRA) of 2006; and Homeland Security Presidential Directives (HSPD).

As part of the biennial review process for DHS/FEMA systems or records, DHS has updated and reissued this system of records as described below:

First, DHS/FEMA changed the system name to reflect the focus of the system of records on non-disaster-related grants. Second, DHS/FEMA streamlined the legal authorities to remove the reference to the National Flood Insurance Act and to add authorities under the Implementing Recommendations of the 9/11 Commission Act of 2007. Third, the purpose removes references to FEMA disaster related grants such as Public Assistance because these grants are part of the DHS/FEMA–009 Hazard Mitigation, Disaster Public Assistance, and Disaster Loan Programs system of records. Fourth, DHS/FEMA modified routine use (A) to include former employees of DHS and to eliminate redundant language; updated routine use (C) to specify that information may be shared with the General Services Administration (GSA); and modified routine uses (D) and (E) for clarification and non-substantive grammatical changes. Lastly, DHS/FEMA modified the record source categories to specifically reference the points of contact for the respective grant applicant organizations as a source of the information described in this notice.

Consistent with DHS's information-sharing mission, information stored in the DHS/FEMA–004 Non-Disaster Grant Management Information Files System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other

homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/FEMA–004 Non-Disaster Grant Management Information Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS

Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA)–004.

SYSTEM NAME:

DHS/FEMA–004 Non-Disaster Grant Management Information Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

DHS/FEMA maintains records at FEMA Headquarters in Washington, DC, and field offices. Additionally, DHS/FEMA maintains records in FEMA information technology systems such as the FEMA Non-Disaster (ND) Grants and Assistance to Firefighters Grants (AFG) systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include the respective points of contact (POC) for grant applications and awardees of grant funds. Awardees of grant funds include state, local, tribal, and territorial governments, port authorities, transit authorities, non-profit organizations, and private companies (in rare instances).

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Name of Organization's Designated POC;
- POC Title;
- Grant applicant organization POC's office mailing address;
- Grant applicant organization POC's office phone number;
- Grant applicant organization POC's office cellphone number;
- Grant applicant organization POC's office fax number;
- Grant applicant organization POC's work email address;
- Organization Name;
- Organization's Federal Employer Identification Number (EIN);
- Organization's Dun & Bradstreet (B&D) Data Universal Numbering System (DUNS) Number (a unique nine digit numeric identifier assigned to each organization's location);
- Organization's Bank Routing Number; and
- Organization's Bank Account Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c), as amended by Section 202, Title II of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–053); Section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 571 *et seq.*), as amended by Section 301(a) Title III of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–053); Section 2003(a) of the Homeland Security Act of 2002 (6 U.S.C. 101 *et seq.*), as amended by Section 101, Title I of the Implementing Recommendations of the 9/11 Commission Act of 2007, (Pub. L. 110–053); Section 2004(a) of the Homeland Security Act of 2002 (6 U.S.C. 101 *et seq.*), as amended by Section 101, Title I of the Implementing Recommendations of the 9/11 Commission Act of 2007, (Pub. L. 110–053); Section 2004 of the Homeland Security Act of 2002 (6 U.S.C. 605 *et seq.*), as amended by Section 101, Title I of the Implementing Recommendations of the 9/11 Commission Act of 2007, (Pub. L. No. 110–53); Section 2005 of the Homeland Security Act of 2002 (6 U.S.C. 606 *et seq.*), as amended by Section 101, Title I of the Implementing Recommendations of the 9/11 Commission Act of 2007, (Pub. L. No. 110–53); the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723); Title III of Division D of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. 110–329); Title III of Division E of the Consolidated Appropriations Act, 2008 (Pub. L. 110–161); Section 1406, Title XIV of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–053); Section 1513, Title XV of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–053); Section 1532(a), Title XV of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–053); 46 U.S.C. 70107; the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 160–107); and National Historic Preservation Act of 1966, as amended, Pub. L. 89–665, § 102, 16 U.S.C. 470.

PURPOSE(S):

The purpose of this system is to assist in determining eligibility of awards for non-disaster related grants and for the issuance of awarded funds and allow DHS to contact individuals to ensure completeness and accuracy of grants and applications.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the United States Attorneys, or other federal agency conducting litigation, or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, or harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to and accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To an individual's employer or affiliated organization to the extent necessary to verify employment or membership status.

I. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS/FEMA stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, and digital media.

RETRIEVABILITY:

DHS/FEMA retrieves records may by the contact person covered by this system or the name of organization.

SAFEGUARDS:

DHS/FEMA safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/FEMA imposes strict controls to minimize the risk of compromising the information that is being stored. DHS/FEMA limits access to the computer system containing the records in this system to those individuals who have a need-to-know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

DHS/FEMA retains grant application information for audit, oversight operations, and appeal purposes.

In accordance with Government Records Schedule (GRS) 3, Item 14, FEMA destroys grant administrative records and hard copies of unsuccessful grant applications files after two years. In accordance with GRS 3, Item 13, FEMA stores electronically received and processed copies of unsuccessful grant application files for 3 years from the date of denial and then deleted.

In accordance with National Archives and Records Administration (NARA) Authority N1–311–95–001, Item 1, FEMA maintains grant project records for three years after the end of the fiscal year that the grant or agreement is finalized or when no longer needed, whichever is sooner.

In accordance with NARA Authority N1–311–95–001, Item 3, FEMA retires grant final reports to the Federal Records Center (FRC) three years after cutoff and transfers them to NARA 20 years after cutoff. In accordance with NARA Authority N1–311–95–001, Item 2; N1–311–01–008, Item 1; and N1–311–04–001, Item 1, FEMA stores all other grant records for six years and three months from the date of closeout (when closeout is the date FEMA closes the grant in its financial system) and final audit and appeals are resolved and then deleted.

The customer service assessment forms that have been filled out and returned by disaster assistance applicants are temporary records that are destroyed upon transmission of the final report, per NARA Authority N1–311–00–001, Item 1.

The statistical and analytical reports resulting from these assessments are temporary records that are retired three years after the final report cutoff and destroyed 20 years after the report cutoff per NARA Authority N1–311–00–001, Item 2. The assessment results database are temporary records that are destroyed when no longer needed for analysis purposes, per NARA Authority N1–311–00–001, Item 3.

SYSTEM MANAGER AND ADDRESS:

Deputy Assistant Administrator, Grant Program Directorate, FEMA, 500 C Street SW., Washington, DC 20472.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the FEMA FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other

Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition you should:

- Explain why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

DHS/FEMA obtains records from grantees, applicants for award, grant applicants' points of contact, and grant program monitors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: February 20, 2015.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2015–05799 Filed 3–12–15; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2015–0009]

Privacy Act of 1974; Department of Homeland Security/United States Customs and Border Protection Advanced Passenger Information System Systems of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, ''Department of Homeland Security/United States Customs and Border Protection–005 Advanced Passenger Information System Systems of Records.'' This system of records allows the Department of Homeland Security/United States Customs and Border Protection to collect and maintain records on certain biographical information on all passengers and crew members who arrive in, depart from, or transit through (and crew that fly over) the United States on a covered air or vessel carrier, and, in the case of crew members, those who continue domestically on a foreign air or vessel carrier, to additionally encompass private aircraft, rail, and bus travel. This system of records notice has been updated to include changes to security classification, system location, purpose(s), storage, retention and disposal, routine uses, and notification procedure. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in the Department of Homeland Security's inventory of record systems, located on the Department of Homeland Security Web site at *http://www.dhs.gov/system-records-notices-sorns.*

DATES: The system of records will be effective April 13, 2015.

ADDRESSES: You may submit comments identified by docket number DHS–2015–0009 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: John Connors, (202) 344–1610, Privacy Officer, United States Customs and Border Protection, Privacy and Diversity Office, 1300 Pennsylvania Ave. NW., Washington, DC 20229. For privacy questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the DHS/CBP proposes to update and reissue a current DHS system of records titled, Department of Homeland Security (DHS), United States Customs and Border Protection (CBP)–005 Advanced Passenger Information System (APIS) System of Records. The Aviation and Transportation Security Act of 2001 and the Enhanced Border Security and Visa Entry Reform Act of 2002 provide specific authority for the mandatory collection of certain information about all passenger and crewmembers that arrive in or depart from the United States via private aircraft, commercial air, or vessel carrier. CBP requires that carriers collect and submit information is required to be collected and submitted to CBP as APIS data pursuant to existing regulations. Additionally, rail and bus carriers may provide voluntarily similar, information pertaining to their passengers and crew who arrive in or depart from the United States. References to the types of information that are required to be submitted in the air or vessel environment also pertain to the types of information that may be voluntarily provided in the rail and bus environments.

The information that CBP requires carriers to collect and submit to APIS (as well as information that may be provided voluntarily by bus and rail carriers) can be found on routine arrival/departure documents that passengers and crewmembers must provide to CBP when entering or departing the United States. APIS

information includes complete name; date of birth; gender; country of citizenship; passport/alien registration number and country of issuance; passport expiration date; country of residence; status on board the aircraft, vessel, or train; travel document type; U.S. destination address (for all private aircraft passengers and crew, and commercial air, rail, and vessel passengers except for U.S. citizens, lawful permanent residents, crew, and those in transit); place of birth and address of permanent residence (commercial flight crew only); pilot certificate number and country of issuance (flight crew only, if applicable); and the Passenger Name Record (PNR) locator number. The PNR locator number allows CBP to access PNR consistent with its regulatory authority under 19 CFR 122.49d and the system of records notice (SORN) for the Automated Targeting System, DHS/CBP–006 (72 FR 43650, published August 6, 2007).

Additionally, commercial air and vessel carriers must provide the airline carrier code, flight number; vessel name; vessel country of registry/flag; International Maritime Organization number or other official number of the vessel; voyage number; date of arrival/departure; foreign airport/port where the passengers and crew members began their air/sea transportation to the United States; for commercial aviation passengers and crew members destined for the United States, the location where the passenger and crew members must undergo customs and immigration clearance by CBP; for commercial passengers and crew members that are transiting through (and crew on aircraft flying over) the United States and not clearing CBP must provide the foreign airport/port of ultimate destination, and status on board (whether an individual is crew or non-crew); and for commercial passengers and crew departing the United States, must provide the final foreign airport/port of arrival. Lastly, pilots of private aircraft must provide the aircraft registration number; type of aircraft; call sign (if available); CBP issued decal number (if available); place of last departure (International Civil Aviation Organization (ICAO) airport code, when available); date and time of aircraft arrival (or departure, for departure notice), estimated time and location of crossing U.S. border/coastline; name of intended airport of first landing; [1] owner/lessee name (first, last and middle, if available, or business entity name); owner/lessee address (number and street, city, state, zip code, country, telephone number, fax number, and email address); pilot/private aircraft pilot name (last, first and middle, if available); pilot license number; pilot street address (number and street, city state, zip code, country, telephone number, fax number and email address); pilot license country of issuance; operator name (for individuals: last, first and middle, if available, or name of business entity, if available); operator street address (number and street, city, state, zip code, country, telephone number, fax number, and email address); aircraft color(s); complete itinerary (foreign airport landings within 24 hours prior to landing in the United States); and 24-hour Emergency point of contact (*e.g.,* broker, dispatcher, repair shop, or other third party who is knowledgeable about this particular flight); name (first, last, and middle (if available) and telephone number (as applicable).

CBP collects passenger and crewmember information provided by the pilot and/or air, vessel, bus, or rail carrier in advance of passenger and crewmember arrival in or departure from (and, for crew on flights flying over) the United States. CBP maintains this information in APIS. The information is used to perform counterterrorism and/or intelligence activities; to assist law enforcement activities; to perform public security queries that identify risks to the aircraft or vessel, to its occupants; or to the United States and to expedite CBP processing.

Under a previous revision to the APIS rule, (72 FR 48342, published August 23, 2007) CBP mandated pre-departure transmission by air and vessel carriers of personally identifiable information about passengers and crewmembers (including ''non-crew'' as defined in the 2005 APIS Final Rule) traveling by air or sea, arriving in, or departing from (and, in the case of crew, flights overflying) the United States. For more information please see the initial APIS Privacy Impact Assessment (PIA) and Privacy Policy, which was published in the **Federal Register** (FR), (70 FR 17852, April 7, 2005). Under the most recent Final Rule revision to APIS CBP amended regulations to extend this requirement to private aircraft passengers and crew as well. This information is often collected and maintained on what is referred to as the manifest. The information that CBP requires carriers to collect and submit to APIS (or which may be provided voluntarily by carriers in the rail and bus environments) can be found on routine travel documents that passengers and crewmembers must provide when processed into or out of the United States.

The purpose of the information collection is to screen passengers and crew members arriving from foreign travel points and departing the United States to identify those persons who may: Pose a risk to border, aviation, or public security; who may be a known or suspected terrorist; who may be affiliated with or suspected of being affiliated with terrorists; who may be inadmissible; who may be a person of interest; who may otherwise be engaged in activity in violation of U.S. law; or who may be the subject of wants or warrants. The system allows CBP to effectively and efficiently facilitate the entry and departure of legitimate travelers into and from the United States. DHS officers can quickly reference the results of the advanced research that has been conducted through CBP's law enforcement databases by using APIS. Results include information from the terrorist screening database (TSDB) and information on individuals with outstanding wants or warrants. These results also confirm the accuracy of that information through comparison with information obtained from the traveler (passenger and crew) and from the carriers, and assists in making immediate determinations as to a traveler's security risk, admissibility, and other determinations bearing on CBP's inspectional and screening processes.

Information collected in APIS is maintained for a period of no more than one year from the date of collection at which time the data is erased from APIS. Following CBP processing, a copy of certain information is transferred to the Border Crossing Information system (BCI), which is a subsystem of the Information Technology platform TECS. Primary inspection lane and ID inspector are added to APIS and the APIS information is verified during physical processing at the border. The information derived from APIS includes (or in the case of rail/bus, may include): Complete name, date of birth, gender, date of arrival, date of departure, time arrived, means of arrival (air/sea/rail/bus), travel document, departure location, airline code, flight number, and the result of the CBP processing. Additionally, a copy of certain APIS data is transferred to the Arrival and Departure Information System (ADIS) for effective and efficient tracking of foreign nationals for individuals subject

[1] As listed in 19 CFR 122.24, if applicable, unless an exemption has been granted under 19 CFR 122.25, or the aircraft was inspected by CBP Officers in the U.S. Virgin Islands.

to Office of Biometric Identity Management (OBIM) requirements. This information includes the identification of lawfully admitted non-immigrants who remain in the United States beyond the period of authorized stay. OBIM applies to all visitors (with limited exemptions). The SORN for ADIS was last published on May 28, 2013 (78 FR 31955). The information transferred from APIS to ADIS includes: Complete name, date of birth, gender, citizenship, country of residence, status on board the vessel, U.S. destination address, passport number, expiration date of passport, country of issuance (for non-immigrants authorized to work), alien registration number, port of entry, entry date, port of departure, and departure date.

In accordance with the Privacy Act of 1974 and as part of DHS's ongoing effort to review and update legacy system of record notices, DHS/CBP proposes to update and reissue the following system of records notice, DHS/CBP–005 Advance Passenger Information System (APIS) (73 FR 68435, published November 18, 2008), as a DHS/CBP system of records notice titled, DHS/CBP–005 Advance Passenger Information System (APIS) System of Records. DHS/CBP changed the system, changed the security classification to reflect storage of records on a classified network, changed the system location to reflect a new location, updated the purpose to allow for replication of data for analysis and vetting, updated storage due to the change in security classification, updated the retention and disposal to reflect that records will follow the same retention schedule, updated the routine uses to reflect sharing with the news media and public, and changed the notification procedure to reflect that DHS/CBP will now review replicated records.

Consistent with DHS's information sharing mission, information stored in the DHS/CBP–005 APIS System of Records may be shared with other DHS components that have a need to know the information in order to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

Additionally, the exemptions for this system of records notice will remain in place. This updated system will be included in the DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the DHS/CBP–005 Advanced Passenger Information System (APIS) System of Records.

In accordance with 5 U.S.C. 552a(r), a report concerning this record system has been sent to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)–005

SYSTEM NAME:

DHS/CBP–005 Advanced Passenger Information System (APIS).

SECURITY CLASSIFICATION:

Unclassified. The data may be retained on the classified networks but this does not change the nature and character of the data until it is combined with classified information.

SYSTEM LOCATION:

Records are maintained in the operational system at CBP Headquarters in Washington, DC and at CBP field offices. Records are replicated from the operational system and maintained on the DHS unclassified and classified networks. This computer database is located at CBP National Data Center (NDC) in Washington, DC. Computer terminals are located at customhouses, border ports of entry, airport inspection facilities under the jurisdiction of DHS, and other locations at which DHS authorized personnel may be posted to facilitate DHS's mission. Terminals may also be located at appropriate facilities for other participating government agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this notice includes passengers who arrive and depart the United States by air, sea, rail, and bus, including those in transit through the United States or beginning or concluding a portion of their international travel by flying domestically within the United States; crew members who arrive and depart the United States by air, sea, rail, and bus, including those in transit through the United States or beginning or concluding a portion of their international travel by flying domestically within the United States; and crew members on aircraft that fly over the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the database include the following information:

- Complete name;
- Date of birth;
- Gender;
- Country of citizenship;
- Passport/alien registration number and country of issuance;
- Passport expiration date;
- Country of residence;
- Status on board the aircraft;
- Travel document type;
- United States destination address (for all private aircraft passengers and crew, and commercial air, rail, bus, and vessel passengers except for U.S. citizens, lawful permanent residents, crew, and those in transit);
- Place of birth and address of permanent residence (commercial flight crew only);
- Pilot certificate number and country of issuance (flight crew only, if applicable);
- PNR locator number;
- Primary inspection lane, ID inspector; and
- Records containing the results of comparisons of individuals to information maintained in CBP's law enforcement databases, as well as information from the TSDB, information on individuals with outstanding wants or warrants, and information from other government agencies regarding high risk parties.

In addition, air and sea carriers or operators covered by the APIS rules, and rail and bus carriers, to the extent voluntarily applicable, transmit or provide, respectively, to CBP the following information:

- Airline carrier code;
- Flight number;
- Vessel name;
- Vessel country of registry/flag;
- International Maritime Organization number or other official number of the vessel;

- Voyage number;
- Date of arrival/departure;
- Foreign airport/port where the passengers and crew members began their air/sea transportation to the United States;
- For passengers and crew members destined for the United States, the location where the passengers and crew members will undergo customs and immigration clearance by CBP;
- For passengers and crew members that are transiting through (and crew on flights flying over) the United States and not clearing CBP, the foreign airport/port of ultimate destination; and
- For passengers and crew departing the United States, the final foreign airport/port of arrival.

Other information stored in this system of records includes:

- Aircraft registration number provided by pilots of private air craft;
- Type of aircraft, call sign (if available);
- CBP issued decal number (if available);
- Place of last departure (ICAO airport code, when available);
- Date and time of aircraft arrival;
- Estimated time and location of crossing U.S. border/coastline;
- Name of intended airport of first landing; [2]
- Owner/lessee name (first, last, and middle, if available, or business entity name);
- Owner/lessee address (number and street, city, state, zip code, country, telephone number, fax number, and email address, pilot/private aircraft pilot name (last, first, and middle, if available));
- Pilot license number, pilot street address (number and street, city, state, zip code, country, telephone number, fax number, and email address);
- Pilot license country of issuance, operator name (for individuals: last, first, and middle, if available, or name of business entity, if available);
- Operator street address (number and street, city, state, zip code, country, telephone number, fax number, and email address);
- Aircraft color(s);
- Complete itinerary (foreign airport landings within 24 hours prior to landing in the United States);
- 24-hour Emergency point of contact (*e.g.,* broker, dispatcher, repair shop, or other third party who is knowledgeable about this particular flight) name (first, last, and middle (if available) and telephone number; and
- Incident to the transmission of required information via eAPIS, records will also incorporate the pilot's email address.

[2] As listed in 19 CFR 122.24, if applicable, unless an exemption has been granted under 19 CFR 122.25, or the aircraft was inspected by CBP Officers in the U.S. Virgin Islands.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Aviation and Transportation Security Act of 2001, Pub. L. 107–71; the Enhanced Border Security and Visa Reform Act of 2002, Pub. L. 107–173; the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458; and the Tariff Act of 1930, Pub. L. 71–361, as amended, including 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, and 1644a.

PURPOSE(S):

The purpose of the collection is to screen passengers and crew arriving in, transiting through, and departing from (and in the case of crew, overflying) the United States to identify those passengers and crew who may pose a risk to border, aviation, vessel, rail, bus, or public security, may be a terrorist or suspected terrorist or affiliated with or suspected of being affiliated with terrorists, may be inadmissible, may be a person of interest, or may otherwise be engaged in activity in violation of U.S. law, or the subject of wants or warrants.

APIS allows CBP to more effectively and efficiently facilitate the entry of legitimate travelers into the United States and the departure of legitimate travelers from the United States. As travelers prepare to depart for or from the United States, DHS officers, using APIS, can quickly cross-reference the results of the advanced research that has been conducted through CBP's law enforcement databases, as well as using information from the TSDB, information on individuals with outstanding wants or warrants, and information from other government agencies regarding high risk parties, confirm the accuracy of that information by comparison of it with information obtained from the traveler and from the carriers, and make immediate determinations with regard to the traveler's security risk, admissibility, and other determinations bearing on CBP's inspectional and screening processes.

DHS maintains a replica of some or all of the data in the operating system on the unclassified and classified DHS networks to allow for analysis and vetting consistent with the above stated purposes and this published notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the United States Attorneys or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purposes of performing audit or oversight operations as authorized by law but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. The Department has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative

agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To a federal, state, or local agency, or other appropriate entity or individual, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive.

I. To a federal, state, tribal, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations, or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

J. To federal and foreign government intelligence or counterterrorism agencies or components when DHS reasonably believes there to be a threat or potential threat to national or international security for which the information may be useful in countering the threat or potential threat, when DHS reasonably believes such use is to assist in anti-terrorism efforts, and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

K. To an organization or individual in either the public or private sector, either foreign or domestic, when there is a reason to believe that the recipient is or could become the target of a particular terrorist activity or conspiracy, to the extent the information is relevant to the protection of life, property, or other vital interests of a data subject and disclosure is proper and consistent with the official duties of the person making the disclosure.

L. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or for combating other significant public health threats; appropriate notice will be provided of any identified health threat or risk.

M. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings.

N. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate in the proper performance of the official duties of the officer making the disclosure.

O. To an appropriate federal, state, local, tribal, territorial, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

P. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations when CBP is aware of a need to utilize relevant data for purposes of testing new technology and systems designed to enhance border security or identify other violations of law.

Q. To the carrier that submitted traveler, passenger, or crew information to CBP, but only to the extent that CBP provides a message indicating that the individual is ''cleared'' or ''not cleared'' to board the aircraft or depart on the vessel in response to the initial transmission of information (including, when applicable, the individual's Electronic System for Travel Authorization (ESTA) status as discussed in the DHS/CBP–009 ESTA SORN (79 FR 65414, published November 3, 2014), or is identified as a ''selectee''.

R. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS/CBP stores records in this system electronically in the operational system as well as on the unclassified and classified network or on paper in secure facilities in a locked drawer behind a locked door. DHS/CBP stores records on magnetic disc, tape, digital media, and CD–ROM. The data is stored electronically at the CBP Data Center for current data and offsite at an alternative data storage facility for historical logs and system backups.

RETRIEVABILITY:

DHS/CBP retrieves data by name or other unique personal identifier from an electronic database.

SAFEGUARDS:

DHS/CBP safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. In addition, the system manager has the capability to maintain system back-ups for the purpose of supporting continuity of operations and the discrete need to

isolate and copy specific data access transactions for the purpose of conducting security incident investigations.

All communication links with the CBP data center are encrypted. The databases are fully certified and accredited in accordance with the requirements of the Federal Information Security Management Act (FISMA).

Although separate notice is being provided for APIS, it continues to operate within the TECS information technology system architecture; therefore APIS's technical infrastructure is covered by the approved TECS Certification and Accreditation under National Institute of Standards and Technology standards. The last certification was in December 2014.

RETENTION AND DISPOSAL:

Information collected in APIS is maintained in this system for a period of no more than twelve months from the date of collection at which time the data is erased from APIS. As part of the vetting and CBP clearance (immigration and customs screening and inspection) of a traveler, information from APIS is copied to the BCI system, a subsystem of TECS. Additionally, for individuals subject to CBP requirements, a copy of certain APIS data is transferred to the ADIS for effective and efficient processing of foreign nationals. More information about ADIS records can be found in the DHS/National Protection and Programs Directorate-001 ADIS SORN (78 FR 31955, published May 28, 2013). Different retention periods apply for APIS data contained in those systems.

Records replicated on the unclassified and classified networks will follow the same retention schedule.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Automated Systems, U.S. Customs and Border Protection Headquarters, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

DHS allows persons (including foreign nationals) to seek administrative access under the Privacy Act to information maintained in APIS. Persons may only seek access to APIS data that has been provided by the carrier and of which they are the subject. To determine whether APIS contains records relating to you, write to the CBP Customer Service Center, OPA, U.S. Customs and Border Protection, 90 K Street NE., Washington, DC 20229 (phone: 877–CBP–5511).

In processing requests for access to information in this system, CBP reviews not only the records in the operational system but also the records that were replicated on the unclassified and classified networks, and provides appropriate access to the information based on this notice.

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the CBP Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See notification procedure. In addition, if individuals are uncertain what agency handles the information, they may seek redress through the DHS Traveler Redress Program (TRIP). For more information please see the DHS/ALL–005 DHS Redress and Response System of Records (72 FR 2294, published January 18, 2007). Individuals who believe they have been improperly denied entry, refused boarding for transportation, or identified for additional screening by CBP may submit a redress request through TRIP. TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs such as airports, seaports, and train stations or at U.S. land borders. Travelers can request correction of errors stored in other DHS databases through one application through TRIP. Redress requests should be sent to: DHS Traveler Redress Inquiry Program (TRIP), 601 South 12th Street, TSA–901, Arlington, VA 22202–4220 or online at *www.dhs.gov/trip.*

CONTESTING RECORD PROCEDURES:

Individuals may seek redress and/or contest a record through several different means that will be handled in the same fashion. If the individual is aware the information is specifically handled by CBP, requests may be sent directly to CBP Customer Service Center, OPA, U.S. Customs and Border Protection, 90 K Street NE., Washington, DC 20229 (phone: 877–CBP–5511). If the individual is uncertain what agency is responsible for maintaining the information, redress requests may be sent to DHS TRIP at DHS Traveler Redress Inquiry Program (TRIP), 601 South 12th Street, TSA–901, Arlington, VA 22202–4220 or online at *www.dhs.gov/trip.*

RECORD SOURCE CATEGORIES:

The system contains data received from private and commercial aircraft pilots, operators/carriers, and vessel carriers regarding passengers and crewmembers who arrive in, depart from, transit through or overfly (in the case of flight crew only) the United States on private aircraft, air, or, vessel carriers covered by APIS regulations. The system also contains data to the extent voluntarily submitted by rail and bus carriers regarding passengers and crewmembers who arrive in, and/or depart from the United States. During physical processing at the border, primary inspection lane and ID inspector are added to APIS, and the

APIS information is verified using the travel documents. Additionally, records contain the results of comparisons of individuals to information maintained in CBP law enforcement databases, as well as information from the TSDB,

information on individuals with outstanding wants or warrants, and information from other government agencies regarding high risk parties

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption shall be asserted with respect to information maintained in the system that is collected from a person and submitted by that person's air or vessel carrier if that person, or his or her agent, seeks access or amendment of such information.

This system, however, may contain records or information recompiled from or created from information contained in other systems of records that are exempt from certain provision of the Privacy Act. This system may also contain accountings of disclosures made with respect to information maintained in the system. For these records or information only, in accordance with 5 U.S.C. 552a (j)(2) and (k)(2), DHS will also claim the original exemptions for these records or information from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f); and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information.

Dated: February 27, 2015.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2015–05798 Filed 3–12–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5835–N–01]

60-Day Notice of Proposed Information Collection: Multifamily Financial Management Template

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: May 12, 2015.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Harry Messner, Housing Program Manager, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–2626. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title: Multifamily Financial Management Template.

OMB Approval Number: 2502–0551.

Type of Request: extension of currently approved collection.

Form Number: None.

Owners of certain HUD-insured and HUD-assisted properties are required to submit annual financial statements to HUD via the Internet in the HUD-prescribed format and chart of accounts, and in accordance with the generally accepted accounting principles (GAAP):

Respondents: Owners of certain HUD-insured and HUD-assisted properties.

Estimated Number of Respondents: 20,527.

Estimated Number of Responses: 20,527.

Frequency of Response: Annually.

Average Hours per Response: 14.

Total Estimated Burdens: 287,378.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 4, 2015.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2015–05874 Filed 3–12–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5853–N–01]

Notice of Intent To Conduct a Violence Against Women Act (VAWA) and Housing Opportunities for Persons With AIDS (HOPWA) Project Demonstration

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Intent to Conduct a VAWA/HOPWA Project Demonstration.

SUMMARY: Through this notice, HUD solicits comment on a proposed demonstration through which HUD will award grant funds to successful applicants to provide transitional and other temporary housing assistance and supportive services to low-income persons living with Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) who are victims of domestic violence, dating violence, sexual assault, or stalking. Grantees of the VAWA/HOPWA Project Demonstration will be required to partner with local domestic violence and sexual assault service providers for client outreach and

engagement and for comprehensive supportive services to ensure client success in the program. The VAWA/HOPWA Project Demonstration will explore the effectiveness of coordinating the expertise and resources of HIV/AIDS housing providers with domestic violence and sexual assault service providers in addressing the needs of this vulnerable population.

DATES: *Comments Due Date:* April 13, 2015.

ADDRESSES: Interested persons are invited to submit comments responsive to this notice to the Office of General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0001. All submissions should refer to the above docket number and title. Submission of public comments may be carried out by hard copy or electronic submission.

Submission of Hard Copy Comments. Comments may be submitted by mail or hand delivery. Each commenter submitting hard copy comments, by mail or hand delivery, should submit comments to the address above, addressed to the attention of the Regulations Division. Due to security measures at all federal agencies, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that any comments submitted by mail be submitted at least 2 weeks in advance of the public comment deadline. All hard copy comments received by mail or hand delivery are a part of the public record and will be posted to *http://www.regulations.gov* without change.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All comments submitted to HUD regarding this notice will be available, without charge, 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 (this is a toll-free number). Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Amy Palilonis, Office of HIV/AIDS Housing, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Room 7212, Washington, DC 20410–7000, telephone number 202–402–5916 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On March 30, 2012, President Obama issued a Memorandum that established a Federal Interagency Working Group (Working Group) to explore the intersection of HIV/AIDS, violence against women and girls, and gender-related health disparities. The Working Group prioritized addressing intimate partner violence (IPV) because of its high overall prevalence among women and girls, especially among women living with HIV. Studies indicate that over half (55 percent) of U.S. women living with HIV have experienced IPV, considerably higher than the national prevalence among women overall (36 percent). Among women living with HIV/AIDS, trauma, abuse and violence are associated with less use of antiretroviral medication, decreased medication adherence, and increased risk of death.

While multiple factors contribute to violence and HIV risk among women and girls, the Working Group highlighted the lack of stable, affordable housing as particularly crucial. Women living with HIV/AIDS and experiencing violence are often dependent on an abusive partner for resources, including housing. These barriers often prevent women from attaining the economic independence needed to escape their abusers. Studies show that women who experience IPV are four times more likely to report housing instability than women without histories of abuse by an intimate partner.[1]

The Working Group recommended enhancing Federal efforts to address HIV and IPV among homeless and marginally housed women and girls. In response to this recommendation, the U.S. Department of Justice's Office on Violence Against Women (OVW) and U.S. Department of Housing and Urban Development's Office of HIV/AIDS Housing (OHH) collaborated to identify available resources to competitively award grant funding aimed at addressing the housing and supportive service needs of low-income persons living with HIV/AIDS who are victims of domestic violence, dating violence, sexual assault, or stalking. Although the Working Group focused on women and girls, the VAWA/HOPWA Project Demonstration will cover all victims regardless of sex, gender identity, sexual orientation, familial status, marital status, race, color, religion, national origin, disability, or age.

OVW identified $1,490,000 in Fiscal Year (FY) 2014 funding from the Transitional Housing Assistance Grants for Victims of Domestic Violence, Dating Violence, Stalking or Sexual Assault Program (hereinafter ''Transitional Housing Assistance Program''). To support this demonstration, OVW and OHH executed an Interagency Agreement assigning HUD to administer the Transitional Housing Assistance Program grant funds. OHH will also identify HOPWA competitive funding, to the extent available, that can be used to fund Special Projects of National Significance pursuant to 42 U.S.C. 12903(c)(3).

II. Proposed Demonstration

Under the VAWA/HOPWA Project Demonstration, HUD will use the Transitional Housing Assistance Program and HOPWA competitive funds to award grants to eligible applicants. Eligible applicants are those applicants that are eligible to apply for grants for Special Projects of National Significance under the HOPWA program (that is, States, units of general local government, and nonprofit organizations). Grantees will be required to use the grant funds received under the VAWA/HOPWA Project Demonstration to provide transitional

[1] ''Addressing the Intersection of HIV/AIDS, Violence against Women and Girls and Gender-Related Health Disparities: Interagency Federal Working Group Report'' (Sept. 6, 2013), *available at: http://www.whitehouse.gov/sites/default/files/docs/vaw-hiv_working_group_report_final_-_9-6—2013.pdf.*

housing and/or temporary housing assistance (excluding emergency shelters), and supportive services to low-income persons living with HIV/AIDS who are also victims of domestic violence, dating violence, sexual assault, or stalking, including any minors and dependents living with such persons.

Each successful applicant under this demonstration program will receive two separate grants from HUD: (1) A HOPWA grant, and (2) a Transitional Housing Assistance Program grant. Grantees must ensure that the grant funds are used to fund transitional housing or other temporary housing assistance, and supportive services for all program clients. The HOPWA grant amounts will be used to fund transitional and other temporary housing assistance for program clients, coordination and planning activities, and grant management and administration. The Transitional Housing Assistance Program grant amounts will be used to provide supportive services to clients.

HUD will publish a Notice of Funding Availability (NOFA) in FY 2015 that will explain requirements for the VAWA/HOPWA Project Demonstration, detail project selection criteria and solicit applications. HUD expects to make awards to 7 to 9 applicants depending on the amount of total funding that will be available for the demonstration. Funds will be awarded on a one-time-only, non-renewable basis for a 3-year operating period. Generally, a program client may be assisted under this demonstration for not more than 24 months. This period may be extended up to an additional six months with respect to a client that has made a good-faith effort to acquire permanent housing and has been unable to do so. Grantees must transition assisted households to permanent housing, or other housing assistance, by the end of the operating period. Grantees will be required to partner with local domestic violence and sexual assault service providers for client outreach and engagement and for comprehensive supportive services to ensure client success in the program.

Grantees must ensure that HOPWA funds will be used to carry out eligible activities under the HOPWA program. All HOPWA funds must be spent in accordance with the authorizing HOPWA statute (42 U.S.C. 12901 *et seq.*), program regulations at 24 CFR part 574, and all NOFA requirements. Grantees must also ensure that Transitional Housing Assistance Program funds will be spent in accordance with the authorizing statute of the Transitional Housing Assistance Program (42 U.S.C. 13975) and all NOFA requirements. Projects must comply with all applicable federal, state, and local fair housing and civil rights laws, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

III. Evaluating the Demonstration

OHH and OVW intend to build on the outcomes of the VAWA/HOPWA Project Demonstration, and potentially use it as a model for future interagency collaboration. Grantees will be expected to participate in any technical assistance efforts designed to identify and share best practices from the demonstration with the broader HIV/AIDS housing and domestic violence and sexual assault service provider networks. In addition, grantees will be required to measure and report on outcomes related to housing stability and health outcomes for VAWA/HOPWA Project Demonstration clients.

Grantees will also be required to comply with all reporting requirements under both HOPWA and the Transitional Housing Assistance Program. This will include the submission of a HOPWA Annual Performance Report (APR) and an annual report that will describe the number of minors, adults, and dependents assisted with a Transitional Housing Assistance Grant and the number of months of assistance that each received. OHH and OVW will use this information to evaluate the program and make policy recommendations in the future.

IV. Solicitation of Public Comment

In accordance with section 470 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 3542), HUD is seeking comment on the demonstration for a period of 30 days. Section 470 provides that HUD may not begin a demonstration program not explicitly authorized by statute until a description of the demonstration program is published in the **Federal Register** and a 60-day period expires following the date of publication, during which time HUD solicits public comment and considers the comments submitted. A public comment period of 30 days is being provided so that HUD may receive public comments and have the opportunity to consider those comments during the 60-day period. After the close of the public comment period, and following full consideration of comments submitted, HUD will publish the NOFA that will detail project selection criteria and solicit applications for funding under the VAWA/HOPWA Project Demonstration.

Dated: March 6, 2015.

Clifford Taffet,

Acting Assistant Secretary for Community Planning and Development.

[FR Doc. 2015–05764 Filed 3–12–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5846–N–01]

Jobs-Plus Pilot Initiative

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On October 7, 2014, HUD announced through notice in the *Grants.gov Web site* the Notice of Funding Availability (NOFA) for the Jobs-Plus Pilot Initiative. The Jobs-Plus Pilot Initiative (Jobs-Plus) provides competitive grants to partnerships between public housing authorities, local workforce investment boards established under section 117 of the Workforce Investment Act of 1998, and other agencies and organizations that provide support to help public housing residents obtain employment and increase earnings. Applicants for Job Plus consist of public housing agencies (PHAs) who demonstrate the ability to provide services to residents, partner with workforce investment boards, and leverage service dollars. The October 7, 2014 NOFA provided for full implementation of Jobs-Plus. This **Federal Register** notice published today announces waivers and alternative requirements and meets the Jobs-Plus statutory requirement to publish waivers and alternative requirements authorized by the statute at least 10 days before they may take effect.

DATES: *Effective Dates:* Sections I and II of the Appendix—Jobs-Plus Initiative and Alternate Requirements in this notice are effective March 13, 2015. The statutory and regulatory waivers in the appendix to this notice are effective March 23, 2015.

FOR FURTHER INFORMATION CONTACT: To assure a timely response, please electronically direct requests for further information to this email address: *JobsPlus@hud.gov.* Written requests may also be directed to the following address: Office of Public and Indian Housing—Anice S. Chenault, U.S. Department of Housing and Urban

Development, 451 7th Street SW., Room 4120; Washington, DC 20410.

SUPPLEMENTARY INFORMATION:

I. Background

Jobs-Plus, authorized by the Consolidated Appropriations Act, 2014, (Pub. L. 113–76, approved January 17, 2014) (2014 Appropriations Act) promotes economic empowerment in low-income areas by providing funding to PHAs that develop, locally-based approaches to increase earnings and advance employment outcomes such as work readiness, employer linkages, job placement and counseling, educational advancement and financial counseling for their public housing families. As provided in the NOFA that HUD published on October 7, 2014, at *http://www.grants.gov/web/grants/search-grants.html?keywords=FR-5800-N-24,* there will be approximately $15 Million in grants made available to Job-Plus grantees in order to address entrenched poverty among public housing residents through collaboration among local housing authorities, residents of public housing projects, local welfare agencies, local workforce development agencies, and other relevant partners. It is aimed at significantly increasing earnings and advancing employment outcomes for public housing residents and leverages research conducted by the Manpower Demonstration Research Corporation on Jobs-Plus.

In addition, the NOFA also made $9 million available from the Resident Opportunity and Self-Sufficiency Service Coordinator (ROSS–SC) account to support the services element of Jobs-Plus. The service element will include intensive, employment-focused programs targeting every able-bodied, working-age welfare recipient at a public housing project.

Waivers and Alternative Requirements. The 2014 Appropriations Act provides that waivers and alternative requirements authorized under Jobs-Plus shall be published by notice in the **Federal Register** no later than 10 days before the effective date of such notice. The Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235, approved December 16, 2014), has a similar proviso. This notice carries out that statutory requirement. Under Jobs-Plus, HUD is authorized to waive or alter the rent and income limitation requirements under sections 3 and 6 of the United States Housing Act of 1937 as necessary to implement Jobs-Plus. This list of these waivers and alternative requirements are in the appendix of this notice.

II. Environmental Review

This Notice involves administrative and fiscal requirements related to income limits and exclusions with regard to calculation of rental assistance which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: March 6, 2015.

Jemine A. Bryon,

Acting Assistant Secretary for Public and Indian Housing.

Appendix—Jobs–Plus Pilot Initiative and Alternative Requirements

The Jobs-Plus statute (Consolidated Appropriations Act, 2014, Pub. L. 113–76) provides that waivers and alternative requirements authorized by the Secretary shall be published by notice in the **Federal Register** no later than 10 days before the effective date of such notice. This appendix carries out that statutory requirement. Under the Consolidated Appropriations Act, 2014, HUD is authorized to waive or alter the rent and income limitation requirements under sections 3 and 6 of the United States Housing Act of 1937 as necessary to implement Jobs-Plus. Provided below is a list of waivers and alternative requirements that shall come into effect on March 23, 2015.

The list of waivers and alternative requirements, as described above, follows:

I. Public Housing Rent Calculation

Permissive exclusions for public housing. Provisions affected: Section 6(c) of the United States Housing Act of 1937 (42 U.S.C. 1437d), 3(b)(5)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a), and 24 CFR 5.609(c). *Alternative requirements:* The PHA shall be required to calculate the annual earned income for Jobs-Plus participants receiving the 48-month Jobs-Plus earned income exclusion separately for the purposes of determining the amount of annual income excluded under Jobs-Plus. As such, income that is excluded under Jobs-Plus shall be factored into tenant rent calculation and any increases shall be considered part of the tenant rent contribution, though not charged to the family. Such amounts shall be provided to HUD for review in order to receive additional subsidy. The PHA shall then be provided funds to offset the decrease in funding associated with the increased tenant income using grant amounts made available under the Jobs-Plus appropriations line item.

II. Public Housing Income Limitation Requirements

Disallowance of earned income from rent determination. Provisions affected: HUD is waiving section 3(d)(1) and(2), of the United States Housing Act of 1937 (42 U.S.C. 1437a) and 24 CFR 960.255(b)(1), (b)(2), (b)(3) & (d). *Alternative requirements:* A PHA may disallow all earned income from rent determinations for families in Jobs-Plus public housing projects for increased income due to employment over the baseline income for a continuous 48-month period beginning on the date on which employment commenced. A PHA must require members of a family in a Jobs-Plus public housing project to enroll in Jobs-Plus in order to obtain the Jobs-Plus earned income disregard. The PHA shall not setup Individual Savings Accounts in lieu of providing the Jobs-Plus earned income exclusion. Any compensation to the PHA for lost rent revenues, such as by the standard earned income disregard calculation in the Operating Fund, will be offset manually to prevent overpayment of HUD funds to grant recipients. Instead, PHAs shall use funds received through the Jobs-Plus appropriations to reimburse lost income due to Jobs-Plus rent incentives.

There shall be no phase-in period for families participating in Jobs-Plus public housing projects and upon completion of the 48-month earned income exclusion period, the family shall be required to provide 100% of the amount of the applicable total rent increase. Families participating in Jobs-Plus shall receive a continuous Jobs-Plus earned income disregard for a lifetime 48-months, which shall also be the maximum earned income disallowance for the family. Accordingly, the standard lifetime maximum four year disallowance proscribed in regulation and statute shall not apply to Jobs-Plus families participating in Jobs-Plus.

[FR Doc. 2015–05763 Filed 3–12–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5828–N–11]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C.

11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)-443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street, SW., Room 300, Washington, DC 20024, (202) 720–8873; *COE:* Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street NW., Washington, DC 20314; (202) 761–5542; Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2703 Martin Luther King Jr. Ave. SE., Stop 7714, Washington, DC 20593-; (202) 475–5609; *Coast Guard:* Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2703 Martin Luther King Jr. Avenue SE, Stop 7741, Washington, DC 20593–7714; (202) 475–5609; *GSA:* Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501–0084; *Interior:* Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 3960 N. 56th Ave. #104, Hollywood, FL. 33021; (443) 223–4639; *Navy:* Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: March 5, 2015.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/13/2015

Suitable/Available Properties

Building

California

2 Buildings
5050 Smokey Court
Camp Connell CA 95223
Landholding Agency: Agriculture
Property Number: 15201510014
Status: Excess
Directions: Site 5202, Bldg. 5002
Comments: Off-site removal; 48+yrs.old; wood structure; 528 sq.ft.; office; very poor conditions; no future agency need; contact Agriculture of more info.

Southern Parcel-Alameda Fed Ct
620 Central Avenue
Alameda CA 94501
Landholding Agency: GSA
Property Number: 54201510008
Status: Unutilized
GSA Number: 9–G–CA–1604–AB
Directions: Building #7 (4,000 sq.ft.); Building #3 (5,000 sq.ft.)
Comments: 73+yrs.old; office; auditorium; wood; #7 fair condition; #3 leaky roof; sits on 3.899 acres; parking lot; term use up to 4 yrs.; contact GSA for more info.

Biology Trailer
6525 Lindermann Rd.
Byron CA 94514
Landholding Agency: Interior
Property Number: 61201510002
Status: Unutilized
Comments: Off-site removal only; no future agency need; 1,976 sq. ft.; missing door/floor boards & wall rotten; contact Interior for more information.

Connecticut

Shepard of the Sea Chapel & Community Center
231 Gungywamp Rd.
Groton CT 06340
Landholding Agency: GSA
Property Number: 54201510010
Status: Surplus GSA
Number: CT–0933
Directions: Disposal Agency: GSA; Landholding Agency: Navy
Comments: 49+ yrs.-old; 28,777 sq. ft.; vacant 48+ mons.; wood & concrete; severe water damage; mold; sits on 13.5 acres; contact GSA for more information.

Oregon

27 Buildings
Rager Ranger Station
Paulina OR 97751
Landholding Agency: Agriculture
Property Number: 15201510013
Status: Unutilized
Directions: 1021(RPUID 1238.004991), 1023(1239.004991), 1024, (1240.004991), 1052(1241.004991), 1054(1242.004991), 1055(1243.004991), 1058(1244.004991), 1059(1245.004991), 1060(1246.004991), 1062(1247.004991), 1063(1248.00491),

1064(1249.004991), 1065(1250.004991), 1066(1251.004991), 1068(1253.004991), 1069(1254.004991), 1070(1255.004991), 2003(1091.04991), 2102(1270.004991), 2203(1271.004991), 2308(1274.004991) 2321(1275.00499)
Comments: Off-site removal only; no future agency need; sq. ft. varies; poor conditions; significant repairs needed; contamination; contact Agriculture for more details on a specific.

South Dakota

Lemmon Vehicle Storage Building 207 10th Street W.
Lemmon SD 57638
Landholding Agency: GSA
Property Number: 54201510009
Status: Surplus
GSA Number: 7–D–SD–0633–AA
Directions: Disposal Agency: GSA; Landholding Agency: COE
Comments: 2,000 sq. ft.; vehicle storage barn; sits on 0.77 acres; contact GSA for more information.

Washington

Mill Creek Sign Shed #3794
3211 Reservoir Road
Walla Walla WA 99362
Landholding Agency: COE
Property Number: 31201510002
Status: Unutilized
Comments: Off-site removal; no future agency need; 30+yrs. old; 145 sq. ft.; Storage; door needs to be replaced; Contact COE for more info.

B327
Naval Air Station Whidbey Island WA
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77201510013
Status: Unutilized
Comments: 71+ yrs. old; vacant 3 yrs.; 192 sq. ft.; water facility; no heat or water; door conditions; contact Navy for more info.

West Virginia

Water Storage Container (BSAELT–23114)
683 overlook Trail Rd.
East Lynn WV 25512
Landholding Agency: COE
Property Number: 31201510003
Status: Unutilized
Comments: Off-site removal only; no future agency need; 110 sq. ft.; metal storage tank; vacant 240+ months; corroded; contact COE for more information.

Land

Washington

FAS Fleet Motor Pool Parcel C
920 Northgate Drive
Richland WA 99352
Landholding Agency: GSA
Property Number: 54201510007
Status: Excess
GSA Number: 9–Z–WA–1272
Comments: 0.52 acre; asphalt paved; parking lot; contact GSA for more information.

California

3 Buildings
1001 S. Seaside Ave.
Long Beach CA 90731
Landholding Agency: Coast Guard
Property Number: 88201440003
Status: Excess
Directions: 37; 39; 49
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.

MWR Gear Storage 1296 Coast Guard Rd.
Eureka CA
Landholding Agency: Coast Guard
Property Number: 88201510003
Status: Unutilized
Reasons: Extensive deterioration
Comments: Documented deficiencies: building destroyed in fire in 2013; clear threat to physical.

Exchange Mini-Mart
1298 coast Guard St.
Eureka CA 95501
Landholding Agency: Coast Guard
Property Number: 88201510004
Status: Unutilized
Reasons: Extensive deterioration
Comments: Documented deficiencies: deteriorated beyond repair; clear threat to physical safety.

Florida

4 Buildings
Naval Air Station Pensacola
Pensocola FL 32509
Landholding Agency: Navy
Property Number: 77201510009
Status: Unutilized
Directions: #856; 2403; 2421; 2472
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.

2 Buildings
Naval Air Station Pensacola
Pensacola FL 32509
Landholding Agency: Navy
Property Number: 77201510010
Status: Underutilized
Directions: #2402; 856A
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access w/out compromising national security.

CG Station Islamorada Housing
161/163 Treasure Harbor Dr.
Islamorada FL 33036
Landholding Agency: Coast Guard
Property Number: 88201420004
Status: Unutilized
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access w/out compromising national security.

Florida

CG Station Marathon Housing
1800 Overseas Hwy
Marathon FL 33050
Landholding Agency: Coast Guard
Property Number: 88201420007
Status: Unutilized
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access w/out compromising national security.

Hawaii

3 Buildings
Marine Corps Base Hawaii Kaneohe Bay
Kaneohe HI 96863
Landholding Agency: Navy
Property Number: 77201510008
Status: Excess
Directions: #1307; 1672; 206A
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.

Maryland

NIHBC #34 + 34A
34 Service Drive West
Bethesda MD 20892
Landholding Agency: HHS
Property Number: 57201510001
Status: Unutilized
Directions: #40506–00–0034; #40506–00–0034A
Reasons: Secured Area
Comments: Research based facility; highly classified; public access denied and no alternative method to gain access without compromising national security.

Massachusetts

Shed (RPUID 9077)
Garage (RPUID 9078)
133 Eastern Point Blvd.
Gloucester MA 01930
Landholding Agency: Coast Guard
Property Number: 88201440002 Status: Unutilized
Reasons: Extensive deterioration
Comments: Documented deficiencies: severely damaged by storm Sandy; structural damage; clear threat to physical safety.

Michigan

Housing Complex (OJ11) (17068)
2512/2514 Tahoma Way
Sault Ste. Marie MI 49783
Landholding Agency: Coast Guard
Property Number: 88201430003
Status: Excess
Reasons: Extensive deterioration
Comments: Documented deficiencies; extensive fire damage; clear threat to physical safety.

New Jersey

2 Buildings
Coast Guard Station Atlantic City
Atlantic City NJ 08401
Landholding Agency: Coast Guard
Property Number: 88201510001
Status: Excess
Directions: Bldg. 39577 & 9579
Reasons: Floodway, Extensive deterioration, Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security; located/in floodway which has not been corrected or contained; property damaged by hurricane sandy.
2 Buildings
Coast Guard Station Manasquan Inlet
Point Pleasant Beach NJ 08742
Landholding Agency: Coast Guard
Property Number: 88201510002
Status: Excess
Directions: Bldg. #51339 & 9872
Reasons: Secured Area, Extensive deterioration, Floodway
Comments: Public access denied and no alternative method to gain access without

compromising national security; located w/ in floodway which has not been corrected or contained; property damaged by hurricane sandy.

New York

U.S. Coast Guard Station
Niagara
1 Scott Avenue
Youngstown NY 14174
Landholding Agency: Coast Guard
Property Number: 88201420001
Status: Excess
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.

South Carolina

Army Reserve Building Chisolm & Broad St
196 Tradd St.
Charleston SC 29401
Landholding Agency: Coast Guard
Property Number: 88201420008
Status: Unutilized
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.

Virginia

Lift Station (210) [26232]
1 Training Center
Yorktown VA 23690
Landholding Agency: Coast Guard
Property Number: 88201420009
Status: Excess
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.
Lift Station (2101A) [26233]
1 Training Center
Yorktown VA 23690
Landholding Agency: Coast Guard
Property Number: 88201420010
Status: Excess
Reasons: Secured Area
Comments: Public access denied and no alternative method to gain access without compromising national security.

Washington

B320
Naval Air Station Whidbey Island
Oak Harbor WA 98278
Landholding Agency: Navy
Property Number: 77201510012 Status: Unutilized
Reasons: Secured Area
Comments: Public access denied & no alternative method to gain access w/out compromising Nat'l.

West Virginia

Concrete Wash House
(KAORDB–23624) & (KAORDB–23622)
Guyandotte Campground
Justice WV 24851
Landholding Agency: COE
Property Number: 31201510004
Status: Unutilized
Reasons: Floodway
Comments: Property located in floodway which has not been corrected or contained.

Land

New Jersey

Naval Weapons Station Earle
201 Hwy. 34
Colts Neck NJ 07722
Landholding Agency: Navy
Property Number: 77201510011
Status: Underutilized
Reasons: Secured Area
Comments: Public access denied & no alternative method to gain access w/out compromising national security.

[FR Doc. 2015–05762 Filed 3–12–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC01000 L10100000.XZ0000 15XL1109AF LXSIOVHD0000]

Notice of Public Video Teleconference of the Central California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central California Resource Advisory Council (RAC) will meet as indicated below.

DATES: A meeting will be held Tuesday, March 31, from 1:00 p.m. to 2:30 p.m., by video teleconference to discuss the Bakersfield Field Office Resource Management Plan Record of Decision and other issues. Members of the public are welcome to attend. Time for public comment is reserved from 1:15 to 1:30 p.m. Members of the public can attend at the following locations: BLM Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield; Hollister Field Office, 20 Hamilton Court, Hollister; Bishop Field Office, 351 Pacu Lane, Bishop; Ukiah Field Office, 2550 N. State St., Ukiah; Mother Fode Field Office, 5152 Hillsdale Circle, El Dorado Hills.

FOR FURTHER INFORMATION CONTACT: BLM Central California District Manager Este Stifel, (916) 978–4626; or BLM Public Affairs Officer David Christy, (916) 941–3146.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Central California. At this meeting, agenda topics will include an update on renewable energy projects. Additional ongoing business will be discussed by the council. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: February 27, 2015.

Ruben Leal,

Associate District Manager.

[FR Doc. 2015–05726 Filed 3–12–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–15XL1116AF: HAG 15–0094]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon
- T. 31 S., R. 13 W., accepted February 17, 2015.
- T. 32 S., R. 1 W., accepted February 17, 2015.
- T. 19 S., R. 4 W., accepted February 17, 2015.
- T. 18 S., R. 6 W., accepted February 17, 2015.
- T. 20 S., R. 8 W., accepted February 17, 2015.
- T. 31 S., R. 7 W., accepted February 25, 2015.
- T. 29 S., R. 4 W., accepted February 25, 2015.
- T. 31 S., R. 14 W., accepted February 27, 2015.

Washington
- T. 15 N., R. 27 E., accepted February 15, 2015.
- T. 28 N., R. 15 W., accepted February 27, 2015.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW. 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW. 3rd Avenue, Portland, Oregon 97204. 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 against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director 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.

Timothy J. Moore,

Acting Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2015–05746 Filed 3–12–15; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2014–N152; FXRS12650400000S3–123–FF04R02000]

Theodore Roosevelt and Holt Collier National Wildlife Refuges, Mississippi; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of a Draft Comprehensive Conservation Plan and Environmental Assessment (Draft CCP/EA) for Theodore Roosevelt and Holt Collier National Wildlife Refuges (NWRs) in Sharkey and Washington Counties, Mississippi, for public review and comment. In this Draft CCP/EA, we describe the alternative proposed to manage these refuges for the 15 years following approval of the final CCP.

DATES: To ensure consideration, we must receive your written comments by April 13, 2015.

ADDRESSES: You may obtain a copy of the Draft CCP/EA by contacting Justin Sexton, Refuge Manager, by mail at Yazoo National Wildlife Refuge, 595 Yazoo Refuge Rd., Hollandale, MS 38748, or by phone at (662) 839–2638. Alternatively, you may download the document from our Internet Site at *http://southeast.fws.gov/planning* under ''Draft Documents.'' Comments on the Draft CCP/EA may be submitted to the above postal address or by email to Justin Sexton at *Justin_Sexton@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Justin Sexton, (662) 839–2638 (phone) or *Justin_Sexton@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process, which started through a notice in the **Federal Register** on July 30, 2013 (78 FR 18231). For more about the refuges and our CCP process, please see that notice.

The refuges are located in Central Mississippi. They are two of seven refuges in the Theodore Roosevelt NWR Complex. The two refuges were established for conservation purposes. The enacting legislation for both refuges is section 145 of Public Law 108–199, the Consolidated Appropriations Act of 2004. This Act renamed The Bogue Phalia Unit of Yazoo NWR as Holt Collier NWR. This is the first NWR to be named in honor of an African American historical legend and famed hunting guide to President Roosevelt. Legislative authority for Holt Collier NWR therefore also comes from the Fish and Wildlife Coordination Act, which established Yazoo NWR.

Holt Collier NWR consists of approximately 2,233 acres of Farm Service Agency lands in Washington County, and it is located 5 miles east of Hollandale in the Darlove area. Its approved acquisition boundary is 18,000 acres. The refuge is open year-round for wildlife-related activities such as hunting, wildlife observation, and nature photography. The refuge habitat is former agricultural lands, most of which, in the past 15 years, have been reforested to bottomland hardwood.

Theodore Roosevelt NWR is located in Sharkey County south of Cary, Mississippi. Congress authorized 6,600 acres to be acquired through donation and land exchange. To date 1,674 acres have been established in fee title. The habitat consists mainly of converted, agricultural lands now reforested to trees more indicative of the native bottomland hardwood forest. Farmlands and open water also occur. The refuge is not open to the public. There are no public facilities located on either refuge.

Background

The CCP Process

The National Wildlife Refuge (NWR) System Improvement Act of 1997 (Improvement Act) requires us to develop a CCP for each national wildlife refuge. CCPs are developed to provide refuge managers with a 15-year plan for achieving refuges' purposes and contributing toward the mission of the NWR System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. CCPs describe a broad management direction for conserving wildlife and their habitats. They propose wildlife-dependent recreational opportunities to be made available to the public. These include opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review the CCP annually and revise it as needed in accordance with the Improvement Act.

Priority resource issues addressed in the Draft CCP/EA include: Fish and Wildlife Populations, Habitat Management, Resource Protection, Visitor Services, and Refuge Administration. See Chapter III in the Draft CCP for a full description.

CCP Alternatives, Including Our Proposed Alternative (B)

We developed three alternatives for managing the refuge (Alternatives A, B, and C), with Alternative B as our proposed alternative. A full description of each alternative is in the CCP (Chapter IV) and Chapters III and IV of the EA. We summarize each alternative below.

Alternative A: Current Management (No Action)

Alternative A continues the refuges' limited management activities and programs at levels similar to the current and past few years of management. Theodore Roosevelt NWR would remain

closed until a sufficient land area is accumulated to accommodate public use.

We would continue to approve and support Special Use Permits to outside agencies to conduct research on the refuges. While there is no active research or management for listed species that may occur on the refuges, the Service supports State research efforts for the Louisiana black bear. Waterfowl are the priority species for management on the Complex. Both refuges have a passive role in providing sanctuary for waterfowl. Native wildlife species benefit from waterfowl and timber management on the Complex. At Holt Collier NWR, hunting programs aim to manage white-tailed deer and there are partnerships for healthy herd efforts and studies.

The refuges' primary mission is to provide sanctuary for wildlife, particularly migratory birds (waterfowl). Major reforestation efforts in recent decades returned converted agricultural lands to bottomland hardwood forest. The Service would continue to acquire lands to grow the refuges. There is no active management of forest or water resources. Invasive species such as feral swine would be controlled, and grant opportunities and partnerships would be pursued to fund and/or conduct trapping.

Efforts to promote visitor safety, protect resources, and ensure public compliance with refuge regulations would continue as a collateral duty of one law enforcement officer for three refuges. Complex personnel also provide safety and refuge regulation information. A law enforcement step-down plan is under development for the Complex. In keeping with the Service's responsibilities under cultural and historic preservation laws, cultural resource protection is addressed in refuge operations.

The Delta area is known for its cultural history, and these refuges were created to honor and promote it. The Consolidated Appropriations Act of 2004 established the refuges and appropriated funds for an environmental education and interpretive center. The Congressional sponsors of the Act intended for it to be named for Holt Collier, a historic figure of the area. The Service would incorporate the environmental education and interpretive facilities within a Visitor Center for the Complex located at Theodore Roosevelt NWR. Efforts would continue to identify a site for the Visitor Center to showcase the Delta's rich cultural heritage. At present the Complex provides information and interpretation via its and each refuge's Web sites and by staffing events or public talks. There are no volunteer or Friends programs to provide a base of support for staff assistance.

Access to both refuges is via State roads and highways that pass through the refuges. Wildlife viewing opportunities for both refuges are limited. Theodore Roosevelt NWR is closed to public use, and Holt Collier NWR has limited public use, mainly hunting. The only facility on either refuge is the hunter information station at Holt Collier NWR. When Theodore Roosevelt NWR has acquired enough land to support public use, it would be opened to wildlife-dependent public uses including hunting and fishing. No funding would be sought for positions to further manage the refuges.

Alternative B: Minimally Developed Refuges

As these are newer refuges authorized by Congress in 2004, the focus of this plan is to develop them. Congress established the refuges with a mandate to expand them to their designated land acreages. Therefore, our efforts over the next 15 years will be focused on land acquisition to build-out the refuges to their approved acquisition boundaries. Passive habitat protection and the addition of new resource lands beneficial to wildlife will help preserve habitat in perpetuity and to lessen fragmentation. This plan has the objective of providing sanctuary to migratory species as a group, not just priority waterfowl species. White-tailed deer management would continue through the Holt Collier NWR hunt program and eventually at Theodore Roosevelt NWR. Integrated damage control of invasive and nuisance species would lessen the negative effects on the refuges' habitats.

Another primary focus of the plan is to create a visitor services program to enhance environmental education and outreach efforts substantially and to reach larger numbers of residents, students, educators, and visitors. It places priority on wildlife-dependent uses, such as hunting, fishing and wildlife observation. The details of these allowable uses are specified in appropriate use and compatibility determinations (Appendices E and F).

Priority public uses, such as hunting, are allowed at Holt Collier NWR. At a time when sufficient land is amassed to allow for ample public use opportunities, Theodore Roosevelt NWR would be opened to hunting. Public use would be phased into both refuges. Compatibility determinations are updated and proposed for the priority public uses and for research and monitoring. For both refuges, some commercial uses would be allowed under a Commercial Special Use Permit, including commercial photography, firewood gathering, timber harvest for forest management, and trapping.

The Consolidated Appropriations Act of 2004 appropriated funds for a Visitor Center to provide visitor services and to promote the Delta area's natural resources and cultural heritage. A major focus of this plan and Service efforts will be to site, build, and staff the Visitor Center. Key interpretive messages would focus on natural resources (*e.g.,* Louisiana black bear) and cultural heritage and would reach a broader audience and geographic area. Currently the Service is working on accepting a 5-acre land donation and purchasing the adjacent 20 acres to serve as the site for the Visitor Center. All preliminary, site-suitability work has been completed. Once a location is secured for the Visitor Center, regular Service procedures would be followed for site and building design and construction. Staffing is proposed to run the Visitor Center, to provide environmental and interpretive programs, and to coordinate volunteers.

This CCP assumes a modest growth of refuge resources over its 15-year implementation period. This plan proposes to staff the refuges with three new positions as new funding is available. Current partnerships would be maintained and new ones would be sought. Daily operation of the refuges will be guided by this CCP and through the implementation of nine projects and six step-down management plans as detailed in Chapter V, Plan Implementation.

The goals, objectives, and strategies presented are the Service's responses to the issues, concerns, and needs expressed by the planning team, refuge partners, and the public. They reflect the Service's commitment to achieve the mandates of the Improvement Act, the mission of the Refuge System, and the purposes and vision of the refuges. Assuming adequate resources are provided through Congressional budget and grant funding, the Service aims to accomplish these goals, objectives, and strategies within the next 15 years.

Alternative C: Optional Alternative

Like Alternative B, Alternative C presents a management scenario in which the newer refuges are minimally developed to allow for basic natural resource management, for the promotion of cultural heritage, and for wildlife-dependent public use. It also provides for modest staffing and management capability, adding three positions to the

three identified in Alternative B. Whereas the facilities for public use will mainly be off site and associated with the administrative Visitors Center site for both Alternatives A and B, Alternative C adds facilities to the refuges proper to provide for basic visitor use and to promote wildlife-dependent recreation, mainly fishing and wildlife observation and photography. The refuges would add a maintenance compound on each refuge and visitor services facilities to promote access and use. These include adding a system of trails for each refuge and providing fishing access via a primitive boat launch at Coon Bayou. To enhance wildlife viewing, a photography observation platform and/or photo blinds would be constructed at each refuge.

The Service would expand its survey and monitoring of priority species as proposed in Alternative B to obtain baseline data for native species, none of which have been inventoried or their presence documented (*e.g.,* selected mammals, fish, reptiles, amphibians and invertebrates). Also, active habitat management (*e.g.,* cooperative farming, moist soil management) could occur. Nuisance animal control and invasive plant species management would continue as described in Alternative B and conducted opportunistically.

Alternative C includes adding the positions proposed in Alternative B plus three others: A Federal Wildlife Officer position, a Visitor Services Specialist, and an office/administrative assistant or clerk position, which, among administrative duties, would serve as a receptionist at the Visitor Center. With additional staffing, the Visitor Center could be open more hours.

Next Step

After the comment period ends, we will analyze the comments and address them.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*).

Dated: January 5, 2015.

Mike Oetker,

Acting Regional Director.

[FR Doc. 2015–05721 Filed 3–12–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA942000 L57000000.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: April 13, 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.

Mount Diablo Meridian, California

T. 32 S., R. 16 E., dependent resurvey and subdivision, accepted February 12, 2015.
T. 39 N., R. 14 E., dependent resurvey and subdivision, accepted February 12, 2015.

San Bernardino Meridian, California

T. 7 S., R. 13 E., addendum plat of section 21, accepted February 12, 2015.
T. 7 S., R. 13 E., addendum plat of section 13, accepted February 12, 2015.

Authority: 43 U.S.C., Chapter 3.

Dated: March 5, 2015.

Lance J. Bishop,

Chief Cadastral Surveyor, California.

[FR Doc. 2015–05785 Filed 3–12–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Pistoia Alliance, Inc.

Notice is hereby given that, on February 12, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Amgen, Thousand Oaks, CA; quattro research GmbH, Munich, GERMANY; Cambridgene, Cambridge, Cambridgeshire, UNITED KINGDOM; Dotmatics Limited, Bishop Stortford, Hertfordshire, UNITED KINGDOM; Paul Willer (individual member), Sudbury, Suffolk, UNITED KINGDOM; H. Lundbeck A/S, Valby, DENMARK; and Jeeva Informatics Solutions, Derwood, MD, have been added as parties to this venture.

Also, ChemITment, Amston, CT; Progenus, Namur, BELGIUM; Answer Consulting, Woking, UNITED KINGDOM; IrisNote, Inc., Columbus, OH; Blue Reference, Inc., Bend, OR; and Ingrid Akerblom, Lansdale, PA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on November 20, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 31, 2014 (79 FR 78908).

Patricia A. Brink,

Director of Civil Enforcement,Antitrust Division.

[FR Doc. 2015–05853 Filed 3–12–15; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Armaments Consortium

Notice is hereby given that, on February 13, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Armaments Consortium (''NAC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AEgis Technologies Group, Inc., Huntsville, AL; Aerojet Ordnance Tennessee, Jonesborough, TN; AGM Container Controls, Inc., Tucson, AZ; Anyar, Inc., Fort Walton Beach, FL; BANC3, Inc., Princeton, NJ; Chesapeake Testing Services, Inc., Belcamp, MD; DRS Sustainment Systems, Inc., Saint Louis, MO; Ellwood National Forge Company, Irvine, IN; Fastcom Supply Corporation, Franklin, NJ; Group W, Fairfax, VA; Hydrosoft International, Livermore, CA; Kord Technologies, Inc., Huntsville, AL; Michigan Research Institute, Ann Arbor, MI; Prime Photonics, LC, Blacksburg, VA; Sabre Global Services, Wharton, NJ; SCHOTT North America, Southbridge, VA; Scot Forge Company, Spring Grove, IL; Teamvantage Molding LLC, Forest Lake, MN; Technical Professional Services, Inc., Wayland, MI; TELEGRID Technologies, Inc., Livingston, NJ; TimkenSteel Corporation, Canton, OH; and Universal Propulsion Company, Inc., Fairfield, CA, have been added as parties to this venture.

The following members have withdrawn as parties to this venture: Bulova Technologies Group, Inc., Tampa, FL; Colt Defense, Hartford, CT; Decatur Mold Tool & Engineering, Inc., North Vernon, IN; DRS ICAS, LLC, Buffalo, NY; Ervine Industries, Inc., Ann Arbor, MI; Fibertek, Inc., Herndon, VA; Matrix Systems, Inc., Ashland, VA; Metal Storm, Herndon, VA; Microcosm, Inc., Hawthorne, CA; NI Industries, Inc., Riverbank, CA; Olin Corporation—Winchester Division, East Alton, IL; Otis Products, Inc., Lyons Falls, NY; Parsons Government Services, Pasadena, CA; Polaris Sensor Technologies, Inc., Huntsville, AL; Quantum Technology Consultants, Inc., Franklin Park, NJ; Solidica, Inc., Ann Arbor, MI; The Timken Company, Canton, OH; and UTRON, Manassas, VA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on August 18, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 17, 2014 (79 FR 55830).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–05835 Filed 3–12–15; 8:45 am]

BILLING CODE 4410–11–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2008–1 CRB CD 98–99 (Phase II)]

Distribution of 1998 and 1999 Cable Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final distribution determination.

SUMMARY: The Copyright Royalty Judges announce the final Phase II distribution of cable royalty funds for the year 1999. The judges issued their initial determination in December 2014 and received no motions for rehearing.

DATES: *Effective date:* March 13, 2015.

ADDRESSES: The final distribution order is also published on the agency's Web site at *www.loc.gov/crb* and on the Federal eRulemaking Portal at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Kim Whittle, Attorney Advisor, (202) 707–7658 or *crb@loc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

In this proceeding, the Copyright Royalty Judges (Judges) determine the final distribution of royalty funds deposited by cable system operators (CSOs) for the right to retransmit television programming carried on distant over-the-air broadcast signals during calendar year 1999.[1] Participants have received prior partial distributions of the 1999 cable royalty funds.[2] The remaining funds at issue are those allocated to the Devotional Claimants category.[3] Two participants are pursuing distribution from the Devotional Claimants funds for 1999: Worldwide Subsidy Group LLC dba Independent Producers Group (IPG) and the ''Settling Devotional Claimants'' (SDC).[4] The Judges conducted three and

[1] Although this proceeding consolidates royalty years 1998 and 1999, all claims to 1998 royalties have been resolved, and the funds have been distributed. IPG's appeal of the order approving distribution of 1998 royalties was dismissed for lack of jurisdiction. *Ind. Producers Group* v. *Librarian of Congress,* 759 F.3d 100 (D.C. Cir. 2014).

[2] The 1999 cable royalty deposits equaled approximately $118.8 million at the outset. The Judges authorized partial distributions that the Copyright Licensing Office made on October 31, 2001, March 27, 2003, April 19, 2007, June 7, 2007, and February 28, 2013. Authorized distributions equaled in the aggregate approximately $126.9 million, including accrued interest, leaving a balance available for distribution of $827,842.

[3] *See infra* note 18, and accompanying text. The Devotional Claimants category has been defined by agreements of the Phase I participants as ''Syndicated programs of a primarily religious theme, not limited to those produced by or for religious institutions.''

[4] The Settling Devotional Claimants are: The Christian Broadcasting Network, Inc., Coral Ridge Ministries Media, Inc., Crystal Cathedral Ministries, Inc., In Touch Ministries, Inc., and Oral Roberts Evangelistic Association, Inc. The SDC previously reached a confidential settlement with devotional program claimants represented by the National Association of Broadcasters, Liberty Broadcasting Network, Inc., and Family Worship Center Church,

Continued

a half days of hearings. After considering written evidence and oral testimony, the Judges determine that the SDC should receive 71.3% and IPG should receive 28.7% of the 1999 fund allocated to the Devotional Claimants category.[5]

II. Background

A. Statement of Facts

In the present proceeding, IPG represents the interests of four entities[6] owning copyrights in 10 distinct programs. The SDC represent five entities[7] owning copyrights in 20 distinct programs. CSOs remotely retransmitted IPG-claimed titles 11,041 times and the SDC-claimed titles 6,684 times during 1999. *See* IPG PFF at 6; SDC PFF at 1–2.

B. Statement of the Case

On January 30, 2008, the Judges commenced a proceeding to determine the Phase II distribution of 1998 and 1999 royalties deposited by CSOs for the cable statutory license.[8] Beginning in July 2008, the Judges stayed the proceeding pending the outcome of California state court litigation initiated by IPG regarding the validity and interpretation of settlement agreements by and between IPG, the Motion Picture Association of America as representative of certain program suppliers (MPAA), and the Librarian of Congress.[9] In a September 2012 filing, IPG acknowledged that the California proceedings had been resolved in favor of MPAA. *See Opposition of Independent Producers group to Motion for Final Distribution of 1998 and 1999 Cable Royalty Funds* at 4, Docket No. 2008–1 CRB CD 98–99 (September 5, 2012). IPG continued to assert claims to 1999 royalties allocated to the Devotional Claimants category. In July 2013, the Judges issued an order establishing the schedule and order of proceedings for the present matter.[10]

On May 5 and 6, 2014, the Judges held a Preliminary Hearing to adjudicate disputes regarding the validity of claims asserted by each party. At the conclusion of the Preliminary Hearing, the Judges dismissed two claims asserted by IPG. *See Ruling and Order Regarding Claims* (June 18, 2014). Beginning September 2, 2014, the Judges presided over three and a half days of hearings at which IPG presented two witnesses and the SDC presented three live witnesses and designated testimony of seven witnesses from prior proceedings.[11] The Judges admitted 35 paper and electronic exhibits into evidence. On September 23, 2014, the parties filed their proposed findings of fact and conclusions of law.

III. IPG's Motion *in Limine*

A. Issues Presented

On August 26, 2014, IPG filed with the Judges a motion *in limine* (Motion) to exclude the SDC's Nielsen Household Devotional Viewing Report sponsored by SDC witness, Alan Whitt.[12] IPG contends that the SDC failed to include in its exhibit list foundational data for the methodology used in the report and failed to produce all foundational data and electronic files underlying the report. *Motion* at 1. IPG requests that the Judges strike any evidence relying on or referring to the report that the SDC presented.

The SDC oppose IPG's request, arguing, among other things, that IPG has failed to present any competent evidence that the purportedly missing data either were in the SDC's custody, possession, or control, or were not publicly available. SDC Opposition at 1 (September 2, 2014). The SDC also contend that IPG's motion *in limine* merely attempts to revisit issues the Judges resolved in their May 2, 2014, *Order Denying IPG's Motion to Strike Portions of SDC Written Direct Statement* (''May 2, 2014, Order''). The SDC contend that IPG has presented no new evidence that would justify revisiting that decision. SDC Opposition at 3 & n.1.

Moreover, the SDC contend that IPG's arguments go to the weight rather than to the admissibility of the proffered report. SDC Opposition at 2, *citing U.S.* v. *H & R Block, Inc.,* 831 F.Supp.2d 27, 34 (D.D.C. 2011) (denying motion *in limine* ''because [defendant's proffered] survey [was] not so unreliable as to be deemed inadmissible.'') and *Graves* v. *D.C.,* 850 F.Supp.2d 6, 13 (D.D.C. 2011) (''[M]otions in limine are designed to address discrete evidentiary issues related to trial and are not a vehicle for resolving factual disputes or testing the sufficiency of the plaintiff's evidence.'').

Finally, the SDC argue that even if the Judges were inclined to believe that the unavailability of data underlying the proffered report was relevant in an admissibility determination, this fact would not warrant a prehearing exclusion of the evidence. According to the SDC, the facts and data underlying an expert's opinion need not be admissible for the opinion or reference to be admitted if the facts or data are of a type reasonably relied upon by experts in the field. SDC Opposition at 4, *citing* Rule 703 of the Federal Rules of Evidence. On this point, the SDC refer to the written direct testimony of the SDC's witness, John S. Sanders, who, according to the SDC, determined that ''Mr. Whitt's report is sufficiently reliable to render his opinion concerning the relative market value of the SDC and IPG programs.'' SDC Opposition at 5.

The Judges heard oral argument on the Motion on September 2, 2014, and deferred ruling until the end of the proceeding. For the reasons discussed below, the Judges deny the Motion and admit the proffered report.

Inc. The programming giving rise to the latter groups' claims is not included in the Judges' analysis in this proceeding.

[5] From prior partial distributions, the SDC have received over $693,000. The SDC alone is responsible to make adjustments, if any, to comply with the conclusions of this Determination and to comply with confidential settlements it reached with former participants.

[6] IPG represents Benny Hinn Ministries, Creflo A. Dollar Ministries, Eagle Mountain International Church aka Kenneth Copeland Ministries, and Life Outreach International.

[7] *See supra,* n.4.

[8] *See* 73 FR 5596 (Jan. 30, 2008). Before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, Public Law 108–419, 118 Stat. 2341 (Nov. 30, 2004), the Copyright Office, with oversight by the Librarian of Congress, managed distribution of cable retransmission royalties. To resolve controversies regarding the appropriate distribution of royalties, the Librarian would order appointment of a Copyright Arbitration Royalty Panel (CARP). In 2001, the Library of Congress initiated Phase I proceedings to determine distribution of, *inter alia,* royalties for distant retransmission by cable in 1999 of broadcast television programming. In November 2003, all claimants to funds in the 1998 Devotional Claimants category reached agreement regarding distribution of those funds and the Register of Copyrights ordered final distribution of 1998 Devotional Claimants royalties by order dated November 19, 2003. By Order dated April 3, 2007, the Register finalized the Phase I allocation of uncontroverted funds for 1998 and 1999 cable retransmissions among the claimant categories. After enactment of the current statute, the Register terminated the CARP proceeding relating to the 1998–99 funds. *See* 72 FR 45071 (Aug. 10, 2007). The Judges have managed all subsequent proceedings relating to the 1998 and 1999 cable royalties fund.

[9] *Order Granting Motions to Stay,* Docket No. 2008–1 CRB CD 98–99 (July 23, 2008). The Judges granted eight continuations of the original stay order, entering the last continuation order on July 27, 2012. *See Eighth Order Continuing Stay of Proceedings* (July 27, 2012).

[10] Order Setting Deadline for Filing Written Direct Statements, Announcing Discovery Period, and Requiring Settlement Conference (Jul 25, 2013).

[11] Because of the delay of the present proceeding occasioned by outside litigation, the Judges concluded their determination of distributions of cable retransmission royalties for the period 2000 to 2003, inclusive, before completing the instant proceeding regarding 1999 funds. The participants in the 2000–03 proceeding presented many of the same issues relevant to the present proceeding; thus, one of the ''prior proceedings'' from which participants could designate testimony is a proceeding involving funds deposited after the relevant period at issue in the present proceeding.

[12] The SDC, whose witness introduced the report, sometimes refer to it as the Household Viewing Hours Report or ''HHVH Report.''

B. The Judges' May 2, 2014, Discovery Order

The dispute between IPG and the SDC began with a discovery request from IPG in which it requested from the SDC ''evidentiary support for a report by the SDC's expert witness, Mr. Whitt, setting forth viewership levels for Devotional programming.'' *See* May 2, 2014, Order at 1. In the motion to compel discovery that gave rise to the Judges' May 2, 2014, Order, IPG sought an order striking Mr. Whitt's report and the SDC's reliance on that report. According to IPG, the SDC failed to meet its discovery obligations by failing to provide electronic files or computer codes that Mr. Whitt purportedly used to (1) merge viewership data sets compiled by Tribune Media Services and the Nielsen Company and (2) cull claimed devotional titles from numerous program titles in the merged data sets (referred to in the May 2, 2014, Order as ''Merger Information''). *Id.* at 3.

The Judges determined that the discovery dispute could not be resolved without an evidentiary hearing, and scheduled one for April 8, 2014. During the hearing, the Judges heard testimony from the SDC's witnesses, Mr. Whitt and Dr. Erkan Erdem, as well as from Dr. Laura Robinson, who testified for IPG.

Mr. Whitt testified that he did not have access to the files and codes he had used that contained the Merger Information because he had done most of the work in question when he was employed with an independent company that was a contractor for MPAA. Mr. Whitt completed his MPAA assignment several years prior to the current proceeding. 04/08/14 Tr. at 105 (Whitt). Therefore, according to Mr. Whitt, neither Mr. Whitt nor the SDC could provide the requested information to IPG. *Id.* at 121–22. Dr. Robinson testified that, based on discovery that the SDC provided, she was unable to replicate the results that Mr. Whitt had reached, although she admitted that she could have merged the Tribune and Nielsen data sets. *Id.* at 35–6, 66 (Robinson). Finally, Dr. Erdem testified that, based on discovery the SDC had provided to IPG, and certain other publicly available information, Dr. Erdem was able to closely approximate, although not duplicate, Mr. Whitt's results. *Id.* at 162 (Erdem).

The Judges found that nothing in the record allowed them to conclude that SDC violated its duties under the applicable procedural rule governing discovery by not producing the Merger Information. *See* May 2, 2014, Order at 9. The Judges further concluded that the SDC's discovery responses were sufficient for IPG to ''test'' the process Mr. Whitt used in compiling the report. The Judges noted that the purpose of an earlier discovery order addressing IPG's discovery request was to

> allow IPG sufficient discovery to allow it to confirm either that Mr. Whitt had performed his work correctly . . . *or* that Mr. Whitt had performed his work incorrectly or inaccurately. In that latter case, IPG would be able to: (a) file a Written Rebuttal Statement contradicting Mr. Whitt's work and/or (b) cross-examine Mr. Whitt at the hearing on the merits regarding claimed errors or inaccuracies in his work.

Id. (emphasis in original).

The Judges concluded that they ''would not—and did not—assert that discovery regarding expert testimony must result in a consensus between adverse participants as to the correctness of the result (or the amount) calculated by the expert.'' *Id.* at 11. Specifically, the Judges concluded

> with the discovery [the SDC provided to IPG, Dr. Robinson] could test Mr. Whitt's computational process by producing her own merger of the Tribune Data and the Nielsen Data. However, Dr. Robinson also testified that her merger and the concomitant results might differ from (*i.e.,* falsify) rather than replicate Mr. Whitt's results. Likewise, [Dr. Erdem] produced a merger of the Tribune Data and the Nielsen Data that was quite proximate to Mr. Whitt's results, albeit not a complete replication. Thus, it is clear that Mr. Whitt's computational processes can be tested and subject to meaningful cross-examination and rebuttal.

Id. Based on this conclusion the Judges denied IPG's motion to strike portions of the SDC's written direct statement on grounds that the SDC violated its discovery obligations.

In its discovery motion, IPG also asked the Judges to strike any reliance on or reference to the distant rating study presented by the SDC as inadmissible. *See* [IPG] Motion to Strike Portions of [SDC] Direct Statement at 10–11 (February 20, 2014). The Judges declined to consider these issues at that stage of the proceeding reasoning that:

> [a]n order regarding these issues would essentially constitute a premature *in limine* ruling based on SDC's non-production of the Merger Information in discovery. Given that SDC introduced new testimony and new exhibits at the April 8, 2014, discovery hearing, the Judges decline to rule without a formal motion *in limine,* addressing these issues in the context of the new hearing exhibits and the hearing testimony, should IPG decide to renew these arguments.

May 2, 2014, Order at 11. IPG filed that motion *in limine* on August 26, 2014, *viz.,* the Motion at issue here.

C. Substance of IPG's Motion

In the present Motion, IPG asserts that ''Merger Information existed and was not produced to IPG, including sweeps period data, a sweeps period algorithm, a file that prepared the Tribune data for merger, a process to reconcile Nielsen and Tribune data, and another 'quality control process' performed by Mr. Whitt.'' *Motion* at 2. IPG further asserts that ''SDC's witness [Dr. Erdem] approximated Mr. Whitt's results only after utilization of data and information that had not been produced to IPG, and that the SDC's attempted replication of the Merger Information occurred months after both the discovery deadline and the deadline for filing amended direct statements.'' *Id.* According to IPG, the ''SDC neither produced the original Merger Information, nor attempted to replicate it until March 28, 2014, all the while knowing the evidentiary requirements for the introduction of the study. . . .'' *Id.* at 3.

IPG continues:

> Alan Whitt asserts that his analysis relied, *inter alia,* (i) on a sample of television stations selected by Marsha Kessler [an MPAA witness in past cable distribution proceedings, including the 2000–2003 proceeding and the Phase I proceeding for the instant royalty year], and (ii) household diaries of distant program viewing for those programs from Nielsen's six ''sweep'' months. [Yet, l]iterally no information or data regarding the station sampling process exists, nor information or data that explains the methodological processes utilized in connection with the produced Nielsen data.

Id. at 3 (internal quotations omitted).

IPG asserts that:

> stations selected by Ms. Kessler for inclusion in the 1999 MPAA/Nielsen study were altogether different than those appearing in data produced by the SDC. . . . [Therefore,] Mr. Whitt's statement that the SDC-produced data was derived from a sample of stations selected by Marsha Kessler is simply inaccurate or, at minimum, without evidentiary foundation [but] IPG has been denied any ability to investigate that determination because of the SDC's failure to produce underlying documents substantiating such assertion.

Id. at 4.

IPG further asserts that, in prior proceedings, Nielsen and the MPAA have used a wide variety of sampling methodologies and methods of data collection. IPG contends that with respect to the Nielsen data produced by the SDC in the current proceeding, however, the SDC provided none of those methodological details. Consequently, IPG asserts that it has ''no means of determining the method by which the stations on which the Whitt

analysis relies were selected, and no means to determine what Nielsen data was collected, how it was collected, the limitations on the data, the scope and meaning of the data, the possible alternatives that were employed, etc.'' *Id.* at 5–6. As a result, IPG requests that the Judges strike any evidence relying on or referring to Mr. Whitt's HHVH report. *Id.* at 8.

D. Judges' Analysis and Ruling on the Motion

Much of IPG's Motion rehashes discovery issues that the Judges addressed fully in the May 2, 2014, Order. The Judges will not revisit those discovery-related issues. The Judges now consider only whether to grant or deny IPG's Motion, which requests that the Judges preclude the SDC from relying on or referring to the HHVH report on grounds of admissibility.

IPG's arguments for excluding the HHVH report are that the SDC failed to: (1) Retain or produce to IPG input data from the HHVH report, (2) produce information relating to the sampling processes that were followed for the selection of stations included as part of the Whitt analysis, and (3) produce the methodological processes followed by Nielsen in the creation of the Nielsen data that were referred to in the HHVH report. *See Motion* at 7–8.

At oral argument on the motion, IPG's counsel contended that even if the SDC did not have the underlying documents that IPG sought, the SDC was required to create such documents and produce them to IPG. 09/02/14 Tr. at 14–15. As a preliminary matter, the Judges view this argument as yet another attempt by IPG to resurrect its complaint that the SDC failed to meet its discovery obligations. The Judges already addressed this issue in the May 2, 2014, Order.[13]

IPG also asserts that the SDC's failure to create a document in response to IPG's discovery requests somehow violated a statutory provision dealing with written direct statements. At the hearing, IPG's counsel contended that the SDC ''never put this information or alluded to it or referenced or incorporated it by reference in an Amended Written Direct Statement. Therefore, for the record, it does not exist. It is not before [the Judges]. And as such, the SDC study is hopelessly missing a piece, and therefore, it should not be heard. It should be excluded.'' 09/02/14 Tr. at 15 (Att'y Boydston).

The requirement to file written direct statements is codified in section 803(b)(6)(C) of the Copyright Act. That section circuitously requires the Judges to issue regulations that require the parties to file written direct statements and written rebuttal statements by a date specified by the Judges. 17 U.S.C. 803(b)(6)(C)(i). The statutory provision does not address the content of written direct statements. Moreover, the regulation the Judges promulgated under that provision does not impose the content requirements that IPG suggests.[14] Therefore, the Judges reject IPG's assertion that the SDC violated the statutory provisions dealing with the filing of written direct statements. The HHVH report was properly before the Judges.[15] On balance, the Judges find that the SDC's written direct statement was adequate to satisfy the requirements of the Act and applicable rules. IPG's complaints about the completeness or persuasiveness of that testimony go to the weight rather than the admissibility of the testimony.

IPG also objects to the purported lack of clarity surrounding the way in which the television stations analyzed in the HHVH report were selected. Mr. Whitt stated in his written direct testimony that the television stations he studied in the report were based on a list of stations compiled by Ms. Kessler. Ex. SDC–D–001 at 3. IPG, evidently assuming that the list referred to by Mr. Whitt was the list of stations that was attached to Ms. Kessler's written direct testimony in Phase I of this proceeding,[16] contends that it compared the selection of stations in the Whitt HHVH report with Ms. Kessler's list and found that the two do not correspond. IPG states that of Mr. Whitt's 72 stations, only half of them can be found in Ms. Kessler's list. 09/02/14 Tr. at 16. IPG contends that it does not know where the other 36 stations that Mr. Whitt studied came from. *Id.*

The SDC reply that the Kessler list that IPG compared with the Whitt list was not the basis for the HHVH report. The SDC represent that the Kessler list of stations that Mr. Whitt used for his report was based on the Nielsen data that Ms. Kessler ordered for the study that she prepared for the 2000–03 proceeding. 09/02/14 Tr. at 28–30 (Att'y MacLean). Mr. Whitt addressed this issue in his testimony in the April hearing on IPG's discovery motion. 04/08/14 Tr. at 113–15 (Whitt). That being said, the SDC are unsure how Ms. Kessler determined what Nielsen data to order. 09/04/14 Tr. at 29 (Att'y MacLean). Nevertheless, the SDC's witness, Mr. Sanders, testified that the list upon which the Whitt report was compiled was ''sufficiently representative for the purpose that it is being put forth.'' *Id.* at 31. The SDC further assert, based on an analysis by Dr. Erdem, that the SDC's Nielsen sample, which was based on the Nielsen information that was ordered by Ms. Kessler, ''does not have a bias in terms of coverage of quarter-hours of IPG versus SDC programs. Or, if it does have a bias, the same bias is in all of the data that IPG is using as well, whatever bias there is.'' *Id.* at 32. Finally, the SDC state that they ''had absolutely nothing to do with choosing this [station] sample—it was chosen years before we ever purchased it from MPAA—there

[13] Even if the Judges had not addressed the issue in the May 2, 2014, Order, they would nonetheless reject IPG's assertion that the SDC was obligated to create documents to comply with a discovery request. The Judges have consistently held that ''[t]he limited discovery permitted in proceedings before the Judges should permit the parties to test admissible evidence, but not create an extensive burden of time and expense.'' *Order Granting In Part and Denying In Part the Motion of SoundExchange to Compel XM Satellite Radio Inc., Sirius Satellite Radio Inc., and Music Choice to Produce Surveys and Supporting Documents,* Docket No. 2006–1 CRB DSTRA (May 15, 2007). In the May 2, 2014, Order, the Judges ruled that the SDC had provided IPG with sufficient discovery to enable IPG to test the HHVH report. IPG points to no provision in the CRB rules that requires a party to create documents in response to a discovery request. The Judges see no reason in this instance to impose such a requirement by order.

[14] The rule states: ''[t]he written direct statement shall include all testimony, including each witness's background and qualifications, along with all the exhibits.'' 37 CFR 351.4(b). The SDC's written direct statement included Mr. Whitt's testimony as well as that of Mr. Sanders. The SDC included in its rebuttal statement the testimony of Dr. Erdem. The SDC's written direct statement may not have been exquisitely complete. Indeed, the SDC's counsel concedes that Mr. Whitt's written testimony did not describe a ''quality control'' process that he conducted to eliminate duplicative entries and to fix errors in program titles. 09/02/14 Tr. at 37 (Att'y MacLean). The SDC contends, however, that Mr. Whitt's process resulted in the elimination of a handful of program titles, none of which was claimed by either party in this proceeding. *Id.* at 37–8. The Judges find no persuasive evidence in the record to contradict the SDC's contention, rendering the SDC's omission harmless. Moreover, the Judges note that the dates for Nielsen sweeps weeks, used by Dr. Erdem in his analysis to replicate Mr. Whitt's report, either were produced to IPG or were otherwise publicly available. *See* 04/08/14 Tr. at 23–24, 204 (Att'y MacLean). The SDC satisfied its discovery obligations with respect to this information.

[15] IPG raised similar objections in the 2000–03 distribution proceeding. Docket No. 2008–2 CRB CD 2000–03. In that proceeding, the Judges excluded Mr. Whitt's testimony, which relied on data similar to that which the SDC proffer in the current proceeding. The Judges' decision not to consider Mr. Whitt's testimony in the 2000–2003 proceeding, however, was based the SDC's failure to provide Mr. Whitt's testimony until its rebuttal case, three weeks before the hearing. In that context, the Judges found the SDC's delay ''deprived IPG of the opportunity to review the work undertaken by Mr. Whitt.'' 78 FR 64984, 65004 (Oct. 30, 2013)

[16] Ms. Kessler's written direct testimony was included in the prior testimony designated by the SDC for consideration in this proceeding under 37 CFR 351.4(b)(2).

was absolutely zero incentive for everybody to intentional *[sic]* bias the data in any way.'' *Id.* at 33.

For purposes of ruling on the Motion, the Judges do not examine the weight, if any, they might place on the proffered evidence. Rather, the Judges must examine whether the SDC offered the evidence in a manner that was consistent with the applicable rules for offering this type of evidence.

The Judges' procedural rules address evidence in proceedings before the Judges. Rule 351.10(a) addresses admissibility of evidence. Under the rule, evidence that is relevant and not unduly repetitious or privileged is admissible. Proponents must authenticate or identify written testimony and exhibits for them to be admissible. *See* 37 CFR 351.10(a). The admissibility requirements of authentication or identification are satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. *Id.*

IPG does not contend that the SDC violated any provision of Rule 351.10(a); that is, that the Whitt report is irrelevant, unduly repetitious, or privileged. Rather, IPG focuses on Rule 351.10(e). That provision of the rule provides if studies or analyses are offered in evidence, they must state clearly ''the study plan, the principles and methods underlying the study, all relevant assumptions, all variables considered in the analysis, the techniques of data collection, the techniques of estimation and testing, and the results of the study's actual estimates and tests.'' 37 CFR 351.10(e). This information must be presented in a ''format commonly accepted within the relevant field of expertise implicated by the study.'' *Id.* Facts and judgments upon which conclusions are based must be ''stated clearly, together with any alternative courses of action that were considered.'' *Id.* The party offering the study into evidence must retain summaries and tabulations of input data and the input data themselves. *Id.*

IPG asserts that by not explaining precisely how the Whitt report was created, the SDC failed to provide an adequate foundation for the report. In considering whether there was an adequate foundation for admitting the Whitt report into evidence, the Judges must consider not only the exhibit that contains the report but also any written or live testimony offered to explain how the exhibit was created. In his written direct statement, Mr. Whitt included the household viewing report that he had prepared and discussed the sources of the data and a description of how he prepared the report. In the April 8, 2014, hearing on IPG's motion to strike portions of the SDC's written direct statement, Mr. Whitt provided additional details about he created the report, including the sources of the data, the processes he followed to merge Nielsen and Tribune data files, and the ''quality control'' process he used to eliminate erroneous program titles.

IPG's counsel and the Judges had ample opportunity to question Mr. Whitt on all elements of the report. After noting IPG's objection, the Judges admitted provisionally Mr. Whitt's written testimony during the hearing on September 3, 2014. 09/03/14 Tr. at 416. IPG's counsel then had another opportunity to cross-examine Mr. Whitt on the processes he used to construct the report. On both occasions, Mr. Whitt was open and forthright about how he prepared the report, including the manner in which he used a list of stations based on a set of Nielsen data ordered by Ms. Kessler for MPAA in a separate proceeding. *See, e.g.,* 09/03/14 Tr. at 422 (Whitt) (''I just accepted whatever stations they sent me.''). Mr. Whitt made no efforts to gloss over the potential weaknesses in the preparation of the report. Indeed, the SDC's counsel correctly identified Mr. Whitt as more akin to a fact witness than an expert witness. 09/02/14 Tr. at 35 (Whitt).

In the end, the Judges are satisfied that the SDC provided an adequate foundation for the admission of Mr. Whitt's written direct statement into the record. That is not to say that there are not issues with respect to how the HHVH report was created. The SDC concede as much. *See* 09/02/14 Tr. at 24 (Att'y MacLean) (''[I]t is not that any of the specific problems that the parties raised were invalid or that they shouldn't be raised. . . .''). Not the least of these issues is the fact that the Whitt report relies on a list of stations selected according to criteria that were seemingly unknown even to Ms. Kessler who purportedly selected the stations. These issues go to the weight, not to the admissibility, of the report. For the foregoing reasons, the Judges DENY IPG's Motion and admit Exhibit SDC–D–001 (Written Direct Testimony of Whitt with Exhibits) for all purposes in this proceeding.

IV. Applicable Law and Precedent

Twice each year, CSOs deposit with the Copyright Office royalties accrued for the retransmission of over-the-air television programming outside the originating station's local broadcast area. The amount of fee deposits is statutory. *See* 17 U.S.C. 111(d)(1). Every July, copyright owners file claims for the funds on deposit for the preceding calendar year's retransmissions. On motion of a claimant or *sua sponte,* the Judges publish notice of the commencement of proceedings to distribute those royalty funds.

By convention, claimants and claimants' representatives begin each proceeding with an allocation process that has come to be called ''Phase I.'' [17] Traditionally, the claimants divide themselves into eight Phase I categories based upon the nature of the programs in which they claim copyright.[18] If the participants do not agree to an allocation of deposited royalties among the Phase I categories, they submit their controversy to the Judges for adjudication. Once the allocation is decided, the claimants in each category seek distribution. If the claimants within each category do not agree to the distribution scheme among themselves, the Judges adjudicate disputes and make a determination of the appropriate distribution among claimants within each category. This process has become known as ''Phase II'' of the distribution proceeding.

A. The Relevant Statutory Language

The Copyright Act (Act) does not mandate (or even suggest) a formula for royalty distribution.[19] As the Librarian [20] has stated:

Section 111 does not prescribe the standards or guidelines for distributing royalties collected from cable operators

[17] The Copyright Royalty Tribunal (CRT), a predecessor to the CRB, began bifurcation of the distribution proceedings to mitigate what it perceived to be an unwieldy process. *See 1979 Cable Royalty Distribution Determination,* 47 FR 9879 (Mar. 8, 1982). Bifurcation of distribution proceedings is not mandated by statute or regulation, but is acknowledged in the Judges' current regulations at 37 CFR 351.1(b)(2).

[18] The program categories are: Program Suppliers (syndicated programming and movies); Joint Sports Claimants (live college and professional team sports); Commercial Television (programs produced by local commercial TV stations); Public Broadcasting; Devotional Claimants; and Canadian Claimants. Two additional categories represent non-TV interests: Music Claimants (copyright owners of musical works carried on broadcast TV signals); and National Public Radio (copyright owners of all non-music content broadcast on NPR stations)

[19] Section 111(d)(4) of the Act merely provides that, in the event of a controversy concerning the distribution of royalties, ''the Copyright Royalty Judges shall, pursuant to Chapter 8 of [title 17], conduct a proceeding to determine the distribution of royalty fees.''

[20] The Librarian was responsible for administering the Copyright Arbitration Royalty Panel (CARP) process for distributing cable royalties from 1993, when Congress abolished the CRT, a predecessor adjudicative body, until 2005, when Congress established the Copyright Royalty Judges program. The Librarian had the obligation of reviewing CARP decisions and, on recommendation of the Register, adopting, modifying, or rejecting them.

under the statutory license. Instead, Congress decided to let the Copyright Royalty Tribunal ''consider all pertinent data and considerations presented by the claimants'' in determining how to divide the royalties.

Distribution of 1993, 1994, 1995, 1996 and 1997 Cable Royalty Funds, Order, in Docket No. 2000–2 CARP CD 93–97, 66 FR 66433, 66444 (Dec. 26, 2001) (quoting H.R. Rep. No. 1476, at 97 (1976)) (1993–1997 Librarian Order).[21]

The Act does require, however, that the Judges act in accordance with prior determinations and interpretations of the Copyright Royalty Tribunal, the Librarian, the Register of Copyrights (Register), Copyright Arbitration Royalty Panels, to the extent that precedent is consistent with the Register's opinions on questions of copyright law, and decisions of the Court of Appeals relating to distribution proceedings. *See* 17 U.S.C. 803(a)(1).

Determining the proper distribution of cable royalties among claimants requires a determination of the ''relative marketplace value'' of the respective claimants' programs. *See, e.g., Program Suppliers* v. *Librarian of Congress,* 409 F.3d 395, 401 (D.C. Cir. 2005); *1993–1997 Librarian Order,* 66 FR at 66445. The Judges defined ''relative marketplace value'' in detail in a previous Determination. *See Determination of the Distribution of the 2000–03 Cable Royalty Funds, Docket No. 2008–2, CRB CD 2000–2003,* 78 FR 64984, 64985–6 nn. 8 and 9 (October 30, 2013) (*2000–03 Determination*). In the present Determination, the Judges adopt and restate the ''relative market value'' standard they described in the *2000–03 Determination,* and provide further detail consistent with that standard, including detail presented through the expert economic testimony in the present proceeding.

To assess relative marketplace value, the Judges previously have looked to hypothetical, simulated, or analogous markets, as Congress has imposed the compulsory license regime *in lieu* of an unfettered free market for cable retransmission of broadcast television programs. *2000–03 Determination,* 78 FR at 64986; *see also 1993–97 Librarian Order,* 66 FR at 66445; *1987 Music Determination,* 55 FR at 11993. Consistent with precedent, in the current proceeding the Judges look to the evidence presented by the parties, if any, to identify the parameters of a hypothetical market that would exist *but for* the compulsory license regime.[22]

B. The Economic Standard: ''Relative Market Value''

As explained in the *2000–03 Determination,* to construct the hypothetical market, it is important at the outset to appreciate the *reason* for the statutory license and the concomitant distribution proceedings. Statutory licenses substitute for free market negotiations because of a perceived intractable ''market failure'' inherent in the licensing of copyrights—particularly the assumed prohibitively high ''transaction costs'' of negotiating a multitude of bilateral contracts between potential sellers and buyers. *See, e.g.,* R. Picker, *Copyright as Entry Policy: The Case of Digital Distribution,* 47 Antitrust Bull. 423, 464 (2002) (''The modern structure of . . . validating or conferring rights in copyright holders yet coupling those rights with statutory licenses has the virtue of mitigating the exercise of monopoly power and minimizing the transaction costs of negotiations.''); S. Willard, *A New Method of Calculating Copyright Liability for Cable Rebroadcasting of Distant Television Signals,* 94 Yale L.J. 1512, 1519 (1985) (''One important reason for compulsory licensing . . . was to avoid the 'prohibitive' transaction costs of negotiating rebroadcast consent.''); S. Besen, W. Manning & B. Mitchell, *Copyright Liability for Cable Television: Compulsory Licensing and the Coase Theorem,* 21 J.L. & Econ. 67, 87 (1978) (''Compulsory licensing . . . has lower negotiating costs than a system based on full copyright liability. . . .''). Thus, the hypothetical market that the Judges must construct must be a market that would be unencumbered by either transaction costs or the restrictions imposed by the statutory license.

1. ''Relative'' Market Value

The Judges begin, as they did in the *2000–03 Determination,* parsing the phrase ''relative market value'' by first considering the import of the word ''relative.'' The word ''relative'' denotes that the value of any retransmitted program is to be determined in relation to the value of all other programs within the bounds of the respective Phase I category definitions, and thus can be expressed as a percentage of total ''market value.''

2. Relative ''Market Value''

In turn, ''market value'' is traditionally stated in decisional and administrative law more fully as ''fair market value.'' The Supreme Court has stated the traditional definition of ''fair market value'' as ''the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.'' *U.S.* v. *Cartwright,* 411 U.S. 546, 551 (1973). It is necessary to further define the various terms that comprise the foregoing definition of relative market value.

a. The Hypothetical ''Willing Sellers'' (the Copyright Owners)

Copyright Owners seek to maximize profit from licensing their programs for retransmission by CSOs. Copyright Owners' marginal costs are low and approach zero. Most of the costs incurred in creating the work are sunk, fixed costs. Even so, Copyright Owners seek to maximize the revenue they receive from CSOs. Given the minimal marginal costs, Copyright Owners, as the hypothetical willing sellers, will always have an incentive to sell at some positive price, but will likely engage in bargaining whereby a Copyright Owner might threaten to deny the license unless the CSO offers the Copyright Owner's (undisclosed) reservation price. *See* Besen, *et al, supra,* at 81.

b. The Hypothetical ''Willing Buyers'' (the CSOs)

For CSOs, the economics are less straightforward. CSO revenues are derived from the sale of cable bundles (commonly described as ''packages'' or ''tiers'') to subscribers, *i.e.,* the ultimate consumers. In turn, many variables affect the number of consumers that subscribe to a particular CSO's service, including the retransmitted broadcasts that the CSO includes as part of its subscription package.[23]

[21] The 1993–1997 Librarian Order was vacated as moot after the parties settled their appeals. *Distribution of 1993, 1994, 1995, 1996 and 1997 Cable Royalty Funds, Notice of termination of proceeding,* Docket No. 2000–2 CARP CD 93–97, 69 *FR* 23821 (Apr. 30, 2004). The settlement and vacatur of the 1993–1997 Librarian Order did not disturb the reasoning articulated therein. *Id.* at 23822.

[22] ''*Simulations* aim at imitating an economically relevant real or possible system by creating societies of artificial agents and . . . institutional structure. . . .'' A. Lehtinen and J. Kuorikoski, *Computing the Perfect Model: Why Do Economists Shun Simulations?,* 74 Phil. of Sci. 304, 307 (2007) (emphasis in original). However, the parties to this proceeding did not proffer evidence of any simulations. Further, the parties did not provide evidence or testimony from sellers/licensors and buyers/licensees in ''*analogous*'' markets, such as perhaps the markets for cable programming or syndication rights (nor the results of any surveys of such market participants) that the Judges might use as benchmarks to establish a distribution methodology in the present proceeding. The SDC did provide, however, evidence of ratings from the local markets in which the SDC and IPG programs aired.

[23] The compulsory license regime requires CSOs to license a station's signal in its entirety, 17 U.S.C. 111(d)(1)(B), and to retransmit the programs

To CSOs, the programs offered by the Copyright Owners are inputs—factors of production—utilized to create the products that the CSOs sell to their customers, *viz.,* the various subscription bundles of cable channels. In a hypothetical program market, CSOs would buy the rights to retransmit programs as they would purchase any factor of production, up to the level at which that ''factor price'' equals the ''Marginal Revenue Product'' (MRP) of that program. In simple terms, a CSO in a competitive factor market would only pay for a license to retransmit a program if the revenue the CSO could earn on the next (marginal) sale of the final product were at least equal to that price.[24] In practical terms, why would a CSO pay $50,000 to retransmit a program that the CSO estimates would add only $40,000 to the CSO's subscriber revenue? *See* Besen, *et al., supra,* at 80 (''To the cable system the value of carrying the signal is equal to the revenue from the extra subscribers that the programming will attract and any higher subscriber fees it can charge less the additional costs of importing the program.'').[25]

c. ''Neither Being Under Any Compulsion to Buy or Sell''

In the *actual* (*i.e.,* non-hypothetical) market, terrestrial broadcast stations create the program lineup, which is only available for purchase by CSOs as a pre-bundled signal. The CSOs cannot selectively license for retransmission some programs broadcast on the retransmitted station and decline to license others; rather, the signal must be purchased *in toto.* 17 U.S.C. 111(d)(1)(B) (statutory license royalty computed based on number of ''distant signal equivalents'').

Is this required bundling a form of ''compulsion'' upon CSOs? In the *actual* market, they are *compelled* to take every program pre-bundled on the retransmitted distant station, despite the fact that the various pre-bundled programs would each add different monetary value (or zero value) in the form of new subscriber volume, subscriber retention, or higher subscription fees. Indeed, some programs on the retransmitted station may have so few viewers that CSOs—if they had the right—would decide not to purchase such low viewership programs but for the requirements of the compulsory license regime.

Further, certain programs may have more substantial viewership, but that viewership might merely duplicate viewership of another program that generates the same sub-set of subscribers. To restate the example offered in the *2000–03 Determination,* the viewers of reruns of the situation comedy ''*Bewitched*'' may all be the same as the viewers of reruns of ''*I Dream of Jeannie,*'' a similar supernatural-themed situation comedy. However, ''*Bewitched''* may have fewer viewers than ''*I Dream of Jeannie.*''

In the *hypothetical* market in which the compulsory licensing regime did not exist, a rational profit-maximizing CSO that had already paid for a license to retransmit ''*I Dream of Jeannie*'' would not also pay for ''*Bewitched*'' in this hypothetical marketplace, because it fails to add marginal *subscriber revenue* for the CSO. Rather, the rational CSO would seek to license and retransmit a show that marginally increased subscriber revenue (or volume, if market share was more important than profit maximization), even if that program had lower total viewership than ''*Bewitched.*''

Alternately stated, why should CSOs in the *hypothetical* market be *compelled* to pay for a program based on its higher viewership, even though it adds less value than another show with lower viewership? Simply put, the hypothetical, rational profit-maximizing CSOs would not pay Copyright Owners based solely on levels of viewership. Rather, the hypothetical CSOs would (1) utilize viewership principally as a tool to estimate how the addition of any given program might change the CSO's subscriber revenue, (2) attempt to factor in the economics of various bundles; and (3) pay for a program license (or eschew purchasing that license) based on that analysis.

Thus, the Judges consider the hypothetical market to be free of the compulsion that arises from the pre-bundling that exists in the actual market.

On the other side of the coin, are the sellers, *i.e.,* the Copyright Owners, under any ''compulsion'' to sell? In the actual market, one in which the terrestrial station signal is acquired in a single specific bundle by a CSO, the answer appears to be yes, there is ''compulsion.'' Copyright Owners cannot carve out their respective programs and seek to maximize their values to CSOs independent of the prepackaged station bundles in which they exist.

Of course, in the ''hypothetical market'' that the Judges are charged with constructing, it would be inappropriate not to acknowledge the inherent bundling that would occur. That is, the bundling decision is a ''feature'' rather than a ''bug'' in even a hypothetical market for distant retransmissions in which the statutory license framework does not exist. Thus, while Copyright Owners could offer to supply their respective programs at given prices, the equilibrium market price at which supply and demand would intersect would reflect the CSOs' demand schedules, which are based in part upon the fact that the buyers, *i.e.,* the CSOs, would pay only a price that is equal to (or less than) the MRP of that program in a bundle to be purchased by *subscribers.*

3. The Optimal Economic Approach to Determining ''Relative Market Value''

In the present proceeding, the Judges considered the general interrelationship among bundling, subscribership, and viewership, and their impact on ''relative market value,'' in more detail than in prior proceedings. Specifically, the Judges inquired as to whether the parties' experts had considered utilizing a method of valuation known as the ''Shapley value'' methodology [26] to determine their respective allocations.

Broadly stated, ''the Shapley value gives each player his 'average marginal contribution to the players that precede him,' where averages are taken with respect to all potential orders of the players.'' U. Rothblum, *Combinatorial Representations of the Shapley Value Based on Average Relative Payoffs,* in *The Shapley Value: Essays in Honor of Lloyd S. Shapley* 121 (A. Roth ed. 1988) (hereinafter, ''Roth'') (*quoting* Shapley, *supra*). A Shapley valuation in the

(including advertisements) without alteration. 17 U.S.C. 111(c)(3). Therefore, retransmitting CSOs cannot sell advertising on retransmitted broadcast channels in the *actual* market under the compulsory license regime. However, in the *hypothetical* market, where the limiting provisions of the compulsory license regime would not apply, retransmitting CSOs arguably could sell local replacement advertising, which would render viewership an important metric of relative market value. However, this point was not presented by either of the parties in the present proceeding.

[24] A focus on marginal costs and benefits is not only efficient for the hypothetical buyers and sellers, but also for the consuming public: ''Optimal program diversity will result if cable operators and the public they serve pay to copyright owners the marginal value derived from viewing syndicated programming.'' Willard, *supra,* at 1518.

[25] If the CSO, as a program licensee, had some degree of monopsony power in the factor market, it could pay less than a price equal to MRP, but still would pay to license programs in a *quantity* at which MRP would equal the marginal cost to license an additional program.

[26] *See* L. Shapley, *A Value for n-person Games,* in H. Kuhn and A. Tucker, *Contributions to the Theory of Games* (1953). A definition and an example of a Shapley valuation are set forth in the text, *infra.* For the statistical formula for a Shapley value, *see* 9/8/14 Tr. at 1075–79 (Erdem); *see also SDC Proposed Findings of Fact* (PFF) ¶ 64.

present context is best understood through the following example: [27]

• Assume there is only one CSO (C), and there are two program owners (P1 and P2) with programs available for retransmission.

In a hypothetical market, the Shapley model defines the values of C, P1, and P2 under all of the possible orderings of arrival of the three entities to negotiations and at each point of arrival.

For C, P1, and P2, there are the following 6 (that is 3 factorial, or 3!) possible orderings by which each arrives in the market:

(1) C, P1, P2
(2) C, P2, P1
(3) P1, C, P2
(4) P1, P2, C
(5) P2, C, P1
(6) P2, P1, C

• Assume the following.

(a) An entity (C, P1, or P2)—*alone in the market—generates* $0 in retransmission value regardless of who that player is (because a cable system without programming or a program without a CSO will not be viewed and thus has no value);

(b) regardless of the order in which the respective owners of P1and P2 arrive in the market to attempt to license their respective programs, both of their respective programs generate $0 in retransmission value without a CSO (because programs without a CSO cannot be retransmitted and therefore provide no value);

(c) if C is present, it generates $6 by retransmitting P1 alone and $5 by retransmitting P2 alone;

(d) if all three players are present, then the retransmission of P1 and P2 by C generates an assumed synergistic value of $12.

• The Shapley value of P1 in each of the six possible orderings is thus:

$6 in ordering (1) (because P1 increases the value from $0 to $6);

$7 in ordering (2) (because P1 increases the value from $5 to the synergistic $12);

$0 in ordering (3) (because P1 adds no value when it arrives first to the market);

$0 in ordering (4) (because P1 adds no value when it arrives first to the market);

$7 in ordering (5) (because P1 increases the value from $5 to the synergistic $12); and

$0 in ordering (6) (because P1 does not add value if there is no CSO in the market).

The Shapley value of P1 is the average value of P1 over all possible arrival sequences, or

$$\frac{\$6 + \$7 + \$0 + \$0 + \$7 + 0}{6} = \frac{20}{6} = \$3.33.$$

By a similar calculation, the Shapley value of P2 is $2.83. (Similarly, the Shapley value of C, the CSO, is $5.83.) The sum of the values each provides is approximately $12, which equals the synergistic business value generated when all three entities are present in the market.

Shapley valuations constitute ''the unique efficient solution'' because they ''valu[e] each player['s] direct marginal contribution to [a] grand coalition.'' S. Hart and A. Mas-Colell, ''*The Potential of the Shapley Value,*'' in Roth, *supra,* at 127–28. The Shapley value analysis not only enriches the development of the relative market value standard, but it also would allow the Judges in this proceeding to carry out their statutory mandate to distribute the deposited royalties by comparing the parties' respective valuation methodologies to that optimal standard, to determine which of their methodologies more closely reflects the optimal hypothetical market.

To summarize, as in the *2000–03 Determination,* the Judges will apply in this Determination a hypothetical market that contains the following participants and elements: (1) The hypothetical sellers are the owners of the copyrighted programs; (2) the hypothetical buyers are the CSOs that acquire the programs as part of their hypothetical bundles of programs; and (3) the requirement of an absence of compulsion dictates that the terrestrial stations' initial bundling of programs does not affect the marginal profit-maximizing decisions of the hypothetical buyers and sellers.[28]

V. Description and Analysis of the Parties' Proposals for Distribution

A. The SDC Methodology

1. The Details of the SDC Methodology

The SDC's calculation of relative market value (SDC Methodology) is based upon the analyses of two expert witnesses who testified on behalf of the SDC in their direct case and upon certain designated testimony from prior proceedings.[29] The first live witness upon whom the SDC relied was Mr. Whitt, a systems analyst, programmer and database analyst, who had worked for a company he founded, IT Processing LLC (IT Processing). 9/3/14 Tr. at 418 (Whitt).[30] Mr. Whitt had formed IT Processing to engage in ''massive data projects'' that required ''millions of unique items of data to be accurately and efficiently entered and

[27] This example is inspired by a similar example set forth by Professor Richard Watt, Managing Editor of the *Review of Economic Research on Copyright Issues* and a past president of *The Society for Economic Research on Copyright Issues. See* R. Watt, *Fair Copyright Remuneration: The Case of Music Radio,* 7 Rev. of Econ. Res. on Copyright Issues 21, 25–26 (2010).

[28] The construction of the hypothetical market is of *particular* importance in this proceeding. As explained *infra,* IPG mistakenly argues that the *preexisting* bundling of programs on the retransmitted stations in the *actual* market renders ratings irrelevant to a CSO that must purchase and retransmit the actual bundle *in toto.* IPG confuses the actual market with the hypothetical market the Judges are obligated to construct. The actual market is distorted by the existence of the compulsory statutory license, and the Judges are required to determine the values of the copyrighted programs by hypothesizing an unregulated market in which such statutory compulsion does not exist.

[29] The SDC designated the following testimony from the 1998–99 Phase I Proceeding (Distribution of 1998 and 1999 Cable Royalty Funds, Docket No. 2001–8 CARP CD 98–99) from the following witnesses: (a) Marsha Kessler (a retired MPAA vice president, responsible for retransmission royalties): June 2, 2003 (pp. 6347–6454); June 3, 2003 (pp. 6456–6613); July 14, 2003 (pp. 9478–9491); and July 15, 2003 (pp. 9724–9753); (b) Paul Lindstrom (a Nielsen employee): June 9, 2003 (7175–7445); and (c) Paul Donato (a Nielsen employee) June 9, 2003 (pp. 7445–7520). From the 2000–2003 Phase II Proceeding (In the Matter of Distribution of 2000, 2001, 2002, and 2003 Cable Royalty Funds, Docket No. 2008–2 CRB CD 2000–2003), the SDC designated testimony from the following witnesses: (a) Ms. Kessler: June 3, 2013 (pp. 101–218); (b) Paul Lindstrom: June 3, 2013 (pp. 280–324); and June 4, 2013 (pp. 368–433); (c) Dr. William Brown: June 6, 2013 (pp. 1364–1420); (d) Jonda Martin: June 3, 2013 (pp. 219–236); (e) Kelvin Patterson: June 3, 2013 (pp. 237–280); and (f) Mr. Whitt: June 6, 2013 (pp. 1346–1363).

[30] The SDC proffered Mr. Whitt's testimony from a prior hearing in this proceeding (discussed in Part III, *supra*) conducted on April 8, 2014, in lieu of eliciting his testimony during the September hearing. IPG consented to this procedure (subject to its foundational challenge as set forth in its Motion *in Limine* discussed *supra*) and the Judges incorporated by reference Mr. Whitt's April 8, 2014, testimony as part of the present record. 9/3/14 Tr. at 413–15. IPG also cross-examined Mr. Whitt during the September 2014 hearings, and the SDC then conducted redirect examination of Mr. Whitt.

analyzed.'' Whitt WDT at 2; Ex. SDC–D–001 at 2.

Mr. Whitt's work on behalf of the SDC was derivative of earlier work he had undertaken on behalf of MPAA. More particularly, Mr. Whitt had been engaged by MPAA ''to process large data files consisting of cable and satellite copyright programming and viewing associated with claims filed with the Copyright Royalty Arbitration Panels . . . and [the] Copyright Royalty Board.'' *Id.* at 3.

According to Mr. Whitt, he was contacted by the SDC in 2006 to assist in preparing their case in this proceeding. 4/8/14 Tr. at 106 (Whitt). The SDC engaged Mr. Whitt to utilize his prior work and data from his MPAA assignment to prepare the HHVH Report for 1999, relating to the retransmission of certain Devotional programming on broadcast television stations that were distantly retransmitted to other markets. Whitt WDT at 3 and Ex. 1 thereto; Ex. SDC–D–001 at 3 and Ex. 1 thereto; 4/8/14 Tr. at 106 (Whitt).

Mr. Whitt's 1999 HHVH Report was based on following three data sources:

(1) Programs on a sample of television stations whose signals were distantly transmitted on cable that Mr. Whitt believed Ms. Kessler, a former employee of the MPAA, chose based on whether the signals were ''distant'' for cable copyright purposes;

(2) distant program viewing data from Nielsen, presented on a quarter-hour basis, for programs from Nielsen's six ''sweeps'' months of diary data (January, February, May, July, October and November) (Nielsen Data); [31] and

(3) program data from Tribune Media Services (''TMS'') (including station, date, time, title and program category) (TMS Data).

Id. at 3.

Mr. Whitt then matched the Nielsen Data with the TMS Data in order to merge the Nielsen Data for reported quarter-hour segments with the titles of the programs and other program information in the TMS Data. *Id.* at 4; 4/8/14 Tr. at 108 (Whitt).[32] In addition, Mr. Whitt identified what he described as ''character strings'' from program titles (44 in total) that he discretionally determined were devotional in nature but had not been captured in the merging of the Nielsen Data and the TMS Data. *Id.* at 4–6. Mr. Whitt also used his discretion to delete certain programs that he concluded were not in fact devotional, although their titles initially suggested that they were devotional in nature. 4/8/14 Tr. at 126–28 (Whitt).

Mr. Whitt completed his analysis by ''aggregat[ing] by title and station summing the adjusted household viewing hours from [the] Nielsen [data].'' Whitt WDT at 6; Ex. SDC–D–001 at 3. Thus, Mr. Whitt was able to identify the potentially compensable broadcasts of the programs claimed by SDC and IPG that aired on the sample stations. Whitt WDT at 3; Ex. SDC–D–001 at 3.

The SDC also presented John Sanders as an expert ''to make a fair determination of the relative market values of particular devotional television programs claimed by the parties'' using Mr. Whitt's report. Ex. SDC–D–002 at 2. Mr. Sanders previously had ''actively participated in the appraisal of more than 3,000 communications and media businesses,'' and his work has focused on, *inter alia,* ''the television and cable industries and the appraisal of . . . subscribership-based assets . . . .'' *Id.* at 3. In the course of that work, since 1982, Mr. Sanders has frequently engaged in the valuation of television programs for both buyers and sellers, and the valuation of cable systems, in connection with market transactions (as contrasted with valuations as an expert witness). 9/3/14 Tr. at 461–62 (Sanders). Accordingly, and without objection, Mr. Sanders was qualified as an expert in the valuation of media assets, including television programs. 9/3/14 Tr. at 463–64.

Mr. Sanders testified that if he were representing a buyer or a seller of a license to retransmit a program into a distant market, the first step in his analysis of value would be to ''measure the audience that is being generated by the various programs in question . . . .'' 9/3/14 Tr. at 476–79 (Sanders). Mr. Sanders testified that the reason for this initial emphasis on audience viewership is as follows:

> [I]n terms of a cable system, the objective is to have categories of programming that will attract subscribers. But, within those categories, to have individual program titles that viewers will actually be interested in watching. And those that show greater evidence of viewership will obviously attract more subscribers and, [as a] consequence, would have greater value.

9/3/14 Tr. at 478–79 (Sanders).

Accordingly, Mr. Sanders based his relative valuation estimate primarily on Mr. Whitt's 1999 HHVH Report. Sanders WDT at 4; Ex. SDC–D–002 at 4. He relied on that measure of viewing for the following reasons:

> To allocate reasonably the available funds between [the] SDC and IPG in this proceeding, it is my opinion that audience measurements relying on surveys conducted by Nielsen Media Research are the best available tools to allocate shares. . . .
>
> . . .
>
> Within the category of devotional programming, all of the programs claimed by [the] SDC and IPG appear to be directed predominantly to a Christian audience, and can therefore be thought of as homogeneous in terms of the subscriber base to which they are likely to appeal. Where programs are homogeneous, the most salient factor to distinguish them in terms of subscribership is the size of the audience. A religious program with a larger audience is more likely to attract and retain more subscribers or [sic] the [CSO], and is therefore of proportionately higher value.

Sanders WDT at 5–6; Ex. SDC–D–002 at 5–6. To ascertain the size of a program's audience, Mr. Sanders relied upon Nielsen ratings because he understood such ratings to be ''the currency of the broadcast and cable industry, and . . . generally regarded as the most reliable available measure of audience size.'' *Id.* As Mr. Sanders elaborated in his oral testimony:

> Ultimately, the valuation will be based upon the benefit that it brings to the holder of the programming. And most commonly, the measurement of that value is based upon the audience that that programming is able to generate. . . . Nielsen audience measurement data . . . is the most ubiquitous and authoritative source of audience measurement data in the broadcasting and cable fields.

9/3/14 Tr. at 465–66 (Sanders).

[31] Nielsen ratings estimate the number of homes tuned to a program based upon a sample of television households selected from all television households. The findings within the sample are ''projected'' to national totals. Although there was no evidence or testimony regarding how Nielsen conducted its data collection for sweeps weeks in 1999, Mr. Lindstrom described the general process in his testimony in the 2000–03 proceeding, which the SDC designated in this proceeding. In that regard, Mr. Lindstrom testified that diary data is collected in Nielsen's diary markets during November, February, May, July, and in some cases October and March, which are also known as the ''sweeps'' ratings periods (Nielsen Diary Data). (Diaries are paper booklets in which each person in the household manually records viewing information.) Nielsen mails seven-day diaries to homes randomly selected by Nielsen to keep a tally of when each television in the household was on, what it was tuned to, and who in the household was watching. Over the course of a four-week sweeps period, Nielsen mails diaries to a new panel of randomly selected homes each week. At the end of each sweeps period, all of the viewing data from the individual weeks are aggregated into Nielsen's database. Each sweeps period yielded a sample of approximately 100,000—aggregating to 400,000 households over the course of a year. *2000–03 Determination,* 78 FR at 6993; 6/3/13 Tr. at 290, 296–98, 312 (Lindstrom) (SDC Designated Testimony).

[32] More precisely, Mr. Whitt had performed this merger on behalf of the MPAA. Then, after being retained by the SDC, he derived his 1999 HHVH Report for Devotional programming by narrowing that prior work on behalf of the MPAA to isolate the Devotional programming. 4/8/14 Tr. at 108–10 (Whitt).

Accordingly, Mr. Sanders added the household viewing hours for the distantly retransmitted compensable programming for each party. This calculation totaled 1,237,396 viewing hours for the SDC and 280,063 for IPG. Sanders WDT at 9; Ex. SDC–D–002 at 9; *see also id.* at Appendix E. In percentage terms, SDC-compensable programming accounted for 81.5% of the devotional viewing of the two parties' programs, and IPG-compensable programming accounted for 18.5%.

Based on his analysis, Mr. Sanders calculated the viewership (and distribution) shares of the SDC and IPG programming as follows.

SDC: 81.5%
IPG: 18.5%

Mr. Sanders was unable to provide any confidence interval for these allocations, given that the statistical bases for the analysis were not random in nature. However, Mr. Sanders testified that he was able to confirm the overall ''reasonableness'' of his analysis by comparing the results with an analysis of local Nielsen viewing data for the same IPG and SDC programs in the February 1999 sweeps period. Mr. Sanders testified that he believed the Nielsen analysis was performed through a random sampling of viewers and constituted the ''granular'' or ''niche'' type of report that Mr. Sanders understood to be necessary in order to rely with greater certainty on the results of the analysis. 9/3/14 Tr. at 512 (Sanders).

That analysis revealed the following distribution of viewers:

SDC: 71.3%
IPG: 28.7%

Mr. Sanders also noted that there was a ''correlation coefficient for the HHVH shares relative to the Nielsen shares [of] approximately 0.75, which ''signifies that 75% of the variance between HHVH results for different programs is connected with the variance between local ratings for those programs.'' Sanders WDT at 10; Ex. SDC–D–002 at 10. The Judges understand Mr. Sanders's testimony to mean that the ''connected'' or correlated nature of the two sets of viewership data demonstrates that each data set is a form of confirmation as to the reasonableness of the other data set.

Indeed, Mr. Sanders testified that, in his expert opinion, this 71.3%:28.7% ratio should be ''characterized as a reasonableness check'' on his analysis. 9/3/14 Tr. at 501. *See also* 9/3/14 Tr. at 510 (Sanders) (restating his ''reasonableness'' conclusion). Mr. Sanders emphasized the importance of his ''reasonableness check,'' stating that the ''body of data'' that led to a 71.3%:28.7% distribution ''is very relevant and, in my opinion, should not be ignored.'' 9/3/14 Tr. at 503 (Sanders) (emphasis added). In that regard, Mr. Sanders further noted that, had his primary analysis resulted in a 71.3%:28.7% distribution and, had his ''reasonableness'' check resulted in an 81.5%:18.5% distribution, he would have proposed the 71.3%:28.7% distribution. 9/3/14 Tr. at 509–10 (Sanders).

2. Evaluation of the SDC Methodology

IPG sets forth several criticisms of the SDC Methodology. First, IPG claims that the SDC Methodology incorrectly assumes that household viewing constitutes an appropriate measure of relative market value. Assuming *arguendo* viewership can be a basis for value, IPG asserts, second, that the SDC did not provide a sufficient evidentiary foundation for the Nielsen Data and, therefore, for the 1999 HHVH Report. Third, again assuming, *arguendo,* that viewership is probative of value IPG argues that the incidence of ''zero viewing'' sample points in the Nielsen Data utilized to create the 1999 HHVH Report invalidates the Nielsen Data as a reliable source of viewership information. Fourth, IPG asserts again assuming, *arguendo,* the probative nature of viewership, that the SDC could have provided better data to support the SDC Methodology. Fifth, IPG argues that the SDC's own reasonableness test demonstrates that IPG programming has a significantly higher value than the 18.5% allocation proposed by the SDC.

a. Viewership Is an Acceptable ''Second-Best'' Measure of Value, Even Though It Is Not the Optimal Metric

IPG opposes a relative market value assessment based solely on viewership because: (1) A CSO primarily benefits from attracting subscribers rather than viewers; (2) retransmitting a program with more viewers will not necessarily increase aggregate subscribership for a CSO; and (3) retransmitting a program with fewer viewers might increase a CSO's aggregate subscribership. Robinson WRT at 8.

The Judges agree that a relative market value assessment based solely on viewership is less than optimal. In reaching this conclusion, the Judges refer to their earlier discussion of the Shapley valuation approach. In the present context, the Judges believe that the optimal approach to determining relative market value would have been to compare the SDC programs with those of IPG using Shapley or Shapley-approximate valuations. Such an approach was not possible on the record before the Judges in the current proceeding because of the non-existence, unavailability, or, from the parties' perspective, prohibitive development cost of the necessary evidence upon which such a comparison could be made.

The SDC's expert economic witness, Dr. Erkan Erdem, agreed that, *in theory,* a Shapley valuation would be a more precise way to measure relative value in this proceeding. 9/8/14 Tr. at 1084 (Erdem). However, as Dr. Erdem noted, there was no evidence in the record (or apparently otherwise available) by which one could calculate the Shapley values in this proceeding. Tr. 9/8/14 at 1084–85 (Erdem).[33] Indeed, no expert attempted to utilize a Shapley methodology to determine relative market value of the SDC and IPG programs.

Dr. Erdem did acknowledge, however, that, as an alternative, a CSO could utilize the general principles of a Shapley valuation to rank ordinally the shows available for retransmission in a hypothetical market, and thus create heuristic Shapley values. 9/8/14 Tr. at 1100–01 (Erdem). Such a ranking by CSOs in the present case could have served as a basis for benchmarking the ''relative marketplace values.'' However, neither of the parties proffered a witness who had experience in creating a roster of television programs.

Thus, the Judges have no evidence or testimony by which to establish the relative marketplace values of the SDC and IPG programs in the optimal theoretical manner or in a manner that uses ''Shapley-approximate'' values. This evidentiary constraint places the Judges in a ''second best'' situation. In that situation, it is not necessarily optimal to attempt to satisfy other efficient conditions, because to do so would further worsen the already sub-optimal situation. *See* R.G. Lipsey and K. Lancaster, *The General Theory of Second Best,* 24 Rev. Econ. Stud. 11 (1956). Colloquially stated, the theory of the second best may generally be defined as ''not letting the perfect be the enemy of the good.'' When the parties have not proffered evidence or testimony to permit Shapley-type valuations, it would not be efficient also to reject valuations based predominantly on viewing data.

[33] Professor Watt recognized this practical problem. *See* Watt, *supra* note 27, at 27 (''The Shapley model provides a reasonable working solution for regulators . . . . However, it does suffer from a particularly pressing problem—that of data availability.'').

To reject viewing-centric valuations would require the Judges instead either to adopt a less probative or seriously deficient methodology,[34] or figuratively to throw up their hands and refuse to make any allocation or distribution.[35] The Judges will not compound the problem of the absence of the most theoretically probative evidence by rejecting the SDC's viewer-centric valuations, notwithstanding the limitations in using those valuations. [36]

The Judges' decision to issue a determination based on the extant evidence, rather than to reject all evidence because it is less than optimal, is consistent with D.C. Circuit precedent. Specifically, the D.C. Circuit has held that, in making distributions under Section 111 of the Copyright Act, *mathematical precision is not required. See National Ass'n of Broadcasters* v. *Librarian of Congress,* 146 F.3d 907, 929, 932 (D.C. Cir. 1998); *Nat'l Cable Television Ass'n* v. *Copyright Royalty Tribunal,* 724 F.2d 176, 187 (D.C. Cir. 1983). Rather, the Judges may render a determination premised on ''the only'' evidence presented by the parties, notwithstanding that ''the character of the evidence presented'' may fall short of more precise evidence that the parties did not or could not present. *See Nat'l Cable Television,* 724 F.2d at 187.

Applying a viewership-based model of valuation in deciding distribution allocations also is consistent with Library precedent. Specifically, in an analogous context in a Phase I proceeding, the Librarian held that a measure of ''relative market value'' could be made by reliance on viewership information when a more optimal valuation tool was not available. *Distribution of 1998 and 1999 Cable Royalty Funds,* Docket No. 2001–8 CARP CD 98–99, 69 FR 3606, 3614 (January 26, 2004) (noting that survey evidence may be superior to viewing evidence but, in the absence of that superior evidence, viewing information can properly be relied upon by the factfinder in a distribution proceeding).

IPG's own witness acknowledges the importance of viewership data generally in assessing the value of programming. In her oral testimony, Dr. Robinson conceded that viewership is an important metric in the determination of relative market value. 9/2/14 Tr. at 175; 9/4/14 Tr. at 784. (Robinson). Additionally, Dr. Robinson acknowledged that viewership is important to a CSO in order to retain subscribers, 9/4/14 Tr. at 777–78 (Robinson), confirming the common sense idea that subscribers would not continue to subscribe if they did not watch the offered programming.

The Judges are also confident that, generally, Nielsen-derived viewership data presents a useful measurement of actual viewership. They base this conclusion on, among other things, the fact that the television industry relies on Nielsen data for a wide range of business decisions. The SDC's expert industry witness, Mr. Sanders, testified that those in the television industry consider viewership data, as compiled by Nielsen, to be the best and most comprehensive measure of viewership. 9/3/14 Tr. at 480–81 (Sanders). Mr. Sanders acknowledged that the Nielsen Data are not perfect, but that their status as the best and most comprehensive measure of viewership has caused the television industry to utilize Nielsen data as a ''convention'' for ''economic decision makers.'' *Id.* IPG did not present any evidence to rebut either of these points.

If the Judges were to discount the Nielsen Data in this proceeding simply on the basis that Nielsen data are imperfect, the Judges would in essence be substituting their own opinion of the Nielsen yardstick for the collective opinion of the ''economic decision makers'' in the market. The Judges will not engage in such substitution; it is their job to develop a hypothetical market by eliminating the impact of the compulsory licensing regime—but otherwise to hew as closely as is reasonably appropriate to the conduct, performance, customs and standards of the actual market.

Despite the Judges' conclusion that viewership is a *type* of metric that the Judges may consider, the Judges must consider whether the *particular* viewership analysis undertaken by the SDC contains imperfections, as noted by IPG, or otherwise. *See, e.g., 1987 Devotional Determination,* 55 FR at 5650; *1986 Determination,* 54 FR at 16153–54 (noting that viewing measurements might not be perfect and must be appropriately adjusted if claimants are able to prove that their programs have not been measured properly or may be significantly undermeasured). Accordingly, the Judges must analyze the SDC's particular viewership evidence and address the issues raised by IPG in that regard.

b. The Evidentiary Foundation for the SDC Methodology

(1) ''Replication'' and ''Testing'' of the SDC's HHVH Report

The SDC's viewership evidence consisted largely of the HHVH Report presented by SDC's witness, Mr. Whitt. IPG asserts that the SDC did not provide sufficient underlying data to allow IPG's expert, Dr. Robinson, to test the accuracy of the SDC's HHVH Report for 1999. 9/4/14 Tr. at 755–56, 765–68 (Robinson). However, the Judges disagree with IPG's assertion, based upon Dr. Robinson's own testimony. Specifically, Dr. Robinson testified that she indeed ''merged the underlying data and ran the search terms for devotional programming [and] reached substantially the same results [as the SDC] in all material respects.'' *Id.* at 850–61 (Robinson). In her prior testimony on IPG's Motion to Strike, Dr. Robinson had presaged her subsequent successful replication of the HHVH Report by admitting that she was able to merge the Nielsen Data and the TMS Data, run Mr. Whitt's search terms and test the accuracy of his results. 4/8/14 Tr. 68–69 (Robinson); *Order Denying Motion to Strike* at 6. Based on Dr.

[34] The only other methodology presented in this proceeding is the IPG Methodology. For the reasons set forth *infra,* the Judges have concluded that the IPG Methodology is seriously deficient and far less probative than the SDC Methodology. Thus, even if the Judges had not analyzed and considered a Shapley-type valuation, they would have analysis or consideration by the Judges, they would have given far more weight to the viewer-centric SDC Methodology than the seriously deficient IPG Methodology.

[35] The Judges had considered whether they could decline to make any distribution determination in light of the imperfections of the parties' evidence, and asked counsel for the parties to provide guidance as to that alternative. *Cf. Final Determination, 1993–1997 Cable Proceedings (Phase II),* 66 FR 66433, 66454 (Dec. 26, 2001) (the Librarian accepted the Register's recommendation to reject a CARP Report distributing royalties because ''the record . . . is insufficient on which to base a distribution determination.''). Both counsel in the present proceeding urged the Judges not to render a determination that declined to distribute the royalties if a determination that made an allocation could be based upon adequate evidence and would not be arbitrary or capricious. 9/8/14 Tr. at 1172–75 (counsel for the SDC); 9/8/14 Tr. at 1176–79 (counsel for IPG). The Judges are confident that this Determination satisfies those standards.

[36] The limitations might inure to IPG's benefit. As Dr. Erdem explained, when there is an overlap in viewership between programs, a purely viewership-based valuation, such as that proffered by the SDC, might *understate* the relative value of programs with higher viewership (*i.e.,* the SDC programs) and *overstate* the IPG distribution percentage compared to a Shapley valuation. 9/8/14 Tr. at 1082–83 (Erdem). The Judges also note that in the hypothetical market, *several* CSOs might be competing for the right to retransmit programs. Thus, to use a prior example, if a CSO has purchased a license to retransmit *I Dream of Jeannie,* rather than *Bewitched,* because the former has more viewers and its viewers overlap significantly with the latter's viewers, a *competing* retransmitter might then find the total viewership for *Bewitched* so valuable (given that the retransmission rights to *I Dream of Jeannie* were no longer available) that *Bewitched* is that competing retransmitter's first choice even under a Shapley-type valuation. Therefore, in a competitive market, absolute viewership would be particularly probative of program value.

Robinson's testimony, the Judges conclude that the HHVH Report was replicable and that the results were capable of being tested. As a result, the Judges conclude that the report should carry at least some weight in assessing the relative market value of the SDC and IPG programs.

(2) Issues Regarding the Kessler Sample

IPG also criticizes the HHVH Report because the SDC (1) did not produce a witness with ''firsthand knowledge of the method or basis for the station sample selection'' used to create the Kessler sampling of stations, (2) presented no evidence directly establishing that Ms. Kessler selected the stations appearing in the Nielsen Data, and (3) presented ''[n]o information or data regarding the station sampling process.'' *See* IPG PFF at 26–29.

There is some validity to IPG's criticisms. The SDC did not call Ms. Kessler as a witness to explain how she selected her 1999 sample of stations. Further, Mr. Whitt acknowledged that he had not participated in the selection of the Kessler Sample of stations, so he had no knowledge of the method by which those stations were selected. 4/8/14 Tr. at 112 (Whitt). The extent of Mr. Whitt's knowledge in this regard was limited to his recollection that ''the MPAA conducted a detailed study of what stations to select[,] . . . and then I was given a list of those stations[,] and then that's what I used to combine the two files. . . . So, all the Nielsen stations should have represented the complete list of the Kessler stations.'' 4/8/14 Tr. at 113 (Whitt); 9/3/14 Tr. at 444 (Whitt).[37]

Further, the SDC's expert witness, Mr. Sanders, admitted that the Kessler Sample and, derivatively, the HHVH Report and his own report are subject to valid criticism because the Kessler Sample—upon which both reports rely—was created by a non-random selection of stations. 9/3/14 Tr. at 496 (Sanders).[38]

IPG properly takes the SDC to task for relying on only a small portion (72 of 800, or 9%) of distantly retransmitted stations.[39] *See* 9/4/14 Tr. at 626 (Sanders) (confirming that Mr. Whitt's analysis covered 72 stations.)[40] As IPG noted, in 1986 the CRT found that a study of 18.8% of 622 total stations to be not sufficiently large to be ''*perfectly projected* to other stations. . . .'' IPG PFF at 50 (emphasis added) (citing *1983 Cable Royalty Distribution Proceeding,* Docket No. CRT 84–1 83CD, 51 FR 12792, 12794 (April 15, 1986)).[41]

The Judges acknowledge that the Kessler Sample was non-random.[42] That being said, the manner in which the sample was chosen will influence the weight the Judges place on the station sample, and by extension, on the HHVH Report. For example, the presence of a clear bias either in favor of or against a particular participant in the current proceeding would render the report all but useless. Therefore, for the Judges to give any weight to the SDC Methodology, the Judges must analyze the origination of and the purposes for creating the Kessler Sample.

The SDC argues that the Judges can and should rely on the Kessler Sample notwithstanding the aforementioned defects. Mr. Sanders opined that the non-random nature of the Kessler sample, and its uncertain genesis, do not pose a problem because:

- The Kessler Sample ''employs viewing results from the most distantly retransmitted broadcast stations as reported by Form 3 cable systems.''[43]
- Although the Kessler Sample is non-random, it is ''close to a census,'' because ''the most important and relevant *titles* [of] the principal programs of all SDC- and IPG-represented claimants appear in the survey.'' (Emphasis added).[44]
- The Kessler Sample comprises many of the regions identified by Nielsen as ''Designated Market Areas (DMAs),''[45] and the first 10 stations in the Kessler Sample covered approximately 30–40% of the population of the country, thereby covering some of the largest stations.
- There is no evidence ''to suggest that the sample was chosen to benefit or prejudice either party in this proceeding [and] . . . it is neutral on that score.'' Sanders WDT at 2; Ex. SDC–D–002 at 7; 9/4/14 Tr. at 627 (Sanders). Mr. Whitt likewise defended the use of the Kessler Sample, observing that ''it appeared that the stations were national, geographically scattered around the country[, a]nd they included several large stations, but also a few small stations.'' 9/3/14 Tr. at 420 (Whitt).

Under cross-examination, however, Mr. Sanders did acknowledge that many large metropolitan areas were not represented in the Kessler Sample of stations. He noted the ''possibility'' that there was no measurable viewing of the SDC and IPG programs in those areas or that the programs were not retransmitted in those areas. 9/4/14 Tr. at 631–33 (Sanders). Of course, those speculative ''possibilities'' are precisely the sort of concerns that a truly random sample would address objectively. The non-random nature of the Kessler Sample leaves unanswered the question

[37] Although the SDC provided an example of such a Kessler Sample to IPG in discovery (from the Phase I 1999 proceeding), the SDC did not represent that this earlier sample constituted the sample used to select the stations identified in the Nielsen Data. *See* 4/8/14 Tr. at 229 (SDC counsel ''stipulat[ing]'' that ''Ms. Kessler's list from Phase I is not the list of stations that was ordered from Nielsen'').

[38] In the 2000–03 proceeding, Ms. Kessler testified that her sampling was not (and was not intended to be) a random sample. *See* 6/3/13 Tr. at 122–25 (Kessler).

[39] All things being equal, the larger the sample size, the more likely it is that the sample will be representative of the population the sample purports to measure. Although sampling 100% of the population is ideal, it is typically not cost effective or practicable to sample an entire population. The smaller the sample size, however, the greater the margin of error. *See* H. Zeisel, . . . *And Then There Were None: The Diminution of the Federal Jury,* 38 U. Chi. L. Rev. 710, 718 (1971).

[40] IPG also asserts that there is an inconsistency between the number of stations (123) in the Kessler Sample and the number of stations (72) in the sample analyzed by Mr. Whitt. *See IPG Proposed Findings of Fact* at 28. That claimed inconsistency is a red herring, however, because the sample that IPG claims may be the ''Kessler Sample'' was a Phase I sample she had selected—one that the SDC acknowledged was *not* the sample from which Mr. Whitt identified stations with Devotional programming in this Phase II proceeding. *See, e.g.,* 4/8/14 Tr. at 113–15, 229.

[41] Dr. Robinson also pointed out that the Kessler Sample's apparent exclusion of Canadian stations suggests that the sample was unrepresentative. By comparison, Dr. Robinson's own station selection contains only a single Canadian station on which programs claimed in this proceeding were broadcast; that station broadcasted both an IPG program and an SDC program. 9/8/14 Tr. 1092 (Erdem). The Judges find no persuasive evidence in the record that the exclusion of Canadian stations from the HHVH Report materially affects the results as to either side in this case. Therefore, the Judges conclude that the probative value of the HHVH Report is not diminished by the absence of Canadian stations. *Accord Distribution of the 2000–03 Cable Royalty Funds,* 78 FR at 64998 (''The Judges conclude that, while the exclusion of the Canadian stations was an error, it did not have a significant effect on the relative shares computed by MPAA'').

[42] Given this analysis, it is perhaps inaccurate to continue referring to the SDC's sample of stations as the ''Kessler Sample.'' However, because the parties have identified the sample in this manner, for ease of reference the Judges have continued with that short-hand identifier in this Determination.

[43] ''Form 3 cable systems'' are cable systems whose semiannual gross receipts for secondary transmissions total $527,600 or more, and are thus required to file statements of account on Copyright Office form SA3. *See* 37 CFR 201.17(d)(2)(ii).

[44] When questioned by the Judges, Mr. Sanders acknowledged that he would have no basis for also asserting that the ''Kessler Sample'' approximates a ''census'' of all retransmitted stations or of all broadcasts of IPG and SDC programs. 9/4/14 Tr. at 637–39 (Sanders). Moreover, IPG takes the SDC to task for relying on a sample of only 123 stations (about 17.5%) of the approximately 700 stations distantly retransmitted by Form 3 cable systems.

[45] The term ''DMA'' is used by Nielsen to identify an exclusive geographic area of counties in which the home market television stations hold a dominance of total hours viewed. *See www.nielsenmedia.com/glossary/terms/D/* (last visited December 3, 2014).

of why those metropolitan areas were not represented.

Mr. Sanders concluded that, on balance, he could nonetheless give some weight to this non-random selection of stations. 9/3/14 Tr. at 498–500. It is noteworthy that IPG's expert, Dr. Robinson, likewise acknowledged that even a non-random sample can be representative and therefore probative of facts concerning an entire population. 9/3/14 Tr. at 234–35 (Robinson). In fact, Dr. Robinson testified that the results of her own non-random sample were representative of the population she was measuring (subscriber fees paid to CSOs) because, ''as a practical matter . . . in terms of understanding the population that we care about, if we have the majority of the data, then at least we know the truth for the majority of the data. . . .'' 9/2/14 Tr. at 156 (Robinson).

Non-random (a.k.a. ''nonprobability'') sampling, although inferior to random sampling, can be of some limited use. As explained in a treatise on the subject:

> [N]onprobability samples cannot depend upon the rationale of probability theory. At least with a probabilistic sample, you know the odds or probability that you have represented the population well. You can estimate the confidence intervals for the statistic. With nonprobability samples, you may or may not represent the population well . . . . In general, researchers prefer probabilistic or random sampling methods over nonprobabilistic ones, and consider them to be more accurate and rigorous. However, in some circumstances in applied social research *there may be circumstances where it is not feasible, practical or theoretically sensible to do random sampling.*

W. Trochim and J. Donnelly, *Research Methods, The Concise Knowledge Base* at 41 (2005) (emphasis added).

In the present case, ''feasibility'' was certainly a constraint because, as Mr. Sanders explained, it was cost-prohibitive for the SDC to invest additional money into the development of evidence. The costliness of undertaking random sampling can render an analysis unfeasible. As one survey organization has noted, ''costs are important and must be considered in a practical sense'' and therefore a ''broader framework'' is needed to assess the results of nonrandom sampling in terms of ''fitness for purpose.'' *Rep. of the Am. Ass'n of Pub. Opinion Res. Task Force on NonProbability Sampling* at 96 (2013).

To summarize, had the HHVH Report been based on a random sample of stations, it would have been more probative. Nevertheless, the Kessler Sample was not prepared in anticipation of the current proceeding and contained no discernible bias either in favor of or against the programs that are at issue in this proceeding. Cost is a reasonable factor for the parties to consider in preparing evidence for a proceeding and, given the relatively modest amount of royalties involved in the current proceeding, it likely would not have been cost effective for the SDC to conduct an entirely new study based on a random sample of stations, even assuming that one could have been prepared so long after the royalty year at issue. Therefore, the Judges find that the Kessler Sample is sufficiently robust to allow the Judges to afford some weight to the SDC Methodology while remaining mindful of its deficiencies.

(3) Imperfections in the Nielsen Data

Mr. Sanders acknowledged that *the particular Nielsen Data* utilized to prepare the 1999 HHVH Report was not as granular as he would have preferred. Specifically, Mr. Sanders explained that the 1999 HHVH Report was imperfect because it was based upon a ''very, very thin slice'' of the broader broadcasting or programming field. 9/3/14 Tr. at 519. When such an extremely narrow ''slice'' of the market is the subject of the analysis, according to Mr. Sanders, it is preferable to obtain a ''niche'' Nielsen report that focuses on the narrow market that is the subject of the study. 9/3/14 Tr. at 514–15 (Sanders). In this particular case, Mr. Sanders acknowledged therefore that, because ''it is distant signal viewing that is the actual focus of the project, [this] would be an example where *a customized report would be done.*'' 9/3/14 Tr. at 485 (Sanders) (emphasis added).

Furthermore, the SDC did not disclose the margins of error or the levels of confidence associated with the data underlying the HHVH Report. Without this information, the Judges cannot assess the reliability of any statistical sample. The Judges infer that, had the SDC possessed such information, or if such information underscored the reliability of the Nielsen data, the SDC would have produced it. Further, in the 2000–03 proceeding, Paul Lindstrom, one of the two Nielsen witnesses whose prior testimony the SDC designated for consideration in this proceeding, acknowledged that the size of the samples used by Nielsen to measure distant retransmissions are relatively small, and therefore do not measure viewership as accurately as a larger sample. Accordingly, Mr. Lindstrom acknowledged that ''[t]he relative error on any given quarter-hour for any given station . . . would be very high,'' 6/3/13 Tr. at 303 (Lindstrom). Despite these shortcomings, the SDC relied upon Mr. Whitt's HHVH Report, in lieu of investing in a ''niche'' Nielsen report, 9/3/14 Tr. at 514 (Sanders),[46] and without providing information regarding the levels of confidence and margins of error associated with the HHVH Report upon which it has relied.

In an attempt to minimize the impact of the thinness of this slice of data, Mr. Sanders shifted the focus, distinguishing ''fully informed'' market participants from ''all-knowing'' participants. In his opinion, willing sellers and willing buyers in the marketplace for television program copyright licenses would consider themselves ''fully informed'' if they had access merely to the information upon which he relied, even if they lacked the more granular data of a special ''niche'' Nielsen report of distant viewing of the devotional programming at issue. 9/3/14 Tr. 474–75 (Sanders). As Mr. Sanders added, ''fully informed'' in the context of the licensing of television programs

> simply means having adequate knowledge of the relevant facts and circumstances to the issue or the proposed transaction at hand. . . . I don't think in any engagement I've ever been involved in . . . we have had all the information we would like to have. Typically, a valuation exercise is endeavoring to reach a conclusion based upon the information that is available.

9/3/14 Tr. 474–75 (Sanders).

Additionally, in economic terms, Mr. Sanders's testimony is consistent with the concept of ''bounded rationality.'' Willing buyers and willing sellers in any market[47] are unlikely to have complete information regarding all of the variables that could contribute to the setting of a market price. It would be humanly impossible to calculate all the relevant economic variables, and it would be economically inefficient to expend the time sufficient to make such calculations even if they were possible. Thus, economists recognize that willing buyers and willing sellers are *bounded* by the ''external constraint[ ] . . . [of] the cost of searching for information in

[46] Mr. Sanders had informed the SDC that any attempt to obtain superior data would have been cost-prohibitive, *i.e.,* subjecting the SDC to ''hundreds of thousands of dollars of additional costs,'' for an amount at stake of ''somewhere north of a million dollars,'' and that the SDC agreed not to invest additional sums to acquire more data. 9/3/14 Tr. at 469–72 (Sanders). He also speculated that it might have been impossible to acquire better data, but the anticipated expense apparently foreclosed any attempts to learn if superior data could be acquired or developed. *Id.* In any event, Mr. Sanders conceded on cross-examination that he never attempted to contact anyone at MPAA (or apparently anyone else) to determine if better data could be acquired. 9/3/14 Tr. at 591–92 (Sanders).

[47] The Judges note that the economic experts for willing buyers and willing sellers likewise are subject to inevitable constraints.

the world . . . [and they] attempt to make optimal choices given the demands of the world leading to the notion of optimization under constraints.'' G. Gigerenzer, *Is the Mind Irrational or Ecologically Rational?* in F. Parisi & V. Smith, *The Law and Economics of Irrational Behavior* at 38 (2005). Thus, ''[t]he focus on the constraints in the world has allowed economists to equate bounded rationality with optimization under constraints.'' *Id.* at 40.

Finally, IPG leveled a broad criticism of the SDC Methodology, asserting that it is ''the product of several degrees of projection.'' Robinson AWDT at 7 n.10. That is, the SDC derived its royalty distribution by analyzing the viewership of a few sampled individual airings projected over the population of a Nielsen Designated Market Area during ''sweeps'' weeks, and then projected over the entire year, for only a relatively small (nonrandom) set of stations projected to represent all retransmitted stations. *Id.* The Judges recognize the validity of this criticism. However, the nature of viewership-type estimates is to engage in such sampling and extrapolation. Thus, the SDC Methodology may be compromised, but it is not subject to outright disqualification.

(4) The Incidence of Zero Viewing

IPG criticizes the SDC Methodology because it is based on what IPG characterizes as a ''disproportionately large number of '0' entries'' [*i.e.,* zero viewing sampling points] in the Nielsen data for distant viewing.'' IPG PFF at 38. More particularly, IPG notes that the Nielsen Data include a recorded ''0'' for 72% of all quarter-hours of broadcasts measured by the 1999 Nielsen Data, and recorded a ''0'' for 91.2% of all quarter-hours of devotional broadcasts. *Id.*

Zero viewing sampling points represent the quarter-hour sampling points at which no sample households recorded that they were viewing that station. *See 2000–03 Determination,* 78 FR at 64995. IPG criticized the incidence of zero viewing sampling points in the 2000–03 proceeding, and the Judges addressed the issue in their Determination in that proceeding.

> [T]he Judges agree with Mr. Lindstrom that these ''zero viewing'' sampling points can be considered important elements of information, rather than defects in the process. As Mr. Lindstrom testified, when doing sampling of counts within a population, it is not unusual for a large number of zeros to be recorded, 6/4/13 Tr. at 391–93, 410 (Lindstrom), and those ''zero viewing'' sample points must be aggregated with the non-zero viewing points. 6/3/13 Tr. at 323 (Lindstrom).
>
> . . . .
>
> [A]s Mr. Lindstrom testified, distantly retransmitted stations typically have very small levels of viewership in a television market fragmented (even in the 2000–2003 period) among a plethora of available stations. 6/4/13 Tr. at 393 (Lindstrom). Thus, it would be expected, not anomalous, for Nielsen to record some zero viewing for any given quarter-hour period within the diary sampling (sweeps) period.
>
> *Id.*[48]

In the present proceeding, Mr. Sanders offered the following practical reasons why zero viewing would be recorded for these retransmitted programs: (1) There is much less viewing of out-of-market signals, (2) the lion's share of viewing in any market is going to be viewing of the local stations, (3) stations within a market tend to have a long legacy and a history in the market, (4) stations within a market have preferred dial positions, and (5) local television stations devote incredible resources to promoting themselves. 9/4/14 Tr. at 681–83 (Sanders). This testimony was not rebutted by any IPG witness.

Despite these seemingly reasonable and credible explanations of ''zero viewing'' sampling points, the probative force of these ''zero viewing'' data points, as a general matter, is not without doubt. As the Judges also noted in the *2000–03 Determination* regarding Nielsen sampling:

> The sample size is not sufficient to estimate low levels of viewership as accurately as a larger sample. Mr. Lindstrom acknowledged that ''[t]he relative error on any given quarter-hour for any given station . . . would be very high,'' 6/3/13 Tr. at 303 (Lindstrom).
>
> Furthermore, Mr. Lindstrom acknowledged that he had not produced the margins of error or the levels of confidence associated with the Nielsen viewership data, despite the fact that such information could be produced. 6/3/13 Tr. at 391–93, 410 (Lindstrom). Without this information, the reliability of any statistical sample cannot be assessed. (The Judges infer that, had such information underscored the reliability of the Nielsen data, it would have been produced by MPAA.)

78 FR at 64995. The Judges note that the evidence in the present proceeding does not resolve these issues regarding sample size, margins of error and levels of confidence.

Nonetheless, the Judges concluded in the *2000–03 Determination* that ''viewership as measured after the airing of the retransmitted programs is a reasonable, though imperfect proxy for the viewership-based value of those programs.'' *Id.* at 64995. IPG has not provided record evidence or testimony in this proceeding that would persuade the Judges to depart from the conclusion reached in the *2000–03 Determination.* In light of the reasonable and credible explanations offered by the SDC for the ''zero viewing'' sampling points, and the absence of any persuasive evidence or testimony to the contrary, the Judges again find and conclude that the incidence of such zero viewing points does not invalidate a viewership-based valuation study such as utilized in the SDC Methodology.

IPG did introduce in this proceeding evidence that it did not introduce in the 2000–03 proceeding regarding the incidence of ''zero viewing'' sample points *for individual programs* (rather than for the aggregate of quarter-hours). *Compare 2000–03 Determination,* 78 FR at 64995 (finding that IPG had failed to introduce evidence that the Nielsen data revealed *particular programs* with ''zero viewing'') *with* Ex. IPG–R–011 (analyzing zero viewing by title). As the Judges noted in the *2000–03 Determination,* the distinction between ''zero viewing'' overall and ''zero viewing'' for individual programs or titles is important because ''under the hypothetical market construct, royalties would accrue on a program-by-program basis to individual copyright owners, not to the distantly retransmitted stations.'' *2000–03 Determination,* 78 FR at 64995. However, an analysis of the evidence upon which IPG relied does not support its assertion that ''zero viewing'' for individual programs was particularly pervasive among the SDC or IPG programs, or that the incidences of ''zero-viewing'' that did occur were disproportionately harmful to IPG.

First, the incidence of ''zero viewing'' for individual, retransmitted SDC and IPG programs was no more than 15.8%, according to IPG's own economics expert witness, Dr. Robinson. *See* Ex. IPG–R–011. This 15.8% figure represented only three of the 19 programs believed at issue in this proceeding or, alternatively stated, 16 of the 19 programs (84.2%) did not have ''zero viewing'' throughout the sample.[49]

Second, of the three programs with ''zero viewing'' throughout the sample, two were SDC programs (''700 Club Super Sunday'' and ''James Kennedy''), whereas only one of the three programs

[48] The SDC designated Mr. Lindstrom's testimony in the 2000–03 cable distribution proceeding for consideration in this present proceeding.

[49] Before submitting her final recommendation, Dr. Robinson amended her program count to conform to the Judges' rulings and to capture data that she (apparently inadvertently) omitted in her first analysis. *See* notes 6, 7, *supra,* and accompanying text; note 57, *infra,* and accompanying text.

(''Creflo A. Dollar Jr. Weekly'') was an IPG program. *See* Ex. IPG–R–013. Further, the IPG program was retransmitted only three times and represented less than one-tenth of one percent (.097%) of both the total quarter-hours and the number of retransmitted broadcasts of IPG programs at issue in this proceeding. *Id.* Similarly, the two SDC retransmitted programs with ''zero viewing'' throughout the sample represented a *de minimis* percent of the SDC's total devotional programming at issue in this proceeding (for ''700 Club Super Sunday,'' four retransmitted broadcasts, representing less than .25% of the total SDC quarter-hours and programs retransmitted and, for ''James Kennedy,'' approximately 1% of total SDC quarter-hours and programs retransmitted). *Id.* Moreover, the copyrights for all three of the above-identified programs with supposed zero viewing throughout the sample were owned by respective claimants who also owned the copyrights for programs with virtually identical or similar names, *viz.,* ''Creflo A. Dollar,'' ''700 Club,'' and ''James Kennedy'', none of which had zero viewing sample points for all retransmitted broadcasts of their programs. *Id.* Based on these facts, Dr. Robinson acknowledged at the hearing, that, in her view, she ''would not say that for the IPG and the SDC titles that we have *any* that we have 100 percent zero viewing.'' 9/4/14 Tr. at 827–28 (Robinson) (emphasis added).[50]

For all of the foregoing reasons, the Judges find and conclude that there was not persuasive or sufficient evidence of ''zero viewing'' for individual SDC and IPG programs to invalidate any reliance on the SDC Methodology.[51]

3. Viewership as an *Ex Ante* or *Ex Post* Measure of Value

IPG asserts that viewership and ratings cannot form a measure of relative market value because the extent of viewership and the ratings measuring viewership are not available until *after* the programs have been retransmitted. Thus, IPG argues, the hypothetical willing buyer and willing seller could not utilize this viewership data *ex ante* to negotiate a license. Galaz AWDT at 9; Ex. IPG–D–001 at 9.

Although IPG's premise is literally correct, it does not preclude the use of such viewership data to estimate the value of the hypothetical licenses. As Mr. Sanders testified, this problem can be overcome—and indeed is overcome in the industry—by the use of a ''make good'' provision in the contracts between program copyright owners and licensees. That is, program copyright licenses in the television industry are established based upon an *ex ante* prediction of viewership as measured by ratings. If the *ex post* ratings reveal that the program's measured viewership was less than predicted and set forth in the license agreement, the licensor must provide compensatory value to the licensee. 9/4/14 Tr. at 685–95 (Sanders).[52] In this manner, such a rational measure of viewership can also be expressly incorporated into the bargain in the hypothetical market constructed by the Judges.[53]

The Judges also agree with Mr. Sanders that the programs within the Devotional Claimants category on the surface appear to be more homogeneous *inter se* than they are in comparison with programs in either the Sports Programming or the Program Suppliers' claimant categories. Sanders WDT at 6. This relative homogeneity suggests that a rational CSO would not be as concerned with whether different programs would attract different audience segments (compared with more heterogeneous programming) and therefore the CSO would rely to a greater extent on absolute viewership levels.

For these reasons, the record testimony supports the conclusion that viewership data is a useful metric in determining relative market value, in the absence of optimal data that would permit a precise or an estimated Shapley value.[54] Accordingly, the Judges reject IPG's argument that household viewing cannot constitute a measure of value in this proceeding.

IPG notes, though, that even assuming *arguendo* the SDC's viewership analysis is probative of value, the SDC's own ''reasonableness'' check demonstrates a significant disparity between the results derived from the HHVH Report (81.5%:18.5% in favor of the SDC) and the results from the ''reasonableness'' check of local viewing for the SDC and IPG programs at issue in this proceeding (71.3%:28.7% in favor of the SDC). The Judges agree with IPG that this is an important disparity, suggesting that IPG may well be entitled to a larger distribution than indicated by the SDC's HHVH Report. Because of the importance of this point, the Judges discuss its significance in their analysis set forth in Part VI, *infra,* synthesizing and reconciling the parties' positions.

B. The IPG Methodology

1. The Details of the IPG Methodology

IPG proffered its distribution methodology (the IPG Methodology) through its expert witness, Dr. Laura Robinson, whom the Judges qualified to testify as an expert in economics, data analysis, and valuation. 9/2/14 Tr. at 87 (Robinson).[55] Through her application

[50] IPG attempts to deflect attention from the paucity of the relevant evidence regarding the programs at issue in this proceeding by noting a higher incidence of ''zero viewing'' for programs in other categories, such as *Alfred Hitchcock Presents* and *Today's Homeowner.* Ex. IPG–R–012; IPG PFF at 44. However, data sample points in other categories of programming are not relevant because they do not address the issues relating to the Devotional category and, further, there is no evidence to place such data in an appropriate context.

[51] IPG notes that the SDC could have improved its analysis to attempt to attribute value to the distant ''zero viewing'' data points, as performed by experts in prior proceedings. Although such improvements might have permitted the Judges to give more weight to the HHVH Report, the absence of such improvements did not invalidate the HHVH Report.

[52] Dr. Robinson was unfamiliar with the industry's use of a ''make good'' provision as a tool to account for viewership levels. 9/3/14 Tr. at 270 (Robinson).

[53] The Judges anticipated the existence of such ''post-viewing adjustments'' in their 2013 determination. *See 2000–03 Determination, supra,* at 64995, n.48 (''Since it is a *hypothetical* market we are constructing, it also would not be unreasonable to hypothesize that the CSO and the Copyright Owner might negotiate a license that would contain a provision adjusting the value of the license, post-viewing, to reflect actual viewership. . . . In that regard, the Judges refer to one of the preconditions for relative market value—reasonable knowledge of relevant facts. Actual viewership would be a 'relevant fact' that could be applied if post-viewing adjustments to the license fees were hypothetically utilized by the bargaining parties.'').

[54] Interestingly, Dr. Erdem explained that, as between two programs with overlapping viewership, the program with higher viewership would have *a greater proportionate Shapley value* than the less viewed program; the difference would be even greater than the difference between the two programs based strictly on relative viewership. 9/8/14 Tr. at 1082–83 (Erdem). Given the relative homogeneity of devotional programming (compared to the apparent relative heterogeneity between and among other Phase II category programs), viewership overlaps between and among the SDC and IPG programs are likely. Therefore, because the SDC programs had higher overall ratings than IPG programs and because the SDC Methodology is based solely on ratings, the SDC's percentage distribution (if accurately measured) could in fact *understate* the SDC percentage and *overstate* the IPG percentage, compared to percentages based on potential Shapley values. *See supra* note 36, and accompanying text.

[55] IPG initially asked the Judges to qualify Dr. Robinson as a testifying expert ''regarding the value of the programming issue in this matter for IPG and for the SDC,'' or, as alternatively stated by IPG's counsel, as an expert ''valuing the relative value of these programs to these royalties.'' 9/2/14 Tr. at 73–74, 80. However, SDC's counsel objected, and the Judges then qualified Dr. Robinson as an expert in the areas of knowledge listed in the text, *supra.* IPG's counsel did not renew his request that Dr. Robinson be qualified as an expert in the areas set forth in this footnote. Even if Dr. Robinson had been qualified as an expert in the areas originally identified by IPG, that would not have made any difference in the Judges' findings and conclusions in this determination.

of the IPG Methodology, Dr. Robinson set forth her opinion of the relative market value of the retransmitted broadcasts of the compensable copyrighted program titles represented by IPG and the SDC and estimated the share attributable to both parties. Robinson AWDT at 14, 25; Ex. IPG–D–001 at 14, 25.

Consistent with the conclusions of the Judges in this and other determinations, Dr. Robinson identified the ''willing sellers'' in the hypothetical market to be the owners of the copyrights to the programs subject to retransmission and the ''willing buyers'' to be the CSOs that would acquire the license to retransmit the program. 9/2/14 Tr. at 92 (Robinson). However, Dr. Robinson defined the hypothetical marketplace in a manner different from that of the Judges in this proceeding and in the *2000–03 Determination.* Dr. Robinson defined the hypothetical marketplace as equivalent to the actual marketplace in which the CSO is required to acquire the retransmitted programs in the same bundle as created by the station that the CSO retransmits. *See, e.g.,* 9/4/14 Tr. at 782 (Robinson) (''[I]t is certainly the case that when a cable system operator is actually making the decision about whether or not to retransmit a broadcast, that comes within their decision whether or not to retransmit the station, which is a little bit at odds with this whole notion of a hypothetical negotiation over an individual broadcast. . . . They don't have the choice to broadcast a particular program.'').[56]

Dr. Robinson identified the following ''obtainable data'' that she claimed to comprise ''various indicia of value of the retransmitted broadcasts'':

- The length of the retransmitted broadcasts.
- The time of day of the retransmitted broadcasts.
- The fees paid by CSOs to retransmit the stations carrying the broadcasts.
- The number of persons distantly subscribing to the station broadcasting the IPG-claimed program.

Robinson AWDT at 17; Ex. IPG–D–001 at 17.

Dr. Robinson relied upon four sets of data. First, she utilized data from the Cable Data Corporation (CDC). This data included information on more than 2,700 cable systems regarding:

- The stations transmitted by each CSO.
- The distant retransmission fees paid by each CSO.
- The number of distant subscribers to each CSO.

For each *station* distantly retransmitted by these CSOs, the CDC data also included:

- The number of CSOs retransmitting each station.
- The number of distant subscribers to the CSOs retransmitting the station.
- The *average* number of distant subscribers to the CSOs retransmitting the station.
- The distant retransmission fees paid by the CSOs to retransmit each station.
- The *average* distant retransmission fees paid by the CSOs to retransmit each station.

Id. at 21.

Second, Dr. Robinson relied on TMS Data (the same source as that relied upon by the SDC). The TMS data provided the following information for the IPG and the SDC programs represented in this proceeding:

- The date and time each broadcast was aired.
- The station call sign.
- The program length in minutes.
- The program type (*e.g.,* Devotional).
- The program title.

Id. at 21–22.

Third, Dr. Robinson relied upon the following information from Nielsen:

- Data reporting *1997* viewing, segregable according to time period of the measured broadcast.
- Reports reflecting the long-run stability of day-part (time period) viewing patterns.

Id. at 22.

Applying this data, Dr. Robinson made several computations and observations, as summarized in Tables 1 and 2 below:

TABLE 1—DATA ON IPG AND NON-IPG CLAIMED TITLES 1999

	IPG	SDC
Number of distantly retransmitted broadcasts of claimed titles	12,017	6,558
Number of hours of distantly retransmitted broadcasts of claimed titles	6,010	5,856
Number of quarter-hours of distantly retransmitted broadcasts of claimed titles	24,040	23,423

TABLE 2—RELATIVE MARKET VALUE

	IPG (percent)	SDC (percent)
Hours of claimed distantly retransmitted broadcasts	51	49
Time of day of distantly retransmitted broadcasts	46	54
Fees Paid by CSOs distantly retransmitting devotional broadcasts	>50	<50
Number of distant subscribers to CSOs distantly retransmitting devotional broadcasts	51	49

Id. at 26–27.

Dr. Robinson stressed repeatedly that the Judges should not consider the above measures of value individually. Rather, she testified that the Judges should consider the several approaches as a whole, with any weakness in one approach offset by the other approaches that do not suffer from that weakness. *See, e.g.,* 9/3/14 Tr. at 243, 326, 329, 403 (Robinson); 9/4/14 Tr. at 775 (Robinson). Dr. Robinson also testified that this approach was an important method of analysis because her multiple valuation methods all tended toward a similar result—approximately a 50:50 distribution—despite any weaknesses or limitations in any one method. *See* 9/2/14 Tr. at 90 (Robinson) (''In summary, I looked at four different measures of value, of the relative value. And the IPG versus SDC are roughly equal.''); 9/3/14 Tr. at 245 (Robinson) (''since everything came out roughly equal, all the indicators pointed to a roughly 50/50 split.''). Based upon these calculated percentages, Dr. Robinson concluded

[56] In the hypothetical marketplace the terrestrial stations' *initial bundling* of programs does not affect the marginal profit-maximizing decisions of the hypothetical buyers and sellers.

that the proper allocation of royalties should be in a range from 54%:46% favoring the SDC to 51%:49% favoring IPG. *Id.* at 25.

With regard to the particular factors Dr. Robinson applied, she noted that her first measurement—of total broadcast time—was essentially identical for both the IPG and the SDC programs when measured by quarter-hour segments. 9/2/14 Tr. at 90–91 (Robinson). Second, with regard to her ''time of day'' analysis, Dr. Robinson testified that ''certain times of days are associated with different amounts of viewership [a]nd everything else equal, it would be reasonable to think that higher viewership might be associated with a higher value.'' 9/2/14 Tr. at 93 (Robinson). Dr. Robinson concluded that this time-of-day measurement, like the first measurement (total broadcast time) revealed a ''roughly similar'' value measurement for the IPG programs and the SDC programs. 9/2/14 Tr. at 94 (Robinson).

With regard to the third factor—the fees paid by the CSOs to distantly retransmit the broadcasts—Dr. Robinson found that ''on average, IPG broadcast quarter hours are shown on stations that are retransmitted by CSOs who pay relatively more in distant retransmission fees than do the CSOs who retransmit the stations with the SDC broadcasts.'' Ex. IPG–D–001 at 31. From this metric, Dr. Robinson concluded ''the IPG broadcasts have more value than the [SDC] broadcasts.'' *Id.* at 32.

Finally, with regard to her fourth factor—the number of subscribers to the cable systems—Dr. Robinson found that when considering the average number of subscribers to the cable systems on which the IPG and the SDC programs are retransmitted, ''the IPG distantly retransmitted broadcasts are retransmitted by CSOs on stations with approximately 6% more distant subscribers than [the SDC] distantly retransmitted broadcasts.'' *Id.* at 33. Based upon this final metric, Dr. Robinson opined: ''To the extent the value of the broadcast relates to the number of distant subscribers to the CSOs retransmitting the station, this metric indicates that IPG-distantly-retransmitted broadcasts have more value than [the SDC]-distantly-retransmitted broadcasts.'' *Id.* at 34.

Dr. Robinson corrected her analyses before and during the hearing to reflect changes in the program titles that she could allocate to IPG and to the SDC. First, she *removed* from her analyses the several IPG programs that the Judges had concluded at the preliminary claims hearing were not properly subject to representation by IPG. 9/2/14 Tr. at 146 (Robinson). Second, Dr. Robinson *added* several program titles that were properly subject to representation by the SDC but had not been included in her original analyses. 9/2/14 Tr. 181–84 (Robinson). *See also* 9/8/14 Tr. at 1016 (Robinson) (confirming that she made these program inclusions and exclusions in her amended analysis). With these adjustments, Dr. Robinson modified her conclusions as set forth on Table 3 below:

TABLE 3

	IPG (percent)	Non-IPG (percent)	Total (percent)
Hours of claimed distantly retransmitted broadcasts	48	52	100
Time of day of distantly retransmitted broadcasts	46	54	100
Fees paid by CSOs distantly retransmitting devotional broadcasts	41	59	100
Number of distant subscribers to CSOs distantly retransmitting devotional broadcasts	52	48	100

Ex. IPG–D–013.

Dr. Robinson acknowledged that the data available to her was incomplete, in that she did not have information regarding all of the fees, cable systems and stations that retransmitted the programs of IPG and the SDC. Moreover, she acknowledged that the sample of CSOs and, derivatively, the sample of stations retransmitted by those CSOs, were not random samples. Accordingly, Dr. Robinson undertook what she described as a ''sensitivity analysis'' to adjust for the missing data. Robinson AWDT at 34–36; Ex. IPG–D–001 at 34–36.

Specifically, Dr. Robinson noted that she did not have data regarding 29% of the total fees paid by all the CSOs that distantly retransmit stations. Rather, she had information from CSOs who in the aggregate had paid only 71% of the total fees paid in 1999 to distantly retransmit stations. Dr. Robinson acknowledged that she also lacked full information or a random sampling of CSOs and of stations (in addition to her lack of full information or a random sampling of the fees paid by CSOs to distantly retransmit stations). However, Dr. Robinson did not attempt to adjust her original results to compensate for the missing information or the fact that the data set was not random.

Accordingly, in her ''sensitivity analysis,'' Dr. Robinson adjusted all of her metrics by assuming that she was missing 29% of the data in all of her valuation data categories (even though only one of her metrics was calculated based on fees). By this ''sensitivity analysis,'' Dr. Robinson first calculated how her allocations would change if all of the assumed missing 29% of fees paid by CSOs to distantly retransmit stations were allocated (in each of the categories in Table 3) to IPG and, conversely, how her allocations would change if all of the assumed missing 29% of such fees instead was allocated (in each of the categories in Table 3) to the SDC. *Id.* Dr. Robinson initially applied this sensitivity analysis to her original allocations and, subsequently (at the request of the Judges), applied this sensitivity analysis to her adjusted analyses that took into account the (1) removal of certain IPG programs that had been eliminated by the Judges in the preliminary hearing and (2) addition of certain SDC programs that Dr. Robinson had overlooked in her initial report. Ex. IPG–R–16 (revised). The application of this ''sensitivity analysis'' to Dr. Robinson's adjusted analyses [57] resulted in the proposed allocations set forth on Table 4 below:

[57] Because Dr. Robinson's adjusted analyses supersede her original analyses (they admittedly included IPG programs that should have been excluded and omitted SDC programs that should have been included), the Judges choose not to clutter this determination with the details of those now irrelevant calculations.

TABLE 4

	IPG high (percent)	IPG low (percent)	Non-IPG high (percent)	Non-IPG low (percent)
Hours of claimed distantly retransmitted broadcasts	63	34	66	37
Time of day of distantly retransmitted broadcasts	62	33	67	38
Fees paid by CSOs distantly retransmitting devotional broadcasts	58	29	71	42
Number of distant subscribers to CSOs distantly retransmitting devotional broadcasts	66	37	63	34

Ex. IPG–D–014.

2. Evaluation of the IPG Methodology

The SDC have raised the following specific criticisms of the IPG Methodology. First, the SDC critiqued each of the four purported measures of value presented by Dr. Robinson. *See* SDC PFF at ¶¶ 10–13 (regarding volume); ¶¶ 14–17 (regarding time of day); ¶¶ 18–24 (regarding fee generation); and ¶¶ 26–27 (regarding subscribership). Second, the SDC noted that the sensitivity analysis undertaken by Dr. Robinson revealed that SDC programming had an eighteen percentage point higher value than IPG programming. SDC PFF at ¶ 25. Before undertaking an analysis of the *specific* elements of the IPG Methodology or the SDC's critiques thereof, it is important to consider several important overarching defects in the approach undertaken by IPG.

a. General Deficiencies in the IPG Methodology

It bears repeating that a fundamental problem with the IPG Methodology is that it is based on a decision by Dr. Robinson to presume the existence of the compulsion arising from the pre-bundled status of the retransmitted programs as it existed in the actual compulsory-license market, rather than the compulsion-free hypothetical fair market consistently applied by the Judges. *See, e.g.,* Tr. 9/4/14 at 781–82 (Robinson) (quoted *supra*); s*ee* also 9/2/14 Tr. at 175–76 (Robinson) (acknowledging that the IPG Methodology does not address the relationship between value and bundling).

A second problem with the IPG Methodology is that, although it ostensibly is *intended* to eschew viewership as a primary measure of program value, IPG's Methodology implicitly uses indicia of viewership to measure program value. In particular, IPG's Methodology considers and values programs based on their indirect contribution to viewership: The duration of a program serves as an indicium of value (a program of relatively longer duration would be more valuable because of its *viewership* over a longer period), as does the time of day a program is aired (there are *more viewers* at some times of day than others), and the number of subscribers (*potential viewers*) to CSOs retransmitting the program. Simply put, IPG's Methodology is not true to its own critique of valuing programs based on viewership. Thus, the IPG Methodology fails to address either the initial necessity of considering absolute viewership or the subsequent necessity of undertaking a Shapley type of measurement or estimation in order to create a ''bundle'' of programs.

The Judges also find that Dr. Robinson did not truly undertake her own independent inquiry and develop her own methodology, because she worked solely with the data IPG, through Mr. Galaz, provided her. *See* 9/2/14 Tr. at 110–11 (Robinson); IPG PFF at 11. The type of data that Mr. Galaz supplied to Dr. Robinson was the same type he utilized in the 2000–03 proceeding, when he presented his own methodology on behalf of IPG. Mr. Galaz's response to a question from the Judges confirmed this point:

> Q. [I]n constructing the methodology that you relied on in the 2000–2003 proceeding, you used certain data from the CDC, from Tribune, or whatever it was called at the time, and so forth. Is that—were those types of data essentially the same as the types of data that were provided to Dr. Robinson for purposes of this proceeding?
>
> Mr. Galaz: I would say it was essentially the same.

9/8/14 Tr. at 997 (Galaz).

It is not surprising, therefore, that Dr. Robinson conditioned her analysis and conclusions by noting that she was only able to express an opinion as to relative market value ''given the data that are available in this matter.'' Ex. IPG–D–001 at 20. In fact, Dr. Robinson premised her analysis on the fact that it was based upon the limited data available to her. *See, e.g.,* 9/2/14 Tr. at 111 (Robinson) (''I looked at the data, looked at what I could do with them, and this is what I could do.'').

Indeed, Mr. Galaz's methodology in the 2000–03 proceeding and Dr. Robinsons' methodology in the present proceeding overlap. *Compare 2000–03 Determination,* 78 FR at 64998 (''The weight that IPG accorded to any given compensable broadcast was the product of (*x*) a 'Station Weight Factor' [based on subscriber or fee levels], (*y*) a 'Time Period Weight Factor,' and (*z*) the duration of the broadcast . . . .) *with* Robinson AWDT at 28; Ex. IPG–D–001 at 28 (''[T]he indicia of the economic value of the retransmitted broadcasts . . . are: The length of the retransmitted broadcasts, the time of day of the retransmitted broadcast, the fees paid by cable system operators to retransmit the stations carrying the devotional broadcasts, and the number of persons distantly subscribing [to] the stations broadcasting the devotional programs.'').

Dr. Robinson clearly was straitjacketed in attempting to devise an appropriate methodology by the limited data she received from Mr. Galaz. In this regard, it is important to note that Mr. Galaz is not an economist, statistician, econometrician or an expert in the field of valuation of television programs or other media assets, and that he therefore had no particular expertise that would permit him to select or approve the use of appropriate data, especially when that selection dictated the construction of a methodology to establish ''relative market value'' in a distribution proceeding.[58] The Judges therefore

[58] *See 2000–03 Determination,* 78 FR at 65000. By contrast, the SDC's expert witness, Mr. Sanders, *was* qualified as ''an expert in the valuation of media assets, including television programs.'' 9/3/14 Tr. at 463–64, and, in that capacity, he testified that the broadcast industry relied on Nielsen viewing data as the ''best and most comprehensive'' basis for valuing programs, 9/3/14 Tr. at 480–81 (Sanders). Thus, Mr. Sanders was qualified to testify as to the actual commercial use of a viewership-based valuation methodology. Mr. Galaz, on the other hand, was not qualified to testify as to the appropriateness of the data he selected for use in the IPG Methodology and, it should be noted, neither he nor Dr. Robinson testified that the factors relied upon in the IPG Methodology had ever been relied upon commercially. *See* Tr. 9/3/14 at 348–49 (Robinson).

Not only did Mr. Galaz lack the expertise to approve or select the type of data necessary to construct a persuasive methodology, his credibility has been seriously compromised by his prior fraud and criminal conviction arising from his misrepresentations in prior distribution proceedings. *See* 78 FR at 6500 (''Mr. Galaz was

conclude that the overall IPG Methodology carries no more weight than IPG's methodology did in the 2000–03 proceeding. *See 2000–03 Determination,* 78 FR at 65002 (while IPG Methodology ''cannot be applied to establish the basis for an allocation'' it can be used to adjust ''marginally'' an allocation derived from other evidence).

Finally, IPG contends that the purpose of the IPG Methodology is to compensate every claimant, even if there is no evidence of viewership of the claimant's program. *See* Galaz AWDT at 8; Ex. IPG–D–001 at 8. The Judges find no basis for that purpose to guide the methodology. Even if viewership as a metric for determining royalties theoretically would be subject to adjustment to establish or estimate a Shapley valuation, there is certainly no basis to allow for compensation of a program in the absence of *any* evidence of viewership.

b. Specific Deficiencies in the IPG Methodology

In addition to the foregoing overarching criticisms of the IPG Methodology, the Judges note the following more particular deficiencies in that methodology.

As a preliminary matter, Dr. Robinson acknowledged that IPG's sample of stations had not been selected in a statistically random manner. 9/2/14 Tr. at 155 (Robinson). Thus, the sample upon which Dr. Robinson relied suffered from the same infirmity as the Kessler Sample relied upon in part by the SDC. Moreover, each prong of the IPG Methodology raised its own concerns.

(1) Broadcast Hours

Dr. Robinson acknowledged that the number of hours of broadcasts is not actually a measure of value; rather it is a measure of volume. 9/3/14 Tr. at 243–51 (Robinson). ''Volume'' fails to capture the key measure of whether anyone is actually viewing the retransmitted program. *See* 9/3/14 Tr. at 247 (Robinson); SDC PFF ¶ 12. Further, ''volume'' *i.e.,* number of hours of air time, does not even reflect how many subscribers have access to the programs. 9/8/14 Tr. at1085–86 (Erdem).

(2) Time of Day of Retransmitted Broadcasts

IPG's second measure of value compares the time of day viewership of IPG and SDC programs. Using 1997 Nielsen sweeps data produced by the MPAA in a previous proceeding, Dr. Robinson estimates the average number of total television viewers for each quarter-hour when IPG or SDC programs were broadcast according to the Tribune Data analyzed by Dr. Robinson. 9/3/14 Tr. at 254–55 (Robinson).

Dr. Robinson's time-of-day measure does not measure the value of the individual programs that are retransmitted. The proper measure of value for such individual programs, when considering ratings, would hold the time of day constant, and then consider relative ratings within the fixed time periods. To do otherwise—as Dr. Robinson acknowledged—absurdly would be to give equal value to the Super Bowl and any program broadcast at the same time. 9/3/14 Tr. at 264 (Robinson).

Further, Dr. Robinson's analysis does not show, as she asserted, that the SDC and IPG programs are broadcast at times of day that have approximately equal viewership. Rather, her time-of-day analysis pointed to a 54%:46% distribution in favor of the SDC.[59]

Finally, IPG utilized 1997 data to estimate the level of viewing throughout the broadcast day, rather than data that was contemporaneous with the 1999 royalty distribution period at issue in this proceeding. 9/3/14 Tr. at 229, 255 (Robinson).[60]

(3) Fees Paid

Dr. Robinson's third metric is derived from an analysis of fees paid by CSOs per broadcast station. That is, several CSOs might pay royalty fees to retransmit the same over-the-air station. Dr. Robinson testified that stations generating relatively greater fees could be presumed to have higher value programs in their respective station bundles. 9/3/14 Tr. at 406–07 (Robinson). To measure this factor, Dr. Robinson combined CDC data on royalty fees the CSOs paid (on a per-station basis) and TMS data on broadcast hours by station in order to compare the fees paid for retransmission of stations carrying SDC and IPG programs. 9/3/14 Tr. at 229, 271 (Robinson).

In Phase I of this proceeding, the Librarian adopted the use of a fees-paid metric for value, where that measure appeared to be the best alternative valuation approach. *See Distribution of 1998 and 1999 Cable Royalty Funds,* 69 FR 3606, 3609 (January 24, 2004). The use of a fee-based attempt at valuation is particularly problematic, however, for a niche area such as devotional programming, which constitutes only a small fraction of total station broadcasting. *See* 9/8/14 Tr. at 1087–88 (Erdem). Because of the tenuous nature of this approach to valuation, a royalty allocation based on a fees-paid metric might serve as, at best, a ''ceiling'' on a distribution in favor of the party proposing that approach. *See Distribution of the 2004 and 2005 Cable Royalty Funds,* 75 FR 57063, 57073 (September 17, 2010). That being said, when Dr. Robinson adjusted her fees-paid based valuation by applying her sensitivity analysis, she calculated a value ratio of *71%:29% in favor of the SDC.* As the SDC noted, this appears to be ''a fact that Dr. Robinson had tried hard to obscure.'' SDC PFF ¶ 25.

(4) Subscribership Levels

Dr. Robinson's final metric measures the average number of distant subscribers per cable system retransmitting IPG programming versus SDC programming. 9/3/14 Tr. at 311–12 (Robinson). This metric measures average subscribers *per cable system,* without taking into account the number of cable systems retransmitting a station. Therefore, this metric is of no assistance in measuring the total number of distant subscribers even *receiving* a program, let alone the number of distant subscribers who watch the program.

As Dr. Erdem demonstrated—and as Dr. Robinson admitted—this subscribership metric can actually *increase* when a program is *eliminated,* if the program had been retransmitted by a cable system with lower than average numbers of subscribers. Erdem WRT at 8–9 (Redacted); Ex. SDC–R–001 at 8–9 (Redacted); 9/3/14 Tr. at 331–45 (Robinson). Indeed, this metric actually *increased in favor of IPG* after the dismissal of two of IPG's claimants—Feed the Children and Adventist Media Center. Ex. SDC–R–001 at 7–10; 9/3/14

previously convicted and incarcerated for fraud in the context of copyright royalty proceedings—a fraud that caused financial injury to MPAA. In connection with that fraud, Mr. Galaz also admittedly lied in a cable distribution proceeding much like the instant proceeding. Mr. Galaz's fraud conviction and prior false testimony compromises his credibility.'') Further, in the present case, the Judges carefully observed that Mr. Galaz testified that ''what we gave to Dr. Robinson was everything that we had in our possession that *we* thought might affect . . .'' before catching himself and stating instead ''or would—I should say with which [s]he could work.'' 9/8/14 Tr. at 996 (Galaz) (emphasis added). In any event, the Judges recognize that even a party that does not have such a checkered history has an inherent self-interest in selecting the types of data for use by its expert that is inconsistent with the independence of the expert in identifying his or her own categories of data.

[59] When Dr. Robinson adjusted for the proper addition of SDC programs and deletion of IPG programs, and then applied her sensitivity analysis, she changed this allocation to 67%:33% in favor of SDC (not giving IPG any credit for the assumed 29% of the data it declined to obtain).

[60] Mr. Galaz asserted that information subsequently published by Nielsen confirmed that ''there had been virtually no change'' in day-part viewing between 1997 and 1999. 9/8/14 Tr. at 984 (Galaz). However, IPG presented no evidence to support that assertion.

Tr. at 329–30 (Robinson). Simply put, when a purported measure of program value can move inversely to the addition or subtraction of a claimant, the measure is, at best, of minimal assistance in determining relative market value.

Dr. Robinson suggests that the Judges nonetheless should rely on her opinion as to relative market value because all of her alternative measures resulted in similar proportionate valuations. 9/2/14 Tr. at 102–03 (Robinson) (''[B]y coming at this with four different metrics . . . the fact that the estimates all came out quite similarly gives me some comfort that the numbers are reasonable.''); *see also id.* at 170 (Robinson) (emphasizing that she was ''looking at all of these factors in combination''). However, if four measures of value are individually untenable or of minimal value, they do not necessarily possess a synergism among them that increases their collective probative value.

VI. Judges' Determination of Distribution

A. The Judges' Distribution of Royalties Is Within the Zone of Reasonableness

As the foregoing analysis describes, the evidence submitted by the two parties is problematic. First, the optimal measure or approximation of relative value in a distribution proceeding—the Shapley valuation method—was neither applied nor approximated by either party. Second, the methodologies proposed by both parties have significant deficiencies.

As between the parties' competing methodologies, however, the Judges conclude that the approach proffered by the SDC is superior to that proffered by IPG. The SDC Methodology, consistent with measures of value in the television industry, relies on viewership to estimate relative market value. The Judges conclude that in constructing a hypothetical market to measure the relative market values of distantly retransmitted programs viewership would be a fundamental metric used to apply a Shapley valuation model. Therefore, a methodology that uses viewership as an indicium of program value is reasonable, appropriate, and consistent with recent precedent in distribution proceedings.

IPG's expert, Dr. Robinson, agreed that viewership is relevant to the determination of program value. IPG's own methodology uses viewership as a valuation proxy, although it does so in a much less direct and transparent way than does the SDC Methodology. Further, the SDC presented unrebutted testimony that estimating relative market value based on viewership data alone when considering homogeneous programming, as the Devotional Claimants category, might actually understate the value of the more highly viewed programs vis-à-vis a Shapley valuation of the same programs. Because the SDC programs had higher ratings, the Judges conclude that the SDC Methodology, *ceteris paribus,* may well tend to understate the SDC share of the royalties in this proceeding.

By contrast, the IPG Methodology is reliant on data that does not focus on the property right the Judges must value—the license to retransmit individual programs in a hypothetical market that is unaffected by the statutory license. Moreover, the IPG Methodology fails to value the retransmitted programs in the hypothetical market as applied by the Judges in this and prior proceedings. Rather, IPG has assumed tacitly that the valuation of the individual programs has been compromised by the preexisting bundling of the programs in the actual market, and therefore all programs must be subject to *common measurements,* based on broadcast hours, time of day, subscriber fees, and subscriber levels. The Judges conclude, as they did in the *2000–03 Determination,* that this failure to value programs individually is erroneous. Accordingly, at best, as stated in the *2000–03 Determination,* the IPG Methodology can serve as no more than a ''crude approximation'' of value that may have some ''marginal'' impact on the determination of relative market value. *See 2000–03 Determination,* 78 FR at 78002.

The Judges' preference for the valuation concept of the SDC Methodology does not mean that the Judges find the SDC's *application* of that concept to be free of problems or unimpeachably persuasive in its own right. The application of the theoretically acceptable SDC Methodology is inconsistent as regards its probative value.

The Judges' task in this and every distribution determination is to establish a distribution that falls within a ''zone of reasonableness.'' *See Asociacion de Compositores y Editores de Musica Latino Americana* v. *Copyright Royalty Tribunal,* 854 F.2d 10, 12 (2d Cir. 1988); *Christian Broadcasting Network, Inc.* v. *Copyright Royalty Tribunal,* 720 F.2d 1295, 1304 (D.C. Cir. 1983). Based on the entirety of the Judges' analysis in this determination, the Judges find that the SDC's proposed royalty distribution of 81.5%:15.5% in favor of the SDC can serve only as a guidepost for an upper bound of such a zone of reasonableness. The Judges decline to adopt the 81.5%:15.5% split as the distribution in this proceeding, however, because the Judges conclude that the several defects in the application of the SDC Methodology render the 81.5%:15.5% split too uncertain. That is, the defects in the application of the SDC Methodology require the Judges to examine the record for a basis to establish a distribution that acknowledges both the merits and the imperfections in the SDC Methodology.

To that end, the Judges look to the alternative confirmatory measure of relative market value utilized by Mr. Sanders in his report and testimony. More particularly, the Judges look to his analysis of the viewership data for the SDC and IPG programs in the local market, one that served as an ''analogous'' market by which to estimate the distribution of royalties in this proceeding. The allocation of royalties suggested by that confirmatory analysis was a 71.3%:28.7% distribution in favor of the SDC.

On behalf of the SDC, Mr. Sanders testified that this analogous body of data ''is potentially *very relevant and should not, in my opinion, be ignored.''* 9/3/14 Tr. at 503 (Sanders) (emphasis added). The Judges agree. That distribution ratio arises from the Nielsen local viewership ratings over a three-month period in 1999 and covers all of the programs represented in this proceeding. Importantly, that approach does not suffer from the uncertainty created by the selection and use of the Kessler Sample of stations, nor any of the other serious potential or actual deficiencies in the application of the SDC Methodology, as discussed in this determination.

There was no sufficiently probative evidence in the record for the Judges to establish a lower bound to a zone of reasonableness. That being said, it is noteworthy that even under IPG's Methodology the relative market valuations of the SDC and IPG programs would be no more favorable to IPG than roughly a 50/50 split. Under at least two prongs of IPG's Methodology, Dr. Robinson acknowledged that an adjusted allocation would likely be closer to a 67/33 split (based on time of day of retransmitted broadcasts) or a 71/29 split (based on fees paid) in SDC's favor.

Further, as IPG correctly argued, the 71.3%:28.7% distribution is significantly different (to the benefit of IPG) compared with the uncertain results derived by the SDC Methodology. Given that the 81.5%:18.5% allocation derived by the

SDC Methodology represents a guidepost to the upper bound of a zone of reasonableness, the ''very relevant'' (to use Mr. Sanders's characterization) 71.3%:28.7% distribution has the added virtue of serving as a rough proxy [61] for the need to reflect the imperfections in the application of the SDC Methodology.

Accordingly, the Judges find and conclude that a distribution ratio of 71.3%:28.7% in favor of the SDC lies within the zone of reasonableness.

B. The Judges' Distribution is Consistent With a Valuation Derived From an Application of the IPG Methodology

The Judges also note a consensus between this 71.3%:28.7% distribution and the least deficient of IPG's proposed valuations—the ''fees-paid'' valuation. More particularly, Dr. Robinson made ''sensitivity'' adjustments to all her values to account for the incompleteness of her data. However, her only adjustment was to multiply all her alternative value measures by 71% to adjust for the 29% of fees paid that her data set did not include. The Judges find and conclude that Dr. Robinson could adjust only her fees-paid valuation approach in this manner because the ''missing 29%'' only pertained to that data set. In the other categories, Dr. Robinson (to put it colloquially) was subtracting apples from oranges.

When Dr. Robinson made her adjustment in the fees-paid category (and properly accounted for all programs), she changed her valuation and distribution estimate to 71%:29% in favor of the SDC. *See* Table 4 *supra.*[62] Moreover, Dr. Robinson testified that her sensitivity analysis resulted in values that she would characterize as within an economic *''zone of reasonableness.''* 9/2/14 Tr. at 158 (Robinson) (emphasis added).

Thus, not only do the Judges independently find that a 71.3%:28.7% distribution in favor of the SDC proximately adjusts the distribution within the zone of reasonableness, there is also a virtual overlap between what can properly be characterized as the worst case distribution scenarios that the parties' own experts respectively acknowledge to be ''very relevant'' and falling within a ''zone of reasonableness.'' [63] Accordingly, given that IPG's expert witness testified explicitly that a 71%:29% distribution in favor of the SDC was within the ''zone of reasonableness'' and that the SDC's expert witness testified explicitly that a 71.3%:28.7% distribution in favor of the SDC was ''reasonable'' and ''should not . . . be ignored,'' such a distribution is also consonant with the parties' understanding of a reasonable allocation.

C. The Judges' Distribution Is Consistent With the Parties' Economic Decisions Regarding the Development and Presentation of Evidence

The parties admittedly proffered their respective worst-case scenarios because each had chosen not to obtain data that are more precise—because each party deemed the cost of acquiring additional data to be too high relative to the marginal change in royalties that might result from such additional data (and perhaps the overall royalties that remain in dispute in the current proceeding). The parties' independent yet identical decisions in this regard underscore the Judges' reliance on the parties' worst-case scenarios in establishing relative market value. When a party acts, or fails to act, to cause evidentiary uncertainty as to the quantum of relief, the party that created the uncertainty cannot benefit from its own decision in that regard. As one commentary notes:

> Factual uncertainty resulting from missing evidence is a salient feature of every litigated case. Absolute certainty is unattainable. Judicial decisions thus always involve risk of error. This risk cannot be totally eliminated. However, it is sought to be minimized by increasing the amount of probative evidence that needs to be considered by the triers of fact. *Missing evidence should therefore be perceived as a damaging factor.*
>
> A. Porat and A. Stein, *Liability for Uncertainty: Making Evidential Damage Actionable,* 18 Cardozo L. Rev. 1891, 1893 (1997) (emphasis added).

Alternatively stated, the SDC and IPG have failed to satisfy their respective evidentiary burdens to obtain anything above the minimum values indicated by their evidence, by failing to obtain random samples, full surveys, the testimony of television programmers, or other more probative evidence or testimony to support their respective arguments for a higher percentage distribution.

Although the SDC and IPG each had an incentive to procure and proffer additional evidence, that incentive existed only if the additional evidence would have advanced the offering party's net economic position. As the parties acknowledged at the hearing, the amount at stake simply did not justify their investment in the discovery, development, and presentation of additional evidence.[64] When a party makes the choice to forego the expense of producing more precise evidence, that party has implicitly acknowledged that the value of any additional evidence is less than the cost of its procurement. As Judge Richard Posner has noted: ''The law cannot force the parties to search more than the case is worth to them merely because the additional search would confer a social benefit.'' R. Posner, *An Economic Approach to Evidence,* 51 Stan. L. Rev. 1477, 1491 (1999).

VII. Conclusion

Although there is a virtual overlap between the worst-case scenarios of both parties, the Judges adopt the SDC's distribution proposal, in light of the more fundamental deficiencies in the IPG Methodology. Accordingly, based on the analysis set forth in this Determination, the Judges conclude that the distribution at issue in this proceeding shall be:

SDC: 71.3%

IPG: 28.7%

This Final Determination determines the distribution of the cable royalty funds allocated to the Devotional Claimants category for the year 1999, including accrued interest. The Register of Copyrights may review the Judges' final determination for legal error in resolving a material issue of substantive copyright law. The Librarian shall cause the Judges' final determination, and any correction thereto by the Register, to be published in the **Federal Register** no later than the conclusion of the Register's 60-day review period.

January 14, 2015.

SO ORDERED.

Suzanne M. Barnett,

Chief United States Copyright Royalty Judge.

David R. Strickler,

United States Copyright Royalty Judge.

Jesse M. Feder,

United States Copyright Royalty Judge.

[61] As noted *supra,* the Judges may rely on the evidence presented by the parties to make a distribution within the zone of reasonableness, and, in so doing, mathematical precision is not required. *See Nat'l Ass'n of Broadcasters,* 140 F.3d at 929*; Nat'l Cable Television Ass'n,* 724 F.2d at 182.

[62] The fact that Dr. Robinson's adjustment was based on multiplying her allocations by 71% (to account for the missing 29%) and that the adjustment led to a recommended distribution to the SDC of 71% is only coincidental.

[63] The Judges' acknowledgement that IPG's worst-case scenario (arising out of its fees-paid approach) overlaps with the SDC's worst case scenario constitutes the extent to which the Judges credit the IPG Methodology.

[64] As noted previously, IPG criticized the SDC Methodology for failing to utilize better data. That criticism applies equally to both parties and reflects their respective decisions not to invest additional resources to obtain more evidence. *See supra* notes 46–47 and accompanying text.

Dated: January 14, 2015.

Suzanne M. Barnett,

Chief United States Copyright Royalty Judge.

Approved by:

James H. Billington,

Librarian of Congress.

[FR Doc. 2015–05777 Filed 3–12–15; 8:45 am]

BILLING CODE 1410–72–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 15–008]

NASA Advisory Council; Aeronautics Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Aeronautics Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Thursday, March 26, 2015, 9:00 a.m. to 5:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 6E40, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Minor, Executive Secretary for the NAC Aeronautics Committee, NASA Headquarters, Washington, DC 20546, (202) 358–0566, or *susan.l.minor@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. Any person interested in participating in the meeting by WebEx and telephone should contact Ms. Susan L. Minor at (202) 358–0566 for the web link, toll-free number and passcode. The agenda for the meeting includes the following topics:

- NAC Aeronautics Committee Work Plan.
- NASA Aeronautics Budget Discussion.
- Safety Program Reorganization Implementation.
- Aeronautics Research Mission Directorate Investment Strategy.
- Innovation in Commercial Supersonic Aircraft Thrust Overview.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Susan Minor, NAC Aeronautics Committee Executive Secretary, fax (202) 358–4060. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Susan Minor at (202) 358–0566. It is imperative that this meeting be held on this date to accommodate the scheduling priorities of the key participants.

Harmony R. Myers,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–05702 Filed 3–12–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 15–009]

NASA Advisory Council; Institutional Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Institutional Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Thursday, March 26, 2015, 9:00 a.m. to 5:00 p.m., Local Time, and Friday, March 27, 2015, 9:00 a.m. to 4:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 9H40 [Program Review Center (PRC)], 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Mullins, Executive Secretary for the NAC Institutional Committee, NASA Headquarters, Washington, DC 20546, (202) 58–3831, or *todd.mullins@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 844–467–6272 or toll access number 720–259–6462, and then the numeric participant passcode: 180093 followed by the # sign. To join via WebEx on March 26, the link is *https://nasa.webex.com/,* the meeting number is 990 778 028 and the password is Meeting2015! (Password is case sensitive.) To join via WebEx on March 27, the link is *https://nasa.webex.com/,* the meeting number is 999 775 359 and the password is Meeting2015! (Password is case sensitive.) **Note:** If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—NASA Human Capital Culture Strategy

—NASA Leadership Development Programs

—NASA Export Control Program

—NASA Space Act Agreements Process

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID before receiving access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship and Permanent Residents (green card holders) can provide full name and citizenship status 3 working days in advance by contacting Ms. Mary Dunn, via email at *mdunn@nasa.gov* or by telephone at 202–358–2789. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Harmony R. Myers,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–05768 Filed 3–12–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of Meetings.

SUMMARY: The National Endowment for the Humanities will hold twenty-five meetings of the Humanities Panel, a federal advisory committee, during April 2015. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at Constitution Center at 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov*. Hearing-impaired individuals who prefer to contact us by phone may use NEH's TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: April 1, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P003.
This meeting will discuss applications on the subjects of Social Sciences and Communication for Collaborative Research Grants, submitted to the Division of Research Programs.

2. Date: April 1, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: 4002.
This meeting will discuss applications on the subjects of Visual Arts and Culture for Media Projects: Production Grants, submitted to the Division of Public Programs.

3. Date: April 2, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P003.
This meeting will discuss applications on the subject of World Literature for Scholarly Editions and Translations Grants, submitted to the Division of Research Programs.

4. Date: April 2, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

5. Date: April 7, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

6. Date: April 9, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Sustaining Cultural Heritage Collections grant program, submitted to the Division of Preservation and Access.

7. Date: April 13, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.

8. Date: April 14, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.

9. Date: April 14, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: 4002.
This meeting will discuss applications on the subject of History for Museums, Libraries and Cultural Organizations: Implementation Grants, submitted to the Division of Preservation and Access.

10. Date: April 15, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Seminars for College Teachers grant program, submitted to the Division of Education Programs.

11. Date: April 16, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Seminars for School Teachers grant program, submitted to the Division of Education Programs.

12. Date: April 16, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: 4002.
This meeting will discuss applications on the subjects of Music and Literature for Media Projects: Production Grants, submitted to the Division of Public Programs.

13. Date: April 20, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Institutes for College and University Teachers grant program, submitted to the Division of Education Programs.

14. Date: April 21, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Landmarks of American History: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

15. Date: April 21, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: 4002.
This meeting will discuss applications on the subject of History for Museums, Libraries, and Cultural Organizations: Implementation Grants, submitted to the Division of Public Programs.

16. Date: April 22, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Institutes for School Teachers grant program, submitted to the Division of Education Programs.

17. Date: April 23, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Landmarks of American History: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

18. Date: April 23, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: 4002.
This meeting will discuss applications on the subject of History for Museums, Libraries, and Cultural Organizations: Implementation Grants, submitted to the Division of Public Programs.

19. Date: April 27, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Landmarks of American History: Workshops for School Teachers grant program, submitted to the Division of Education Programs.

20. Date: April 28, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Seminars for College Teachers grant program, submitted to the Division of Education Programs.

21. Date: April 29, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Landmarks of American History: Workshops for School Teachers grant program, submitted to the Division of Education Programs.
22. Date: April 29, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: Conference Call.
This meeting will discuss applications for the National Digital Newspaper Program, submitted to the Division of Preservation and Access.
23. Date: April 29, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P003.
This meeting will discuss applications on the subject of Research for Digital Humanities: Implementation Grants, submitted to the Office of Digital Humanities.
24. Date: April 30, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P002.
This meeting will discuss applications for the Seminars for School Teachers grant program, submitted to the Division of Education Programs.
25. Date: April 30, 2015.
Time: 8:30 a.m. to 5:00 p.m.
Room: P003.
This meeting will discuss applications on the subject of Scholarly Communication for Digital Humanities: Implementation Grants, submitted to the Office of Digital Humanities.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: March 10, 2015.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2015–05805 Filed 3–12–15; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Materials Research—The Science of Learning Center (V151597) Spatial Intelligence and Learning Center (SILC), University of Chicago Site Visit (#1203).

Dates and Times:
May 4, 2015; 6:00 p.m.–10:00 p.m.
May 5, 2015; 7:30 a.m.–8:30 p.m.
May 6, 2015; 7:30 a.m.–4:00 p.m.

Place: University of Chicago, Chicago, IL 60637.

Type of Meeting: Part Open.

Contact Person: Dr. Soo-Siang Lim, Program Director, Science of Learning Centers Program, Division of Behavioral and Cognitive Science, Room 995, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–7878.

Purpose of Meeting: To provide advice and recommendations concerning further support of the SLC program SILC at University of Chicago.

Agenda

Wednesday, May 4, 2015

6:00 p.m.–10:00 p.m. Closed—Briefing of panel

Thursday, May 5, 2015

7:30 a.m.–5:30 p.m. Open—Review of the MRSEC
5:30 p.m.–6:00 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

Friday, May 6, 2015

7:30 a.m.–10:00 a.m. Closed—Executive Session
10:00 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

Reason for Closing: The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the SILC. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 10, 2015.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2015–05748 Filed 3–12–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (#1110).

Date and Time:
April 22, 2015; 8:30 a.m.–5:00 p.m.
April 23, 2015; 8:30 a.m.–3:00 p.m.

Place: Hilton Arlington, 950 North Stafford Street, Arlington, VA 22203.

If you plan to attend the joint session with the Advisory Committee for Cyber Infrastructure on April 23, the meeting will take place at the NSF. Please contact Jacy Woodruff at *jwoodruf@nsf.gov* or Michelle Evans at *mvevans@nsf.gov* to obtain a visitor badge. All visitors to the NSF will be required to show photo ID to obtain a badge.

The NSF is located at 4201 Wilson Blvd. Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Charles Liarakos, National Science Foundation, 4201 Wilson Boulevard, Room 605, Arlington, VA 22230; Tel No.: (703) 292–8400.

Purpose of Meeting: The Advisory Committee for the Directorate for Biological Sciences (BIO) provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Agenda items will include graduate education in biology, biological research at the nexus of food, energy and water (INFEWS), the development of Bio Data in a joint session with the Advisory Committee for Cyber Infrastructure, and other matters relevant to the Directorate for Biological Sciences.

Dated: March 9, 2015.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2015–05729 Filed 3–12–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–28641; NRC–2015–0054]

Department of the Air Force; Hill Air Force Base, Utah Proposed Decommissioning Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a license amendment application from the Department of the Air Force (the licensee) for approval of a proposed decommissioning plan for remediation of a former magnesium-thorium disposal trench at the Little Mountain Text Annex, Hill Air Force Base, Utah. License 42–23539–01AF authorizes the licensee to possess and use radioactive materials at various locations throughout the U.S. The NRC is currently conducting a detailed technical review of the draft decommissioning plan. If the decommissioning plan is approved by the NRC, the licensee would be authorized to remediate the former

disposal trench in accordance with the instructions provided in the decommissioning plan.

DATES: Submit comments by April 13, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. A request for a hearing or petition for leave to intervene must be filed by May 12, 2015.

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–2015–0045. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; 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: OWFN–12–H08, 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: Jack E. Whitten, Region IV Office, U.S. Nuclear Regulatory Commission, 1600 E. Lamar Blvd., Arlington, Texas, 76011; telephone: 817–200–1197, email: *Jack.Whitten@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0045 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–2015–0045.
- *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 licensee's ''Approval Request: Decontamination Plan and Final Status Survey Plan'' is available in ADAMS under Accession No. ML14197A685. The licensee's ''Waiver for Environmental Assessment'' and supplemental information for the decommissioning plan is available in ADAMS under Accession No. ML15030A218.
- *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–2015–0045 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Introduction

The NRC has received, by letter dated May 12, 2014, an application to amend Materials License No. 42–23539–01AF, which authorizes the licensee to possess, store, and use radioactive materials at various locations around the U.S. Specifically, the licensee requested NRC approval of a proposed decommissioning plan. By letter dated September 12, 2014, the licensee requested a categorical exclusion from the environmental assessment process and provided supplemental information, including a work plan, for the decommissioning plan. The licensee plans to remediate a magnesium-thorium disposal trench at the Little Mountain Test Annex, Hill Air Force Base, Utah, in accordance with instructions provided in the decommissioning plan. The licensee submitted the decommissioning plan, in part, to comply with the requirements of § 30.36(g) of Title 10 of the *Code of Federal Regulations* (10 CFR). The licensee also submitted the decommissioning plan to comply with its commitments provided in the Memorandum of Understanding between the Air Force and the NRC dated September 19, 2014, (ADAMS Accession No. ML14262A340). If the decommissioning plan is approved by the NRC, the licensee will conduct decommissioning activities, including a final status survey, in accordance with the plan. After the completion of decommissioning, the licensee is expected to submit the final status survey results to the NRC for review. Eventually, the licensee is expected to ask the NRC for authorization to release the former disposal trench for unrestricted release.

An NRC administrative completeness review found the application acceptable for a technical review (ADAMS Accession No. ML14280A590). Prior to approving the proposed action, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report. The licensee asked the NRC for a categorical exclusion from the environmental assessment process. The licensee completed a similar environmental assessment at the Little Mountain Text Annex in March 2014. Based on the results of this previous assessment, the licensee asked the NRC to waive the environmental assessment process during the review and approval of its decommissioning plan for the disposal trench. If the NRC subsequently rejects the licensee's categorical exclusion request, the environmental assessment will be the subject of a subsequent notice in the **Federal Register**.

III. Notice and Solicitation of Comments

In accordance with 10 CFR 20.1405, the Commission is providing notice and soliciting comments from local and State governments in the vicinity of the site and any Federally-recognized Indian tribe that could be affected by the decommissioning. This notice and solicitation of comments is published pursuant to § 20.1405, which provides

for publication in the **Federal Register** and in a forum, such as local newspapers, letters to State or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site. Comments should be provided within 30 days of the date of this notice.

IV. Opportunity To Request a Hearing and Petitions for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located in One White Flint North, Room O1–F21 (first floor), 11555 Rockville Pike, Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition. The Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth, with particularity, the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also include the specific contentions that the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by May 12, 2015. The petition must be filed in accordance with the filing instructions in the ''Electronic Submission (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by May 12, 2015.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request: (1) A digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-

Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Dated at Arlington, Texas, this 27th day of February 2015.

For the Nuclear Regulatory Commission.

Jack E. Whitten,

Chief, Nuclear Materials Safety Branch B, Division of Nuclear Materials Safety, Region IV Office.

[FR Doc. 2015–05803 Filed 3–12–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

RIN 3150–AI01

[NRC–2014–0137]

Draft Guidance Regarding the Alternate Pressurized Thermal Shock Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1299, ''Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule'' and accompanying draft NUREG–2163, ''Technical Basis for Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule.'' The DG provides new guidance for a method that the NRC considers acceptable to permit use of the alternate fracture toughness requirements for protection against pressurized thermal shock (PTS) events for pressurized water reactor (PWR) reactor pressure vessels (RPVs). The draft NUREG provides the technical basis for DG–1299.

DATES: Submit comments by May 12, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure

consideration only for comments received on or before this date.

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–2014–0137. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, 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: Gary Stevens, Office of Nuclear Reactor Regulation, telephone: 301–415–3608; email: *Gary.Stevens@nrc.gov;* Mark Kirk, Office of Nuclear Regulatory Research, telephone: 301–251–7631; email: *Mark.Kirk@nrc.gov;* or Steve Burton, telephone: 301–415–7000; email: *Stephen.Burton@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0137 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0137.

• *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. Draft Guide-1299, ''Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule,'' is available in ADAMS under Accession No. ML14056A011. Draft NUREG–2163, ''Technical Basis for Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule,'' is available in ADAMS under Accession No. ML15058A677.

• *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–2014–0137 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

The NRC is issuing for public comment a draft guide (DG) in the NRC's ''Regulatory Guide'' series. The DG, titled ''Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule,'' is temporarily identified by its task number, DG–1299. This DG provides new guidance for a method that the NRC considers acceptable to permit use of the alternate fracture toughness requirements for protection against PTS events for PWR RPVs in part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' 10 CFR 50.61a, ''Alternate Fracture Toughness Requirements for Protection against Pressurized Thermal Shock Events'' (RIN 3150–AI01). DG–1299 is accompanied by draft NUREG–2163, ''Technical Basis for Regulatory Guidance on the Alternate Pressurized Thermal Shock Rule.'' This NUREG provides the technical basis for the guidance recommended in DG–1299. The NRC is issuing the draft NUREG for public comment at the same time as the DG to allow for common review of both documents.

The alternate PTS requirements are based on updated analysis methods, and are desirable because the requirements in 10 CFR 50.61a are based on overly conservative probabilistic fracture mechanics analyses.

III. Backfitting and Issue Finality

The DG, if finalized, would provide guidance on the methods acceptable to the NRC for complying with the NRC's regulations associated with alternate fracture toughness requirements for protection against PTS events for PWR RPVs. The NUREG, if finalized, would provide technical bases that support the DG. The DG would apply to certain current holders of power reactor licenses and construction permits under 10 CFR part 50. The alternate PTS requirements of 10 CFR 50.61a apply to certain holders of operating licenses for a PWR whose construction permit was issued before February 3, 2010; however, this DG also provides guidance for licensees whose construction permits were issued after February 3, 2010, but wish to utilize the alternate PTS criteria via exemption. Therefore this guidance may also apply to future applicants for operating licenses and construction permits under 10 CFR part 50, as well as certain current holders of and future applicants for power reactor licenses under 10 CFR part 52.

Issuance of this DG and NUREG, if finalized, would not constitute backfitting under 10 CFR part 50 and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of DG–1299, the NRC has no current intention to impose the DG, if finalized, on current holders of 10 CFR part 50 operating licenses or 10 CFR part 52 combined licenses. This DG, if finalized, could be applied to applications for certain 10 CFR part 50 operating licenses or construction permits and 10 CFR part 52 combined licenses. Such action would not constitute backfitting as defined in 10 CFR 50.109 or be otherwise inconsistent with the issue finality provisions in 10 CFR part 52, inasmuch as such applicants are not within the scope of entities protected by 10 CFR 50.109 or the issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 6th day of March 2015.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2015–05754 Filed 3–12–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0080]

Low-Level Radioactive Waste Regulatory Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft programmatic assessment results; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comment on a draft list of prioritized low-level radioactive waste (LLW) tasks based upon the assessment updates to the strategic assessment (now called a programmatic assessment) performed in 2007. The objective of this updated assessment remains the same as the 2007 assessment; that is, to identify and prioritize tasks that the NRC staff can undertake to ensure a stable, reliable, and adaptable regulatory framework for effective LLW management, while also considering future needs and changes that may occur in the nation's commercial LLW management system.

In 2014, through public meetings, webinars, and **Federal Register** notices, the NRC staff solicited public comment on what changes, if any, should be made to the current LLW program's regulatory framework, as well as specific actions that the staff might undertake to facilitate such changes. The NRC staff considered the comments received, performed an assessment of the comments, and developed a draft list of prioritized LLW tasks.

DATES: Submit comments by April 13, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

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–2014–0080. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, 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: Stephen Dembek, telephone: 301–415–2342, email: *Stephen.Dembek@nrc.gov*; or Melanie C. Wong, telephone: 301–415–2432, email: *Melanie.Wong@nrc.gov*, both are staff of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0080 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0080.

• *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 ''Strategic Assessment of Low-Level Radioactive Waste Regulatory Program'' and ''Transcript of Public Workshop on Low-Level Radioactive Waste Disposal Rulemaking and Strategic Assessment of Low-Level Radioactive Waste'' are available in ADAMS under Accession Nos. ML071350291 and ML14086A540.

• *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–2014–0080 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 submissions into ADAMS.

II. Background

In 2007, due to developments in the national program for LLW disposal, as well as changes in the regulatory environment, the NRC's LLW program faced new challenges and issues. New technical issues related to protection of public health and the environment and security emerged. These challenges and issues included (1) the need for greater flexibility and reliability in LLW disposal options; (2) increased storage of Class B and Class C LLW because of the potential closing of the Barnwell, South Carolina disposal facility to out-of-compact waste generators; (3) the potential need to dispose of large quantities of power plant decommissioning waste, as well as depleted uranium (DU) from enrichment facilities; (4) increased safety concerns; (5) the need for greater LLW program resources than were available; (6) increased security concerns related to storing LLW in general and sealed radioactive sources in particular; and (7) the potential for generation of new waste streams (for example, by the next generation of nuclear reactors and the potential reemergence of nuclear fuel reprocessing in the United States).

Based on these challenges and issues, the NRC staff conducted a Strategic Assessment of the NRC's LLW regulatory program. Based on extensive stakeholder input during public meetings, the NRC staff received a variety of tasks to be included in the

Strategic Assessment and evaluated them based on the overall strategic objectives for ensuring safety, and security, and other factors. From these solicited tasks, the NRC developed a list of 20 tasks responsive to identified programmatic needs. These tasks were assigned priorities of high, medium, or low, and ranged from narrowly focused tasks such as updating LLW storage guidance to broader tasks such as suggesting legislative changes to Congress to improve the national LLW program.

The NRC staff issued the strategic assessment in late 2007 in SECY–07–0180, ''Strategic Assessment of Low-Level Radioactive Waste Regulatory Program'' (ADAMS Accession No. ML071350291). The strategic assessment identified and prioritized the NRC staff's tasks to ensure that the LLW program continued to: (1) Ensure safe and secure LLW disposal; (2) improve the effectiveness, efficiency, and adaptability of the NRC's LLW regulatory program; and (3) ensure regulatory stability, and predictability, while allowing flexibility in disposal options.

Since 2007, the NRC has completed several high priority tasks identified in the 2007 Strategic Assessment, including updating guidance for LLW storage and evaluating the disposal of DU and the measures needed to ensure its safe disposal. In addition, the NRC continues to work on the revisions to part 61 of Title 10 of the *Code of Federal Regulations* (CFR) and implementation of the update to the Concentration Averaging and Encapsulation Branch Technical Position. In addition, the national LLW program continues to evolve.

To set the direction for the NRC's LLW regulatory program in the next several years, the NRC began developing a new strategic assessment of its LLW program (now called a programmatic assessment). The objective of this updated programmatic assessment remains the same as the 2007 strategic assessment; *i.e.*, to identify and prioritize tasks that the NRC can undertake to ensure a stable, reliable and adaptable regulatory framework for effective LLW management, while also considering future needs and changes that may occur in the nation's commercial LLW management system.

The NRC solicited public comment on what changes, if any, should be made to the current LLW program's regulatory framework, as well as specific actions that the NRC might undertake to facilitate such changes. Specifically, the NRC requested comments at a public workshop in Phoenix, Arizona on March 7, 2014. Additionally, the NRC requested comments by issuing a **Federal Register** notice on May 15, 2014 (79 FR 27772), with a 60-day public comment period. The NRC also held webinars on June 17, 2014, and July 8, 2014, requesting comments on the proposed update to the assessment. The initial comment period was scheduled to close on July 14, 2014. However, on July 9, 2014 (79 FR 38796), the NRC extended the comment period to September 15, 2014. The NRC sought comments on developments that would affect the LLW regulatory program over the next several years and that would affect licensees and sited States and actions that the NRC could take to ensure safety, security, and the protection of the environment.

The NRC received twelve comment submissions to the **Federal Register** notices and also received numerous comments as the result of the public meeting and webinars. The comment submissions are available on the federal rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2014–0080.

III. Updated Prioritized List of LLW Tasks

The NRC received numerous comments in response to the request for suggested updates to the programmatic assessment. Many commenters expressed similar views, but there also were conflicting comments (*e.g.*, some commenters wanted the NRC to make it easier to dispose of Low Activity Waste (LAW) at Resource Conservation and Recovery Act sites or other disposal facilities not licensed in accordance with the NRC's regulations in 10 CFR part 61; other commenters wanted the NRC to require that disposal of LAW be done only at licensed LLW sites). Comments that were determined to be outside the scope of the programmatic assessment or comments related to tasks that have been recently completed by the NRC are not addressed in this programmatic assessment.

To evaluate and prioritize these comments, the NRC used the LLW strategic objective that was developed for the 2007 strategic assessment. Specifically, in SECY–07–0180 the NRC used the NRC's Strategic Plan to develop a strategic objective for the LLW regulatory program. To ensure the strategic objective was still current, the NRC reviewed the latest version of the NRC's Strategic Plan (Strategic Plan: Fiscal Years 2014–2018 (NUREG–1614, Volume 6, which can be found at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1614/v6/*). The NRC concluded that the strategic objective developed in SECY–07–0180 is still applicable. The strategic objective is: ''The objective of the NRC's LLW regulatory program is to provide for a stable, reliable, and adaptable regulatory framework for effective LLW management, while maintaining safety, security, and protection of the environment.'' The NRC evaluated whether the need to complete each task was a short, medium, or long term priority. Also, the NRC considered potential costs and benefits along with consideration of the availability of disposal options.

The NRC used the list of 20 items in SECY–07–0180, as a starting point and combined, deleted, or added items based on the current LLW landscape and on stakeholder comments received in 2014.

Completed Tasks

Task 5, ''Review and update guidance on extended storage of LLW for materials and fuel cycle licensees and review industry guidance for reactors.'' This item was completed by the NRC by issuing Regulatory Issue Summary (RIS) 2008–12, ''Considerations for Extended Interim Storage of Low-Level Radioactive Waste by Fuel Cycle and Materials Licensees,'' (ADAMS Accession No. ML073330725) and RIS 2011–09 ''Available Resources Associated with Extended Storage of Low-Level Radioactive Waste,'' (ADAMS Accession No. ML111520042).

Task 13, ''Identify new waste streams.'' This item is considered completed because the proposed changes to 10 CFR part 61 (*i.e.*, Site-Specific Analysis Rulemaking) are broad enough to include potential new waste streams that may be developed in the future.

Task 17, ''Develop information notice on waste minimization.'' This item is considered completed because in 2012 the NRC issued its ''Low-Level Radioactive Waste Management and Volume Reduction,'' policy statement that addressed this issue and no further work is anticipated by the NRC. This policy statement is available on the federal rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2011–0183.

The completed tasks were removed from the task list:

Combined Tasks

Similar tasks were grouped together, specifically under the topics related to the revision to 10 CFR part 61. Several tasks in the 2007 assessment were related to the proposed revision to 10 CFR part 61 including, determining if disposal of large quantities of DU would

change the waste classification tables; developing guidance on alternate waste classification; and implementing major revisions to 10 CFR part 61. Based on the Commission's direction, the NRC's efforts related to revision to 10 CFR part 61 has been limited to specifying a requirement for a site-specific analysis and associated technical requirements for unique waste streams including the disposal of significant quantities of DU. These tasks have been combined and separated into two tasks, ''Complete and Implement Site-Specific Analysis Rulemaking,'' and ''Update the Waste Classification Tables.'' Once the Site-Specific Analysis Rulemaking is complete, in accordance with Revised Staff Requirements-SECY–13–0001, ''Staff Recommendations for Improving the Integration of the Ongoing 10 CFR part 61 Rulemaking Initiatives'' (ADAMS Accession No. ML13085A318), the NRC staff plans to communicate further with the Commission on the need for a second rulemaking for revising the waste classification tables.

Deleted Tasks

Several items included in the table in SECY–07–0180 were deleted from the table in this section.

These items were:

Task 1, ''Evaluate potential changes to LLW regulatory program as a result of severe curtailment of disposal capacity.'' This item was deleted because the anticipated curtailment of disposal capacity did not occur and is not expected to occur in the near term.

Task 8, ''Examine the desirability and benefits of legislative changes.'' As with Task 1, this item was deleted because the anticipated curtailment of disposal capacity did not occur and is not expected to occur in the near term.

Task 15, ''Develop waste acceptance criteria for LLW disposal in uranium mill tailings impoundments.'' The NRC anticipated that some LLW would need to be disposed in uranium mill tailing impoundments due to the diminishing capacity at LLW disposal sites. This item was deleted because the anticipated curtailment of disposal capacity did not occur and is not expected to occur in the near term.

Added Task

A new task has been added to the list, ''Update NUREG/BR–0204, Rev. 2 (July 1998), ''Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest.'' NUREG/BR–0204 provides instructions for completing the NRC's Forms 540/540A, 541/541A, and 542/542A.'' These forms are collectively known as the uniform manifest. Stakeholders and the NRC have identified items on the forms that should/need to be revised. For example, instructions for manifest reporting of the activities of hydrogen-3, carbon-14, technetium-99, and iodine-129, when their activities are below the lower limit of detection, will be clarified. Additionally, work on the 10 CFR part 61 rulemaking also identified needed revisions to the forms.

Table 1 reflects the NRC's views on the tasks that should receive priority consideration moving forward.

TABLE 1—LLW PROGRAMMATIC ASSESSMENT: SUMMARY OF TASKS EVALUATED BY NRC STAFF

Task	Description	Current ranking	Previous ranking	Rationale for change in ranking
1. Complete and Implement Site-Specific Analysis Rulemaking.	This task includes: Developing guidance that explains how to meet the provisions of the proposed changes to 10 CFR part 61; and implementing revisions to 10 CFR part 61. This task would address changes to 10 CFR part 61 that cannot be implemented through guidance changes. This task is currently ongoing.	High	Not applicable, this is a combined task..	Not applicable, this is a combined task.
2. Update the Waste Classification Tables.	This task will include: Determining if the disposal of large quantities of DU would change the waste classification tables and revising the waste classification tables.	High	High	Not applicable, no change in ranking.
3. Implement the Updated Concentration Averaging and Encapsulation Branch Technical Position (BTP).	The NRC is implementing the recently issued updated BTP. Implementation would include public information meetings and training. This task is currently ongoing.	High	High	Not applicable, no change in ranking.
4. Perform scoping study of the need to review/expand byproduct material financial assurance to account for life-cycle cost.	This task includes identifying the need, if any, and rationale for additional financial planning for end-of-life management of radioactive sealed sources and, if necessary, other byproduct material. This would include, but not necessarily be limited to, Category 1 and 2 sources included in the 2014 Radiation Source Protection and Security Task Force Report, Recommendation 2. This task is currently ongoing.	High	High	Not applicable, no change in ranking.

TABLE 1—LLW PROGRAMMATIC ASSESSMENT: SUMMARY OF TASKS EVALUATED BY NRC STAFF—Continued

Task	Description	Current ranking	Previous ranking	Rationale for change in ranking
5. Clarify the regulatory authority of greater-than-Class C (GTCC) waste disposal and develop licensing criteria for a GTCC disposal facility.	This task will include: Determining the regulatory authority for licensing a GTCC waste disposal facility and developing licensing criteria for GTCC disposal in facilities other than those of the deep geologic type. This could include the identification of necessary site and waste characteristics, as well as facility baseline design criteria. Whether this task is necessary depends upon whether the U.S. Department of Energy (DOE) chooses a non-geologic repository for GTCC disposal. This task is currently ongoing.	High	Medium	The DOE is in the finalization stage of the final environmental impact statement for GTCC waste disposal. The NRC needs to be prepared should DOE submit a license application for GTCC waste disposal.
6. Finalize internal procedure/Standard Review Plan for 10 CFR 20.2002 requests.	To improve consistency and transparency, the NRC is finalizing implementation guidance for 10 CFR 20.2002, ''Method for obtaining approval of proposed disposal procedures.'' This task in currently ongoing.	High	High	Not applicable, no change in ranking.
7. Update NUREG/BR–0204, Rev. 2 (July 1998), ''Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest''.	NUREG/BR–0204 provides instructions for completing the NRC's Forms 540/540A, 541/541A, and 542/542A. These forms are collectively known as the uniform manifest. Stakeholders and the NRC have identified items on the forms that should/need to be revised. Additionally, work on the 10 CFR part 61 rulemaking also identified needed revisions to the forms. This task is currently ongoing.	High	Not applicable, this is a new task..	Not applicable, this is a new task.
8. Develop guidance that summarizes disposition options for low-activity waste (LAW).	This task would require issuance of a regulatory issue summary that contains all of the existing staff positions on the disposal of LAW.	Medium	Medium	Not applicable, no change in ranking.
9. Update and consolidate LLW guidance into one NUREG.	This task would be similar to the guidance consolidation that was conducted for the materials licensing program (resulting in NUREG–1556) and the decommissioning program (resulting in NUREG–1757).	Medium	Medium	Not applicable, no change in ranking.

TABLE 1—LLW PROGRAMMATIC ASSESSMENT: SUMMARY OF TASKS EVALUATED BY NRC STAFF—Continued

Task	Description	Current ranking	Previous ranking	Rationale for change in ranking
10. Coordinate with other agencies on consistency in regulating LAW and determine the impact of LAW disposal from radiological dispersal devices (RDD).	The NRC will coordinate with other government agencies to look at a broad range of issues associated with LAW. The study will consider the divergent stakeholder comments as part of this programmatic assessment, lessons learned from the revoked below regulatory concern policy statements of the NRC published in the **Federal Register** on July 3, 1990 (55 FR 27522), and August 29, 1986 (51 FR 30839), lessons learned from the Commission's 2005 disapproval of publication of a proposed rule (the ''Clearance'' rule) on radiological criteria for controlling the disposition of solid materials, learning from other countries with LAW disposal, and other factors to come up with a recommendation for resolving this issue. This will include work with other government agencies to evaluate the impact of large quantities of LAW that would result from cleanup after an RDD or similar devise is used in the U.S. and ensure LAW resulting from such devices has a disposal pathway. The NRC would develop a memorandum of understanding with other agencies.	Medium	Medium	Not applicable, no change in ranking.
11. Promulgate rule for disposal of low-activity waste (LAW).	The NRC would promulgate a rule that would define the conditions under which LAW, including mixed waste, could be disposed of in Resource Conservation and Recovery Act Subtitle C hazardous waste facilities. The NRC would exempt the materials authorized for disposal.	Medium	Low	The NRC anticipates a higher volume of LAW from reactor decommissioning and material waste.
12. Develop procedures for Import/Export Review.	The NRC would develop internal, and external guidance related to the review of applications for licenses to import or export radioactive waste. The internal procedure would include the process for vetting and resolving complex issues as well as a summary of issues previously resolved. The external guidance would include a description of the technical and regulatory analyses necessary to respond to the Office of International Programs in its processing of import/export license applications.	Low	High	The NRC does not anticipate a significant number of requests to export or import radioactive waste in the near future. Therefore, due to limited resources, this is being assigned a lower priority.

TABLE 1—LLW PROGRAMMATIC ASSESSMENT: SUMMARY OF TASKS EVALUATED BY NRC STAFF—Continued

Task	Description	Current ranking	Previous ranking	Rationale for change in ranking
13. Examine the need for guidance on defining when radioactive material becomes LLW.	This task will include determining whether a need exists for the NRC to provide guidance to licensees on when radioactive material becomes LLW. Radioactive material that is LLW can be subject to measures, such as storage guidance and/or financial assurance provisions that differ from those for radioactive materials for which this is an intended use.	Low	Low	Not applicable, no change in ranking.
14. Develop and implement the national waste tracking system.	This task will include promulgating a regulation that would identify the data necessary to track the origin, management, and disposition of all LLW. Require the promulgation of a compatible State regulation by all Agreement States with licensees that produce LLW. By these regulations, require that licensees provide necessary information to regulatory authorities on a regular, prescribed basis.	Low	Low	Not applicable, no change in ranking.

IV. Specific Requests for Comments

The NRC is requesting comments on the updated prioritized task list as presented in section III, Table 1 of this document. In particular, the NRC is requesting any views on possible unintended consequences of finalizing the proposed task list and any tasks that commenters feel the NRC did not adequately consider.

Dated at Rockville, Maryland, this 3rd day of March, 2015.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Division of Decommissioning, Uranium Recover and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–05851 Filed 3–12–15; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Cancellation Notice—OPIC March 11, 2015 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (Volume 80, Number 31, Pages 8368 and 8369) on February 17, 2015. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing scheduled for 2 p.m., March 11, 2015 in conjunction with OPIC's March 19, 2015 Board of Directors meeting has been cancelled.

Contact Person for Information: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, or via email at *Connie.Downs@opic.gov*.

Dated: March 11, 2015.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2015–05965 Filed 3–11–15; 4:15 pm]

BILLING CODE 3210–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–35 and CP2015–46; Order No. 2386]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 115 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 17, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 115 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment

[1] Request of the United States Postal Service to Add Priority Mail Contract 115 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, March 4, 2015 (Request).

of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–35 and CP2015–46 to consider the Request pertaining to the proposed Priority Mail Contract 115 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 17, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–35 and CP2015–46 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than March 17, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–05747 Filed 3–12–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: April 13, 2015, at 2 p.m., and April 14, 2015, at 8:30 a.m.

PLACE: San Mateo, California.

STATUS: Closed.

Matters To Be Considered

Monday, April 13, 2015, at 2 p.m.

1. Personnel Matters and Compensation Issues.
2. Strategic Issues.

Tuesday, April 14, 2015, at 8:30 a.m.

1. Strategic Issues (Continued).
2. Financial Matters.
3. Pricing.
4. Governors' Executive Session—Discussion of prior agenda items and Board governance.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

Contact Person For More Information: Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

Julie S. Moore,

Secretary, Board of Governors.

[FR Doc. 2015–05863 Filed 3–11–15; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Global Leadership Institute, Inc.; Order of Suspension of Trading

March 11, 2015.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Global Leadership Institute, Inc., formerly known as Cephas Holding Corp., (CIK No. 0001061169) (''Global''), because Global is delinquent in its periodic filings, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2013 on March 21, 2014, which reported a net loss of $753,092 for the prior nine months. Global is a Delaware corporation located in Ann Arbor, Michigan with a class of securities registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 (''Exchange Act''). The company's stock has experienced a recent substantial increase in both price and trading volume. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Global.

Therefore, it is ordered, pursuant to Section 12(k) of the Exchange Act, that trading in the securities of Global Leadership Institute, Inc. is suspended for the period from 9:30 a.m. EDT on March 11, 2015, through 11:59 p.m. EDT on March 24, 2015.

By the Commission.

Lynn M. Powalski,

Deputy Secretary.

[FR Doc. 2015–05891 Filed 3–11–15; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9063]

Culturally Significant Objects Imported for Exhibition Determinations: ''Raku: The Cosmos in a Teabowl'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E. O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Raku: The Cosmos in a Teabowl,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, from on or about March 29, 2015, until on or about June 7, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including lists of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 9, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–05794 Filed 3–12–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0009]

Filing Process for Petitions for Waiver and Other Exemptions, Applications, and Special Approvals

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that FRA has created an electronic mailbox to receive petitions for waivers and exemptions from railroad safety rules and regulations, as well as applications for modification or discontinuance of railroad signal systems (block signal applications) and certain special approvals from railroad safety rules and regulations. The email address for this inbox is *FRAWaivers@dot.gov.* FRA requests that all railroad safety waiver and exemption requests, as well as block signal applications and special approval applications be submitted either to FRA's Docket Clerk in accordance with the existing requirements in Title 49 Code of Federal Regulations (CFR) Part 211, Rules of Practice, or to this email address.

FOR FURTHER INFORMATION CONTACT: Milicent D. White, Program Specialist, 202–493–1328, *Milicent.White@dot.gov,* 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This document announces FRA's establishment of an electronic mailbox to receive petitions for waivers, certain petitions for special approvals and exemptions from railroad safety rules and regulations, as well as block signal applications. The email address for this inbox is *FRAWaivers@dot.gov.* FRA anticipates providing a link on its Web page (*www.fra.dot.gov*) to this mailbox to further streamline the filing process. FRA created this electronic mailbox in order to streamline the filing process for certain documents typically filed in accordance with 49 CFR 211.7, *Filing Requirements,* including petitions for waiver of any FRA rule or regulation, applications for special approval under 49 CFR 211.55 or 238.21, restricted car approvals under 49 CFR 215.203, grandfathering approvals under 238.203, and signal applications under 49 CFR parts 235 and 236 (block signal applications). FRA is providing the flexibility for electronic filing of these petitions and applications also with the intent to avoid lost, misplaced, delayed, damaged or illegible hardcopy mail. FRA requests that all railroad safety waiver and exemption requests, as well as block signal applications and special approval applications (including new requests, requests for extensions of existing waivers or approvals, or withdrawals, along with all supporting documentation), be submitted to either FRA's Docket Clerk at the address provided in 49 CFR 211.1(b)(4) in accordance with the existing requirements of 49 CFR 211.7 or to the above-referenced email address. FRA is providing for the electronic filing of waivers and other requests for regulatory relief traditionally filed in hard copy through FRA's Docket Clerk in order to increase the efficiency of the process both internally and externally. FRA anticipates following this notice with a rulemaking modifying the applicable procedural regulations (49 CFR part 211) to specifically provide for the electronic filing of the above-identified documents. In anticipation of this rulemaking, any interested party may submit comments regarding the use of this electronic mailbox for submission of railroad safety waiver and exemption requests, block signal applications, and special approval applications.

A copy of this notice, as well as any written communications concerning the notice, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties may submit written views, data, or comments regarding the use of an electronic mailbox as described in this notice. All written submissions should be submitted by May 12, 2015.

All communications concerning this notice should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on March 10, 2015.

Ron Hynes,

Director of Technical Oversight.

[FR Doc. 2015–05751 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

[Docket Number: FHWA–2015–0001]

Notice of Availability of Revised Guidance on the Environmental Review Process

AGENCY: Federal Highway Administration, Federal Transit Administration, DOT.

ACTION: Notice of availability; Request for comments.

SUMMARY: The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) announce the availability of its revised Section 139 Environmental Review Process guidance (previously referred to as the SAFETEA–LU Environmental Review Process Final Guidance), which was amended to reflect provisions of the Moving Ahead for Progress in the 21st Century Act (MAP–21). The document provides guidance on environmental review process requirements and best management practices for transportation projects funded or approved by the FHWA, FTA, or both agencies. The revisions to the joint guidance reflect the FHWA and FTA's proposed implementation of the MAP–21 changes within their statutory environmental review process requirements, in accordance with the National Environmental Policy Act (NEPA) and other Federal laws. The FHWA and FTA request public comments on the proposed guidance.

DATES: Comments must be received by May 12, 2015. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments to Docket No. FHWA–2015–0001 by any of the following methods:

Federal eRulemaking Portal: Go to *www.regulations.gov* and follow the online instructions for submitting comments.

Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 8:30 a.m. and 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

Fax: (202) 493–2251.

Instructions: You must include the agency name (Federal Highway Administration or Federal Transit Administration) and the Docket Number of this notice at the beginning of your comments. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For the FHWA: Neel Vanikar, Office of Project Development and Environmental Review, (202) 366–2068, or Jomar Maldonado, Office of Chief Counsel, (202) 366–1373. For FTA: Chris Van Wyk, Office of Environmental Programs, (202) 366–1733, or Helen Serassio, Office of Chief Counsel, (202) 366–1974. The FHWA and FTA are located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA and FTA, hereafter referred to as the ''Agencies,'' are proposing the issuance of revised joint guidance on the environmental review process based on revisions to 23 U.S.C. 139 (Efficient environmental rules for project decisionmaking) by various MAP–21 provisions. The proposed guidance would update and supersede the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) Environmental Review Process Final Guidance issued on November 16, 2006.

The MAP–21 added requirements and refinements to the project development procedures found in 23 U.S.C. 139 (Section 139), which contains statutory requirements supplemental to the process required by NEPA, the Council on Environmental Quality regulations at 40 CFR 1500, and the FHWA/FTA joint environmental regulations at 23 CFR part 771. Section 139 provides the roles of the project sponsor and the lead, participating, and cooperating agencies; sets requirements for coordinating and scheduling agency reviews; identifies the authority of States to use Federal funding to ensure timely environmental reviews; specifies a process for resolving interagency disagreements; and establishes a statute of limitations on claims against transportation projects. The MAP–21 amended Section 139 by emphasizing a framework for setting deadlines for decisionmaking in the environmental review process; modifying the process for issue resolution and referral; establishing penalties for Federal agencies that do not make a timely decision; and, providing an option for complex projects stalled in the environmental review process to receive technical assistance with a goal of completing the environmental review process (*i.e.,* issuance of a record of decision (ROD)) within 4 years. In addition, MAP–21 mandated the combination of the Final Environmental Impact Statement and ROD into one document under certain circumstances, to the maximum extent practicable, although that process change was not codified in Section 139.

The Agencies request comments on the revised guidance, which is available in the docket (FHWA–2015–0001) and on FHWA's and FTA's MAP–21 Web sites. The Agencies will respond to comments received on the guidance in a second **Federal Register** notice, to be published after the close of the comment period. That second notice will also announce the availability of final guidance that reflects any changes implemented as a result of comments received.

Authority: 23 U.S.C. 139; Pub. L. 112–141, 126 Stat. 551.

Issued on: February 27, 2015.

Gregory G. Nadeau,

Deputy Administrator, Federal Highway Administration.

Therese W. McMillan,

Acting Administrator, Federal Transit Administration.

[FR Doc. 2015–05786 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0013]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 26, 2015, the Illinois Railway Museum (IRM) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations. Specifically, IRM requests relief from certain provisions of 49 CFR part 230, Steam Locomotive Inspection and Maintenance Standards. FRA assigned the petition Docket Number FRA–2015–0013.

IRM is a railroad museum that maintains and operates Number 1630, a 2–10–0 ''Decapod'' type steam locomotive built by Baldwin Locomotive Works in 1918. IRM typically operates Number 1630 for 31 or fewer service days per year and expects to do so for the future. IRM requests relief from performing the fifth annual inspection as it pertains to the inspection of flexible staybolt caps every 5 years as required by 49 CFR 230.41(a), and requests to extend the inspection interval to 2,760 calendar days (7.5 years) after the locomotive entered service on May 24, 2014. IRM will perform all other inspections as required by 49 CFR 230.16, *Annual inspection.* IRM's justification for requesting this relief is that the current level of safety would be maintained due to the low number of service days accrued in this engine since the last flexible staybolt cap inspection. There will be a significant cost savings as the IRM shop forces would not be required to remove the cab, piping, jacketing, and insulation to gain access to the caps to perform the flexible staybolt cap inspection.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since

the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 27, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on March 10, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–05752 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0386]

Parts and Accessories Necessary for Safe Operation; Grant of Temporary Exemption for Volvo/Prevost LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Volvo/Prevost, LLC's (Volvo/Prevost) application for a limited two-year exemption from 49 CFR 393.60(e)(1) on behalf of motor carriers that will be operating commercial motor vehicles (CMV) manufactured by the company to use lane departure warning (LDW) systems mounted in the windshield area at a height lower than what is currently allowed by the regulation. The LDW system alerts drivers who unintentionally drift out of their lane of travel, thus promoting improved safety performance. The Agency has determined that the placement of the LDW system camera in the windshield area would not have an adverse impact on safety and that the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: This exemption is effective from March 13, 2015 through March 13, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–4325, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to the notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSR). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Volvo/Prevost's Application for Exemption

Volvo/Prevost applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of an LDW system on motorcoaches purchased by its customers. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

The application stated:

> Volvo/Prevost is making this request so it is possible to introduce a Lane Departure Warning system in line with [the] NHTSA Bus Safety plan as it already did for several other safety features. The camera must be installed in the wiper swept area of [the] windshield for the system to perform correctly because it must have a clear forward facing view of the road. On a today's typical coach the lower part of the windshield is outside the driver's sight lines to the road and highway signs and signals which is different from a truck. Therefore, we request the installation of the camera on the lower part of the windshield within the bottom 7 inches of the wiper swept area.

In addition, Volvo/Prevost noted that without the proposed temporary exemption, it would not be able to deploy the LDW system in motorcoaches because (1) its customers would be fined for violating the current regulation, (2) the LDW system would not perform adequately and would not bring the safety benefits expected, and (3) the camera would be more in the field of view of the driver. Volvo/

Prevost states that if the exemption is granted, it ''will be able to install the LDW camera system in a location which will offer the best opportunity to optimize the data and evaluate the benefits of such a system.''

Comments

FMCSA published a notice of the application in the **Federal Register** on December 18, 2013, and asked for public comment (78 FR 76702).

The Agency received one comment, from Greyhound Lines, Inc. (Greyhound). Greyhound stated that it ''has a substantial number of motorcoaches manufactured by Prevost in its fleet and has been an industry leader in adding innovative safety equipment to its motorcoaches.'' Greyhound strongly supports the granting of the exemption, stating that it ''believes that the lane departure warning (LDW) system that Prevost plans to install on its motorcoaches can be a useful tool for enhancing motorcoach safety if properly installed,'' and agreed with Volvo/Prevost's assertion that ''the camera must be installed in the wiper swept area of [the] windshield for the system to perform correctly because it must have a clear forward facing view of the road.'' Greyhound agreed that installation of the LDW camera within the bottom 7 inches of the wiper swept area ''will maximize its effectiveness as a safety tool while not impeding the driver's sight lines.''

FMCSA Decision

The FMCSA has evaluated the Volvo/Prevost exemption application. The Agency believes that granting the temporary exemption to allow the placement of LDW systems lower in the windshield than is currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the LDW systems would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the bottom seven inches of the area swept by the windshield wiper and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of LDW systems by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency actions permitting the placement of LDW systems on CMVs within the swept area of the windshield wipers. In November 2011, FMCSA granted temporary exemptions to Conway, Takata, and Iteris enabling the mounting of LDW system sensors not more than 2 inches below the upper edge of the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals. The Agency recently renewed these exemptions for a second 2-year period, as FMCSA is not aware of any evidence showing that the installation of the devices has resulted in any degradation in safety. Further, while the original exemption granted relief to motor carriers using only the Takata and Iteris LDW systems, the Agency determined that it was appropriate to extend the scope of the exemption to motor carriers using any LDW system, given that FMCSA is unaware of any reduction in the level of safety associated with the use of those systems.

However, the provisions of that exemption cannot apply to the Volvo/Prevost application, as the requested mounting location for the Volvo/Prevost LDW system is at the lower portion of the windshield, within the bottom 7 inches of the wiper swept area, as opposed to the mounting location permitted by the other exemption, which is not more than 2 inches below the upper edge of the area swept by the windshield wipers. Notwithstanding the different mounting location, and for the reasons discussed above, FMCSA believes that allowing the placement of LDW systems in the lower portion of the windshield, within the swept area of the wipers, will provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption. FMCSA continues to believe that the potential safety gains from the use of LDW systems to improve driver performance will improve the overall level of safety to the motoring public.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a two-year period, beginning March 13, 2015 and ending March 13, 2017. During the temporary exemption period, motor carriers operating motorcoaches manufactured by Volvo/Prevost must ensure that the LDW systems are mounted not more than 7 inches above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers operating motorcoaches manufactured by Volvo/Prevost fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating motorcoaches manufactured by Volvo/Prevost are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Issued on: March 2, 2015.

T. F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–05634 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on South Mountain Freeway (Loop 202), Interstate 10 (Papago Freeway) to Interstate 10 (Maricopa Freeway) in Phoenix, AZ

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Availability of the Record of Decision (ROD) for the South Mountain Freeway project; and Notice of limitation on claims for judicial review of actions by FHWA and other Federal Agencies.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and FHWA procedures, this notice announces the availability of the ROD regarding the South Mountain Freeway project in Phoenix, AZ. The Arizona Division Administrator signed the ROD on March 5, 2015.

In addition, this notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the design and construction of the Selected Alternative for the South Mountain Freeway project. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 10, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Hansen, Team Leader Planning, Environment, Air Quality, and Realty Team, Federal Highway Administration, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012–3500; telephone: (602) 379–3646, fax: (602) 382–8998, email: *Alan.Hansen@dot.gov.* The FHWA Arizona Division Office's normal business hours are 7:30 a.m. to 4 p.m. (Mountain Standard Time).

You may also contact: Ms. Rebecca Yedlin, Environmental Coordinator, Federal Highway Administration, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012–3500; telephone: (602) 379–3646, fax: (602) 382–8998, email: *Rebecca.Yedlin@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following project in the State of Arizona: South Mountain Freeway (Loop 202), Interstate 10 (Papago Freeway) to Interstate 10 (Maricopa Freeway). The FHWA has decided to identify the Preferred Alternative analyzed in the *South Mountain Freeway (Loop 202) Final Environmental Impact Statement and Section 4(f) Evaluation* (FEIS) as the Selected Alternative for the South Mountain Freeway project in Phoenix, Arizona, and to proceed with its construction. The Selected Alternative discussed in the ROD for the project is the environmentally preferable alternative. The Selected Alternative will meet the project needs as well as or better than the other alternatives, and was determined to be the only prudent and feasible alternative in the eastern project area during the Section 4(f) evaluation. The Selected Alternative will have similar environmental effects on natural resources, cultural resources, hazardous materials, and noise; will displace fewer residences; will have the lowest impact on total tax revenues of local governments; will have lower construction costs; will cause less construction disruption overall to Interstate 10 (Papago Freeway); will mitigate impacts and provide measures to minimize harm; represents all possible planning to minimize harm to resources receiving protection under Section 4(f); is favored by the majority of local governments; and will allow regulatory permitting requirements to be met.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Draft Environmental Impact Statement approved April 16, 2013, FEIS for the project, approved on September 18, 2014, in the FHWA ROD issued on March 5, 2015, and in other documents in the FHWA administrative record. Project decision documents are also available online at: *azdot.gov/southmountainfreeway.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the US Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Water:* Clean Water Act 33 U.S.C. 1251–1387.

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: March 9, 2015.

Karla S. Petty,

Arizona Division Administrator, Phoenix, Arizona.

[FR Doc. 2015–05769 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0015]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated February 16, 2015, Sonoma-Marin Area Rail Transit District (SMART) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance and Repair of Signal and Train Control Systems, Devices, and Appliances. FRA assigned the petition Docket Number FRA–2015–0015.

Specifically, SMART seeks temporary relief from the requirements of 49 CFR 236.0, *Applicability, minimum*

requirements, and penalties. SMART proposes to perform acceptance testing of new Diesel Multiple Units (DMU), at speeds of up to 79 mph on trackage without a block signal system, as required in 49 CFR 236.0(c)(2).

SMART is scheduled to receive its pilot two-car set of DMUs in February 2015. SMART's Enhanced Automatic Train Control (E–ATC) system is not scheduled to be commissioned until 2016. SMART seeks permission to perform limited non-revenue testing of its new fleet of DMUs at a speed not to exceed 79 mph, solely on a remote 6.3-mile segment of track, absent the installation of a block signal system. SMART is seeking to perform testing under this temporary waiver until its E–ATC system is fully commissioned.

SMART has submitted a test plan with its petition, outlining the safety procedures which would be in place during the testing.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 27, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on March 10, 2015.

Ron Hynes,

Director of Technical Oversight.

[FR Doc. 2015–05753 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2003–16203]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 9, 2015, Norfolk Southern Railway (NS) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215, Railroad Freight Car Safety Standards, 231, Railroad Safety Appliance Standards, and 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices, regarding the operation of RoadRailer/RailRunner equipment on NS in Triple Crown Service. FRA assigned the petition Docket Number FRA–2003–16203.

In its petition, NS requested a 5-year extension of an existing waiver granted by FRA in a letter dated June 4, 2010. NS had no accidents or injuries in the past 5 years of operating the RoadRailer/RailRunner equipment on its lines, and has requested relief from certain provisions of Parts 215, 231, and 232.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 27, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on March 10, 2015.

Ron Hynes,

Director of Technical Oversight.

[FR Doc. 2015–05750 Filed 3–12–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 10, 2015.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before April 13, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov*.

Internal Revenue Service (IRS)

OMB Number: 1545–1002.

Type of Review: Reinstatement with change of a previously approved collection.

Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

Form: 8621.

Abstract: Form 8621 is filed by a U.S. shareholder who owns stock in a foreign investment company. The form is used to report income, make an election to extend the time for payment of tax, and to pay an additional tax and interest amount. The IRS uses Form 8621 to determine if these shareholders have correctly reported amounts of income, made the election correctly, and have correctly computed the additional tax and interest amount.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 64,971.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–05739 Filed 3–12–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Notice of Finding That Banca Privada d'Andorra Is a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of Finding.

SUMMARY: This document provides notice that, pursuant to the authority contained in the USA PATRIOT Act, the Director of FinCEN found on March 6, 2015 that reasonable grounds exist for concluding that Banca Privada d'Andorra (''BPA'') is a financial institution operating outside of the United States of primary money laundering concern.

DATES: The finding referred to in this notice was effective as March 6, 2015.

FOR FURTHER INFORMATION CONTACT: FinCEN, (800) 949–2732.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the ''USA PATRIOT Act''), Public Law 107–56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X.

Section 311 of the USA PATRIOT Act (''Section 311''), codified at 31 U.S.C. 5318A, grants the Secretary of the Treasury (''the Secretary'') the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transaction, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern. The Secretary has delegated this authority under Section 311 to the Director of FinCEN.

On March 6, 2015, the Director of FinCEN found that reasonable grounds exist for concluding that Banca Privada d'Andorra (''BPA'') is a financial institution operating outside of the United States of primary money laundering concern. The Director considered the factors listed below in making this determination.

II. The History of BPA and Jurisdictions of Operation

BPA is one of five Andorran banks and is a subsidiary of the BPA Group, a privately-held entity. Founded in 1962, BPA is the fourth largest bank of the five banks in Andorra and has 1.79 billion euro in assets. The bank has seven domestic branches in Andorra and five foreign branches that operate in Spain, Switzerland, Luxembourg, Panama, and Uruguay. BPA has fewer domestic and foreign branches than the other major banking groups in Andorra. BPA's Panama branch (''BPA Panama'') is licensed as an offshore bank by the Superintendecia de Bancos de Panama, which is the bank regulator for the Panamanian government. BPA has correspondent banking relationships in the major North American, European, and Asian financial centers. At the time of this Finding, BPA has four U.S. correspondent accounts.

III. The Extent to Which BPA Has Been Used To Facilitate or Promote Money Laundering

FinCEN has found that reasonable grounds exist for concluding that several officials of BPA's high-level management in Andorra have facilitated financial transactions on behalf of Third-Party Money Launderers (''TPMLs'') providing services for individuals and organizations involved in organized crime, corruption, smuggling, and fraud. Criminal organizations launder their proceeds through the international financial system. These organizations often encounter obstacles in achieving direct access to financial institutions internationally and in the United States because of their illicit activities. To obtain access to financial institutions, some criminal organizations use the services of TPMLs, including professional gatekeepers such as attorneys and accountants. TPMLs engage in the business of transferring funds on behalf of a third party, knowing that the funds are involved in illicit activity. These TPMLs provide access to financial institutions and lend an aura of legitimacy to criminal actors who use the TPMLs' services. Some TPMLs explicitly market their services as a method for criminal organizations

to reduce transparency and circumvent financial institutions' anti-money laundering (''AML'')/countering the financing of terrorism (''CFT'') controls. TPMLs provide access to the international financial system for criminal organizations through the TPMLs' relationships with financial institutions.

Financial institutions that facilitate third-party money laundering activity allow criminals to circumvent AML/CFT controls both in the United States and internationally, and, thus, provide a gateway for undermining financial integrity. TPMLs use a wide variety of schemes and methods to infiltrate financial institutions. These schemes and methods include using illicit shell and shelf corporations, layering financial transactions, creating and using false documentation, and exerting improper influence on employees in financial institutions or on government officials. A shell company is an entity that is formed for the purpose of holding property or funds and does not itself engage in any significant business activity. A shelf corporation is an entity that is formed and then placed aside for years. The length of time that a shelf corporation has been in existence adds legitimacy to the entity and makes it a prime vehicle for money laundering.

A. BPA Facilitated Financial Transactions for TPMLs Involving the Proceeds of Organized Crime, Corruption, Human Trafficking, and Fraud

FinCEN has found that reasonable grounds exist to support the following points: Several of BPA's high-level management have facilitated financial transactions on behalf of TPMLs providing services for individuals and organizations involved in organized crime, corruption, human trafficking, trade-based money laundering, and fraud. High-level management at BPA maintained close relationships with these TPMLs. Based on those relationships, TPMLs promoted their services to other illicit actors and relied on BPA to provide access to the financial system for criminal organizations. TPMLs successfully used BPA to facilitate money laundering activity because the Bank's weak AML/CFT controls allowed TPMLs to conduct this high-risk banking activity without detection, and the TPMLs were able to establish close relationships with complicit bank personnel who facilitated illicit transactions.

From 2011 to February 2013, High-Level Manager A at BPA in Andorra provided substantial assistance to Andrey Petrov, a TPML (''TPML 1'') working for Russian criminal organizations engaged in corruption. Petrov facilitated several projects on behalf of transnational criminal organizations. Petrov used the proceeds of transnational organized crime to bribe local officials in Spain. Petrov secured beneficial zoning rights and contracts from a local official. After Petrov's application for a line of credit at a Spanish bank was rejected, High-Level Manager A ensured that Petrov could obtain a line of credit from another Spanish bank and that the application would not be perceived as suspicious. Petrov arranged for High-Level Manager A to fly to Russia to meet with transnational organized crime figures.

High-Level Manager A created accounts at BPA that facilitated false invoicing to disguise the origin of illicit funds. In addition, a Russian businessman known to be connected to transnational criminal organizations worked with BPA, including High-level Manager A, to establish front companies and foundations used to move funds believed to be affiliated with organized crime. Both Petrov and the Russian businessman relied on BPA to facilitate the laundering of the organized crime proceeds and maintained large bank accounts with BPA. In February 2013, Spanish law enforcement arrested Petrov and several associates for laundering approximately 56 million euro. Petrov is suspected to have links to Semion Mogilevich, one of the FBI's ten ''most wanted'' fugitives.

In addition to BPA's facilitation of illicit financial transactions by Petrov, in a separate scheme, a Venezuelan TPML (''TPML 2'') and his network relied on BPA to deposit the proceeds of public corruption. This money laundering network worked closely with high-ranking government officials in Venezuela, resident agents in Panama, and an Andorran lawyer to establish Panamanian shell companies. The money laundering network owned hundreds of shell companies and engaged in a wide variety of business for illicit profit. This network was well connected to Venezuelan government officials and relied on various methods to move funds, including false contracts, mischaracterized loans, over- and under-invoicing, and other trade-based money laundering schemes.

TPML 2 had a relationship with High-Level Manager B at BPA. TPML 2 gave High-Level Manager B false contracts to support transactions purported to be on behalf of Venezuelan public institutions including Petroleos de Venezuela S.A. (''PDVSA''), the public oil company of Venezuela. In some instances, these contracts did not list a customer for the services. High-Level Manager B's reliance on these contracts demonstrated transaction monitoring and due diligence failures. Also, High-Level Manager B coordinated the opening of a shell company on behalf of the Venezuelan TPML. High-Level Manager B worked with High-Level Manager A on the illicit Venezuelan transactions. BPA facilitated the movement of approximately $2 billion through these shell company accounts maintained at BPA. Between January 2011 and March 2013, BPA facilitated the movement of at least $50 million in send and receive transactions that were processed through the United States in support of this money laundering network. In 2014, BPA continued to facilitate the movement of funds related to this scheme through the U.S. financial system. Overall, BPA facilitated the movement of $4.2 billion in transfers related to Venezuelan money laundering.

In addition to BPA's facilitation of illicit financial transactions by Petrov and Venezuelan money launderers, from 2011 to October 2012, High-Level Manager C at BPA accepted bribes to process bulk cash transfers for TPML Gao Ping (''TPML 3''). Ping acted on behalf of a transnational criminal organization engaged in trade-based money laundering and human trafficking and established relationships with Andorran banks to launder money on behalf of his organization and numerous Spanish businesspersons. Through his associate, Ping bribed Andorran bank officials to accept cash deposits into less scrutinized accounts and transfer the funds to suspected shell companies in China. One of Ping's key bank executives was High-Level Manager C. High-Level Manager C and another bank manager at BPA processed approximately 20 million euro in cash used to fund wire transfers sent to Ping's accounts in China. Spanish law enforcement arrested Ping in September 2012 for his involvement in money laundering.

B. BPA's Weak AML Controls Attract TPMLs and Allow Its Customers To Conduct Transactions Through the U.S. Financial System That Disguise the Origin and Ownership of the Funds

BPA's failure to conduct adequate due diligence on customer accounts and its provision of high-risk services to shell companies make it highly attractive and well known to TPMLs. TPMLs worked on behalf of transnational criminal organizations to facilitate the criminal organizations' financial transactions through BPA. In addition, TPMLs reportedly coordinated multi-million

dollar deals related to Venezuelan corruption and represented that connections with BPA would facilitate these transactions.

For example, a TPML (''TPML 4''), who has worked with the Sinaloa cartel, facilitated the transfer of bulk cash derived from narcotics trafficking in the United States and facilitated financial transactions involving the proceeds of other crimes. TPML 4 intentionally bolstered connections with BPA to attract money laundering clients and requested that clients send smaller transfers through accounts at other institutions and to only use accounts at BPA for large transactions. In communications with co-conspirators, TPML 4 advertised a relationship with BPA in attempts to attract potential money laundering deals. TPML 4 told clients that this relationship with BPA and other government officials would ensure that their transactions would not be scrutinized by the financial community. In addition, TPML 4 also marketed services to potential clients by providing specific wire transfer instructions for accounts at BPA.

TPML 4 used many methods to avoid detection by law enforcement, including planning to increase operations during the U.S. government shutdown in 2013. TPML 4 used many Panamanian, Spanish, and Swiss shelf corporations to attract clients. Several of these shelf corporations had bank accounts, including at BPA.

BPA's failure to monitor transactions for apparent red flag activity attracts TPMLs. Many third-party money laundering transactions conducted through BPA lack an apparent business purpose and would be identified as high risk by a bank with sufficient AML/CFT controls. For example, BPA processed millions of U.S. dollar transactions that listed BPA's Andorran address for the originator's or beneficiary's address. Although there may be rare occasions when use of the bank's address as a bank customer's address of record is legitimate, the processing of a high percentage of transactions not containing accurate customer address information indicates failure to conduct sufficient due diligence on a customer, failure to adequately monitor transactions, or possible complicity in money laundering by disguising the origin of funds. BPA also attracts TPMLs by knowingly providing services to shell and shelf companies and unlicensed money transmitters. As noted above, TPMLs rely on shell and shelf companies to shield the identities of their clients engaged in criminal activity. BPA's facilitation of this high-risk business allows TPMLs to obscure the beneficial ownership of these accounts.

BPA accesses the U.S. financial system through direct correspondent accounts held at four U.S. banks. Between approximately 2009 through 2014, BPA processed hundreds of millions of dollars through its U.S. correspondents. These transactions contained numerous indicators of high-risk money laundering typologies, including widespread shell company activity, unlicensed money transmitters, and other high-risk business customers. For example, BPA processed tens of millions of dollars on behalf of unlicensed money transmitters through one U.S. correspondent. The U.S. correspondent requested that BPA sign an agreement to discontinue processing these transactions through its account. After these concerns arose, the U.S. correspondent closed BPA's account.

In addition, 62 percent of BPA's outgoing transactions through one U.S. correspondent bank involved only four high-risk customers. These customers, deemed high-risk by the U.S. correspondent bank, included a shell company, an Internet business, and two non-bank financial institutions. Between approximately 2007 and 2012, BPA also used its U.S. correspondents to send or receive wire transfers totaling more than $50 million for Panamanian shell companies that share directors, agents, and the same address. These transfers involved large, round dollar amounts and did not specify a purpose for the transactions. When U.S. correspondents requested additional information, BPA either failed to respond or provided extremely limited information.

IV. The Extent to Which BPA Is Used for Legitimate Business Purposes

It is difficult to assess on the information available the extent to which BPA is used for legitimate business purposes. BPA provides services in private banking, personal banking, and corporate banking. These services include typical bank products such as savings accounts, corporate accounts, credit cards, and financing. BPA provides services to high-risk customers including international foreign operated shell companies, businesses likely engaged in unlicensed money transmission, and senior foreign political officials. Because of the demonstrated cooperation of high level management at BPA with TPMLs, BPA's legitimate business activity is at high risk of being abused by money launderers.

V. The Extent to Which This Action Is Sufficient To Guard Against International Money Laundering and Other Financial Crimes

FinCEN's March 13, 2015 proposed imposition of the fifth special measure, pursuant to 31 U.S.C. 5318A(b)(5), would guard against the international money laundering and other financial crimes described above directly by restricting the ability of BPA to access the U.S. financial system to process transactions, and indirectly by public notification to the international financial community of the risks posed by dealing with BPA and TPMLs.

Dated: March 6, 2015.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2015–05911 Filed 3–12–15; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 9779, 9783, 9787, and 9789

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 9779, 9783, 9787, and 9789, Electronic Federal Tax Payment System (EFTPS).

DATES: Written comments should be received on or before May 12, 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 the forms and instructions should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Electronic Federal Tax Payment System (EFTPS).

OMB Number: 1545–1467.

Form Number: Forms 9779, 9783, 9787, and 9789.

Abstract: These forms are used by business and individual taxpayers to enroll in the Electronic Federal Tax Payment System (EFTPS). EFTPS is an electronic remittance processing system the Service uses to accept electronically transmitted federal tax payments. EFTPS (1) establishes and maintains a taxpayer data base which includes entity information from the taxpayers or their banks, (2) initiates the transfer of the tax payment amount from the taxpayer's bank account, (3) validates the entity information and selected elements for each taxpayer, and (4) electronically transmits taxpayer payment data to the IRS.

Current Actions: The total burden hours have decreased. The burden hours have changed from 4,470,000 to 4,350,000 with a decrease total of 120,000 hours. The decrease is due to each Spanish form becoming obsolete.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Respondents: 4,350,000.

Estimated Total Annual Burden Hours: 726,450.

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. Comments will be 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 has 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 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: February 23, 2015.

Christie Preston,

IRS Tax Analyst.

[FR Doc. 2015–05660 Filed 3–12–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is removing the name of 1 individual and 8 entities, whose property and interests in property were blocked pursuant to E.O.13224, from the list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective February 26, 2015.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On February 26, 2015, OFAC removed the following 1 individual and 8 entities from the SDN List.

Individuals

1. NADA, Youssef (a.k.a. NADA, Youssef M.; a.k.a. NADA, Youssef Mustafa), Via Per Arogno 32, Compione d'Italia CH–6911, Switzerland; Via Arogno 32, Compione d'Italia CH–6911, Italy; Via Riasc 4, Compione d'Italia CH–6911, Switzerland; DOB 17 May 1931; alt. DOB 17 May 1937; POB Alexandria, Egypt; citizen Tunisia (individual) [SDGT].

Entities

1. ASAT TRUST REG., Altenbach 8, Vaduz 9490, Liechtenstein [SDGT].
2. BA TAQWA FOR COMMERCE AND REAL ESTATE COMPANY LIMITED (n.k.a. HOCHBURG, AG), Vaduz, Liechtenstein; formerly c/o Asat Trust reg., Vaduz, Liechtenstein [SDGT].
3. BANK AL TAQWA LIMITED (a.k.a. AL TAQWA BANK; a.k.a. BANK AL TAQWA), P.O. Box N–4877, Nassau, Bahamas, The; c/o Arthur D. Hanna & Company, 10 Deveaux Street, Nassau, Bahamas, The [SDGT].
4. NADA INTERNATIONAL ANSTALT, Vaduz, Liechtenstein; formerly c/o Asat Trust reg., Vaduz, Liechtenstein [SDGT].
5. NADA MANAGEMENT ORGANIZATION SA (f.k.a. AL TAQWA MANAGEMENT ORGANIZATION SA), Viale Stefano Franscini 22, Lugano CH–6900 TI, Switzerland [SDGT].
6. WALDENBERG, AG (f.k.a. AL TAQWA TRADE, PROPERTY AND INDUSTRY; f.k.a. AL TAQWA TRADE, PROPERTY AND INDUSTRY COMPANY LIMITED; f.k.a. AL TAQWA TRADE, PROPERTY AND INDUSTRY ESTABLISHMENT; f.k.a. HIMMAT ESTABLISHMENT), c/o Asat Trust Reg., Altenbach 8, Vaduz 9490, Liechtenstein; Via Posero, 2, Compione d'Italia 22060, Italy [SDGT].
7. YOUSSEF M. NADA, Via Riasc 4, Campione d'Italia I CH–6911, Switzerland [SDGT].
8. YOUSSEF M. NADA & CO. GESELLSCHAFT M.B.H. (a.k.a. YOUSSEF M. NADA AND CO. GESELLSCHAFT M.B.H.), Kaernter Ring 2/2/5/22, Vienna 1010, Austria [SDGT].

All property and interests in property of the individual and entities that are in or hereafter come within the United States or the possession or control of United States persons are now unblocked.

Dated: February 26, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–05771 Filed 3–12–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the name of 3 individuals and 3 entities whose property and interests in property are blocked pursuant to E.O. 13224 and whose name has been added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective February 26, 2015.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On February 26, 2015, OFAC blocked the property and interests in property of the following 3 individuals and 3 entities pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individuals

1. FAWAZ, Fouzi Reda Darwish (a.k.a. DARWISH–FAWAZ, Fawzy Reda; a.k.a. DARWISH–FAWAZ, Fouzi Reda; a.k.a. FAWAZ, Fawzi Reda; a.k.a. FAWAZ, Fawzy; a.k.a. FAWAZ, Fowzy; a.k.a. FAWWAZ, Fawzi); DOB 12 Feb 1968; alt. DOB 24 Mar 1973; POB Jwaya, Lebanon; alt. POB Sierra Leone; citizen Lebanon; alt. citizen Nigeria; alt. citizen Sierra Leone; Passport 0107516 (Lebanon); alt. Passport 0258649 (individual) [SDGT] (Linked To: HIZBALLAH).
2. FAWAZ, Mustapha Reda Darwish (a.k.a. DARWISH–FAWAZ, Moustafa Reda; a.k.a. FAWAZ, Mostafa Reda Darwich; a.k.a. FAWAZ, Moustapha; a.k.a. FAWAZ, Mustafa; a.k.a. FAWAZ, Mustafa Darwish; a.k.a. FAWAZ, Mustapha; a.k.a. FAWAZ, Mustapha Rhoda Darwich; a.k.a. FAWAZ, Mustapha Rida Darwich; a.k.a. FAWWAZ, Mustafa), Flat 4, Blantyre Street, Behind Amigo Supermarket, Wuse II, Abuja, Nigeria; 3 Gaya Road, Kano, Nigeria; DOB 25 Jun 1964; alt. DOB 10 Sep 1964; POB Jwaya, Lebanon; alt. POB Koidu Town, Sierra Leone; citizen Lebanon; alt. citizen Nigeria; alt. citizen Sierra Leone; Gender Male; Passport RL 2101602 (Lebanon); alt. Passport RL 0148105 (Lebanon); alt. Passport 0168459 (Sierra Leone); alt. Passport 0257909 (Sierra Leone); SSN 418–15–2837 (United States) (individual) [SDGT] (Linked To: HIZBALLAH).
3. TAHINI, Abdallah Asad (a.k.a. THAHINI, Abdallah; a.k.a. THINI, Abdalla As'ad; a.k.a. ''TAHINI, Ahmad''); DOB 20 Jun 1965; POB Lebanon (individual) [SDGT] (Linked To: HIZBALLAH).

Entities

1. AMIGO SUPERMARKET LIMITED (a.k.a. AMIGO SUPERMARKET), 1023, Adetokunbo Ademola Crescent, Wuse II, Abuja, Nigeria [SDGT] (Linked To: FAWAZ, Mustapha Reda Darwish; Linked To: FAWAZ, Fouzi Reda Darwish).
2. KAFAK ENTERPRISES LIMITED, 88B, T/Balewa Road, Kano State, Nigeria; Sierra Leone [SDGT] (Linked To: FAWAZ, Mustapha Reda Darwish; Linked To: FAWAZ, Fouzi Reda Darwish).
3. WONDERLAND AMUSEMENT PARK AND RESORT LTD (a.k.a. WONDERLAND AMUSEMENT PARK), B1 Kukbawa, Opposite National Stadium, Abuja, FCT, Nigeria [SDGT] (Linked To: FAWAZ, Mustapha Reda Darwish; Linked To: FAWAZ, Fouzi Reda Darwish).

Dated: February 26, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–05774 Filed 3–12–15; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 80 Friday,
No. 49 March 13, 2015

Part II

The President

Notice of March 11, 2015—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 80, No. 49
Friday, March 13, 2015

Presidential Documents

Title 3—

The President

Notice of March 11, 2015

Continuation of the National Emergency With Respect to Iran

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran. On May 6, 1995, the President issued Executive Order 12959, imposing comprehensive sanctions on Iran to further respond to this threat. On August 19, 1997, the President issued Executive Order 13059, consolidating and clarifying the previous orders. I took additional steps pursuant to this national emergency in Executive Order 13553 of September 28, 2010, Executive Order 13574 of May 23, 2011, Executive Order 13590 of November 20, 2011, Executive Order 13599 of February 5, 2012, Executive Order 13606 of April 22, 2012, Executive Order 13608 of May 1, 2012, Executive Order 13622 of July 30, 2012, Executive Order 13628 of October 9, 2012, and Executive Order 13645 of June 3, 2013.

While the Joint Plan of Action (JPOA) between the P5+1 and Iran that went into effect on January 20, 2014, and was renewed by mutual consent of the P5+1 and Iran on July 19, 2014, and November 24, 2014, marks the first time in a decade that Iran has agreed to and taken specific actions that stop the advance and roll back key elements of its nuclear program, certain actions and policies of the Government of Iran continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran declared in Executive Order 12957. The emergency declared in Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170. This renewal, therefore, is distinct from the emergency renewal of November 2014.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 11, 2015.

[FR Doc. 2015–06031
Filed 3–12–15; 11:15 am]
Billing code 3295–F5

FEDERAL REGISTER

Vol. 80 Friday,
No. 49 March 13, 2015

Part III

The President

Memorandum of March 10, 2015—Student Aid Bill of Rights To Help Ensure Affordable Loan Repayment

Federal Register
Vol. 80, No. 49
Friday, March 13, 2015

Presidential Documents

Title 3—

The President

Memorandum of March 10, 2015

Student Aid Bill of Rights To Help Ensure Affordable Loan Repayment

Memorandum for the Secretary of the Treasury[,] the Secretary of Education[,] the Commissioner of Social Security[,] the Director of the Consumer Financial Protection Bureau[,] the Director of the Office of Management and Budget[,] the Director of the Office of Science and Technology Policy[, and] the Director of the Domestic Policy Council

America thrived in the 20th century in large part because we had the most educated workforce in the world. Today, more than ever, Americans need knowledge and skills to meet the demands of a growing global economy. Since many students borrow to pay for postsecondary education, it is imperative they be able to manage their debt as they embark on their careers.

My Administration has taken historic action to ensure that college remains affordable and student debt remains manageable. We have eliminated tens of billions of dollars in student loan subsidies paid to banks in order to increase the maximum Pell grant by nearly $1,000 and provide a path for borrowers to limit payments on many student loans to 10 percent of income, and we have worked with the Congress to enact the American Opportunity Tax Credit, worth $10,000 over 4 years of college. We have promoted innovation and competition to bring down college costs, increased completion rates, and given consumers clear, transparent information on college performance.

College remains an excellent investment, and student loans enable many who could not otherwise do so to access further education. However, there is more work to do to help students repay their loans responsibly. In 2013, college graduates owed an average of $28,400 in Federal and private loans. More than one in eight Federal borrowers default on their loans within 3 years of leaving school. My Administration has already put in place significant protections that ensure borrowers with credit cards and mortgages are treated fairly. We can and should do much more to give students affordable ways to meet their responsibilities and repay their loans.

Now is the time for stronger protections for the more than 40 million Americans with student loan debt. All student loan borrowers should have access to an efficient and responsive complaint and feedback system that holds loan servicers accountable and promotes transparency, the information and flexibility they need to repay their loan responsibly and avoid default, and protections to ensure that they will be treated fairly even if they struggle to repay their loans.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

Section 1. *State-of-the-Art Complaint and Feedback System.*

(a) *Complaints and Feedback Regarding Federal Financial Aid.* By July 1, 2016, the Secretary of Education shall develop and implement a simple process for borrowers to file complaints regarding Federal financial aid, including those pertaining to lenders, loan servicers, private collection agencies, and institutions of higher education. The process shall allow people to file a complaint and monitor its progress toward resolution. In addition, the Department of Education will provide data from the complaint system to other enforcement agencies that are responsible for oversight of Federal

student loan lenders, loan servicers, private collection agencies, and institutions of higher education. By October 1, 2017, and annually thereafter, the Department of Education shall publish a report summarizing and analyzing the content in and resolution of borrower complaints and feedback received through the process. By October 1, 2015, the Secretary of Education shall report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on the optimal way to address other student complaints regarding institutions of higher education that participate in Federal student financial aid programs.

(b) *Coordination Among Other Enforcement Agencies.* By October 1, 2015, the Secretary of Education shall, in consultation with the Director of the Consumer Financial Protection Bureau, recommend to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, a process for sharing information with relevant enforcement agencies so that those enforcement agencies may refer matters where there may be violations of consumer protection law.

Sec. 2. *Helping Borrowers Repay Their Loans and Avoid Default.*

(a) *Higher Standards for Federal Direct Loan Servicing.* By January 1, 2016, the Secretary of Education shall require all Federal Direct student loan servicers to provide enhanced disclosures to borrowers and strengthened consumer protections. These disclosures and consumer protections shall be improved throughout the loan repayment process, and shall include disclosures to borrowers regarding loan transfers from one servicer to another and notifications when borrowers become delinquent or have incomplete applications to change repayment plans. As soon as practicable, the Secretary shall direct all Federal Direct student loan servicers to apply prepayments to loans with the highest interest rate to ensure consistency across servicers, unless otherwise instructed by borrowers.

(b) *Regular Review of Student Loan Performance and Borrower Trends.* The Director of the Office of Management and Budget and the Secretary of Education shall convene quarterly an interagency task force consisting of the Department of the Treasury, Department of Education, Office of Management and Budget, and Domestic Policy Council to monitor trends in the student loan portfolio, budget costs, and borrower assistance efforts. No later than August 1, 2015, the task force shall review recommendations for the Department of Education from its members and the Consumer Financial Protection Bureau on best practices in performance-based contracting to better ensure that servicers help borrowers responsibly make affordable monthly payments on their student loans.

(c) *Additional Protections for Student Loan Borrowers.* By October 1, 2015, the Secretary of Education, in consultation with the Secretary of the Treasury and the Director of the Consumer Financial Protection Bureau, shall issue a report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on (i) whether statutory or regulatory changes are needed to current provisions that permit the Secretary of Education to specify acts or omissions at institutions of higher education that borrowers may assert as a defense to repayment of a direct loan; and (ii) after assessing the potential applicability of consumer protections in the mortgage and credit card markets to student loans, recommendations for statutory or regulatory changes in this area, including, where appropriate, strong servicing standards, flexible repayment opportunities for all student loan borrowers, and changes to bankruptcy laws.

(d) *Higher Customer Service Standards in Income-Driven Repayment Plans.* By October 1, 2015, the Secretary of Education and the Secretary of the Treasury shall report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on the feasibility of developing a system to give borrowers the opportunity to authorize the Internal Revenue Service to release income information for multiple years for the purposes of automatically determining monthly payments under income-driven repayment plans.

(e) *Finding New and Better Ways to Communicate with Student Loan Borrowers.* By January 1, 2016, the Secretary of Education shall report to the President, through the Director of the Domestic Policy Council, on the findings of a pilot program to test new methods for communicating with borrowers who have Federal Direct student loans on which they are at least 140 days delinquent but which have not entered default. By January 1, 2017, the Secretary shall also, in consultation with the Director of the White House Office of Science and Technology Policy, develop and implement at least five behaviorally designed pilot programs to identify the most effective ways to communicate with borrowers to maximize successful borrower repayment and help reduce delinquency and default and report to the President, through the Director of the Domestic Policy Council, on the status and results of those pilot programs.

(f) *Making it Easier for Federal Direct Student Loan Borrowers to Repay Their Student Loans.* As soon as practicable, the Secretary of Education shall establish a centralized point of access for all Federal student loan borrowers in repayment, including a central location for account information and payment processing for all Federal student loan servicing, regardless of the specific servicer.

Sec. 3. *Fair Treatment for Struggling and Distressed Borrowers.*

(a) *Raising Standards for Student Loan Debt Collectors.* By July 1, 2015, the Secretary of Education shall implement actions to ensure that the debt collection process for defaulted Federal student loans is fair, transparent, charges reasonable fees to defaulted borrowers, and effectively assists borrowers in meeting their obligations and returning to good standing. By January 1, 2016, the Secretary of Education shall publish a quarterly performance report on the Department's private debt collection agency contractors that includes the underlying data, disaggregated by contractor.

(b) *Providing Clarity on the Rights of Borrowers in Bankruptcy.* By July 1, 2015, the Secretary of Education shall issue information highlighting factors the courts have used in their determination of undue hardship, to assist parties who must determine whether to contest an undue hardship discharge in bankruptcy of a Federal student loan.

(c) *Protecting Social Security Benefits for Borrowers with Disabilities.* By July 1, 2015, the Secretary of Education and the Director of the Office of Management and Budget, in consultation with the Commissioner of Social Security, shall develop a plan to identify Federal student loan borrowers who receive Social Security Disability Insurance (SSDI) and determine which beneficiaries qualify for a total and permanent disability discharge of their student loans under the Higher Education Act of 1965. The plan shall specify a process for the Secretary of Education to stop collection on qualified borrowers in order to ensure that SSDI benefits are not reduced to repay student loans that are eligible for discharge. In addition, the Secretary of Education and the Director of the Office of Management and Budget, in consultation with the Commissioner of Social Security, shall identify the best way to communicate with other SSDI recipients who hold student loans about their repayment options, including income-driven plans, and assist them in entering those plans.

(d) *Debt Collection Pilot Program.* By July 1, 2016, the Secretary of the Treasury, in consultation with the Secretary of Education, shall report to the President, through the Director of the Domestic Policy Council and the Director of the Office of Management and Budget, on the initial findings of an ongoing pilot program that uses the Department of the Treasury's Bureau of the Fiscal Service to collect on a sample of defaulted Federal student loan debts to help determine how to improve the collection process for defaulted Federal student loans.

Sec. 4. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, March 10, 2015

[FR Doc. 2015–05933
Filed 3–12–15;11:15 am]
Billing code 4000–01

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