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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Numbers AMS–NOP–11–0005; AMS–NOP–11–01]

National Organic Program Regulations; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This document summarizes the findings of a USDA Agricultural Marketing Service (AMS) review of the National Organic Program (NOP) which is implemented under the Organic Food Production Act (OFPA). The review criteria are stipulated by the Regulatory Flexibility Act (RFA), in section 610. Based upon this review, the AMS has determined that the USDA organic regulations meet the objectives of the OFPA and should continue. Since becoming effective on the October 21, 2002, there have been multiple amendments to the USDA organic regulations. Most of these amendments were additions to or deletions from the National List of Allowed and Prohibited Substances (National List).

DATES: Effective May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain a copy of the review. Requests for a copy of the review should be sent to Jennifer Tucker, Ph.D., Acting Director, Standards Division, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2648–S., Ag Stop 0268, Washington, DC 20250–0268. Telephone: (202) 720–3252, Fax. (202) 205–7808 or email: *Jennifer.Tucker@ams.usda.gov,* or by accessing the Web site at *http://www.ams.usda.gov/nop.*

SUPPLEMENTARY INFORMATION: The National Organic Program (NOP) is authorized by the Organic Foods Protection Act (OFPA) of 1990, as amended (7 U.S.C. 6501–6522). The USDA Agricultural Marketing Service (AMS) administers the NOP. Final regulations implementing the NOP were published December 21, 2000 (65 FR 80548), and became effective on October 21, 2002. Through these regulations, the AMS oversees national standards for the production, handling, and labeling of organically produced agricultural products.

The OFPA authorizes the certification and inspection of crop, wild crop, livestock, or handling operations that label, market or represent agricultural products as organic. The OFPA also provides authorization for the NOP to accredit state and private certifying agents to certify organic crop, wild crop, livestock, or handling operations to the USDA organic regulations in the United States and internationally. Since becoming fully effective in 2002, the USDA organic regulations have been frequently amended. Most of these amendments were changes to the National List of Allowed and Prohibited Substances (National List) in 7 CFR 205.601–205.606.

This National List identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic production. The National List also identifies synthetic, nonsynthetic nonagricultural, and nonorganic agricultural substances that may be used in organic handling. The OFPA and the NOP regulations, in § 205.105, specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural and any nonsynthetic nonagricultural substance used in organic handling appear on the National List.

Recommendations to amend the National List are developed by the National Organic Standards Board (NOSB), a 15-member advisory board composed of four organic farmers; two organic handlers; one retailer; three experts in environmental protection and resource conservation; three consumer or public interest group members; one expert in toxicology, ecology, or biochemistry and; one certifying agent representative. The NOSB is organized under the Federal Advisory Committee Act (5 U.S.C. App. 2 *et seq.*) to assist in the development of standards for substances to be used or not used in organic production and handling, and to advise the Secretary on any other sections of the USDA organic regulations. NOSB members are nominated by the organic community and selected by the Secretary. The OFPA also requires a review of all substances on the National List within 5 years of their addition or renewal. If a substance is not reviewed by the NOSB and renewed through rulemaking by the USDA within the five year period, its allowance or prohibition on the National List is no longer in effect (7 U.S.C. 6517(e)).

As of January 2, 2014, there are 27,108 producer and handler operations certified to the USDA organic regulations. Some of these certified operations are certified as ''grower groups,'' certified as a single entity, but consisting of groups of ten to thousands of small organic producers. The USDA organic regulations, as authorized by the OFPA, are implemented and applied uniformly and are designed to benefit all entities, regardless of size.

On March 24, 2006, the AMS published in the **Federal Register** (71 FR 14827), its schedule to review certain regulations, including the NOP, under criteria contained in section 610 of the RFA (5 U.S.C. 601–612). Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to periodically review certain regulations, irrespective of whether specific regulations meet the threshold requirement for mandatory review established by the RFA.

A Notice of Regulatory Flexibility Act: Section 610 Review of the USDA organic regulations was published in the **Federal Register** on February 25, 2011 (76 FR 10527). This notice indicated AMS would implement specific criteria contained in section 610 of the RFA during the review of the USDA organic regulations that have a significant effect on a substantial number of small entities to determine whether any effect can be decreased or minimized. The purpose of the review is for AMS to determine whether the USDA organic regulations should be continued without change, amended or rescinded, consistent with the objectives of OFPA, to minimize impact on small entities. The review

considered these factors: (1) The continued need for the regulations; (2) the nature of complaints or comments received from the public concerning the regulations; (3) the complexity of the regulations; (4) the extent to which the regulations overlap, duplicate, or conflict with other Federal rules, and, to the extent feasible, with State and local government rules; and (5) the length of time since the regulations have been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulations. The notice invited the general public and interested parties to submit written comments on the impact of the regulations on small business.

In response to this notice, the NOP received written comments from five organic producers (two crop, one wild crop, and two livestock), three accredited certifying agents, three handlers (an ingredient supplier, a retailer, and a beverage association), two consumers, and an organic business consultant, for a total of fourteen comments.

Of the fourteen comments received, eight commenters specifically addressed the need for the regulations to continue, and not be terminated or rescinded. Five additional commenters proposed amendments or made recommendations about issues for the NOP to consider. One commenter stated that certification of organic products was unfair because of time commitment and expense. This commenter alternatively proposed that conventional operations should be certified to assess inputs used on these operations. Nine commenters described their concerns with the program or described concerns regarding the regulations. Eight commenters specifically addressed the complexity of the regulations either by indicating that the complexity of the regulations can be problematic at times, or that a significant level of complexity is needed to ensure organic product integrity. There were five comments on whether the regulations overlap, duplicate, or conflict with other Federal, State or Local government regulation. Four commenters specifically addressed the RFA section 610 review criteria regarding impacts on small entities as a result of changes in technology, economic conditions, or other factors that may have impacted an area affected by the regulations since the regulations became effective on October 21, 2002.

One commenter, a certifying agent, addressed all of the factors considered in the RFA section 610 review of the USDA organic regulations. Most of the commenters addressed three out of five of the review factors. Comments are categorically grouped and discussed below.

Comments from organic producers supported continuation of the regulations, but some did include concerns with the program or included proposed amendments for improving it. An organic seed producer expressed support for the continuation of the regulations, but suggested that NOP has not adequately enforced the requirement for the use of organic seed when commercially available as required by 7 CFR 205.204(a). This commenter also suggested that some certifying agents may be routinely allowing the use of non-organic seed, even though high quality organic seed is available in commercial quality and quantity. The commenter requested increased enforcement of the organic seed regulation requirements to ensure organic seed is being utilized by organic producers. In response to comments received at public meetings, the NOSB provided the NOP with recommendations that outlined concepts and procedures for determining commercial availability of organic seeds and planting stock. In response, the NOP published final guidance NOP 5029: Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production, in the NOP Program Handbook on February 28, 2013.[1] This guidance describes practices for certified operations to use to obtain all organic seeds, annual seedlings, and planting stock in support of their organic production. The guidance also describes the responsibilities of organic operations and certifying agents for sourcing organic seeds and planting stock and emphasizes the utilization of organic seed is a requirement of the regulations.

A certified organic fruit producer commented on being prevented from using an organic label claim on his organic fruit alcohol product because of added sulfites. The commenter stated that because of the restriction with added sulfites limited for use with only organic grapes, a ''made with organic. . .'' claim could not be used on the product label. On October 31, 2011, the NOP published Policy Memo 10–2: Sulfur Dioxide in wine made with organic fruit, in the Program Handbook.[2] This policy memo stipulates that added sulfites, as sulfur dioxide, can only be used in organic wine made from organic grapes as specified on the National List in § 205.605(b). The allowance for sulfur dioxide on the National List limits the use of sulfur dioxide to only wine made with organic grapes and can only be labeled as ''made with organic grapes.'' Changing the allowance of sulfur dioxide in organic wine can be considered through submission of a National List petition to amend the annotation, and subsequent rulemaking to amend the regulations. As per 7 CFR 205.607 of the USDA organic regulations, any person may submit a petition to change or amend the National List according to petition procedures published on January 18, 2007 (72 FR 2167).[3]

An organic wild crop producer supported continuation of the regulations, concluding there is an ongoing need for Federal regulation and oversight of the term ''organic'' as it applies to all products being produced and handled organically. The commenter also stated accredited certifying agents should ensure that organic livestock producers are providing organic livestock with organic feed ingredients. The commenter specifically mentioned organic wild harvested kelp. The commenter claimed ensuring the feeding of organic kelp would enhance his organization's opportunity to develop and maintain additional certified organic wild crop harvesting sites for kelp, and would support the growth of the business. On February 28, 2013, the NOP published guidance document NOP 5057: The Use of Kelp in Organic Livestock Feed.[4] This guidance establishes that kelp may be certified organic as a wild crop under 7 CFR 205.207 and must be certified organic if used as an ingredient in livestock feed per § 205.237. The guidance applies to all NOP certifying agents that certify kelp and certified organic operations that feed kelp to organic livestock.

A small livestock producer requested the program increase the $5,000 exemption limit for organic certification. There is an exemption from certification for organic producers and handlers who sell less than $5,000 in organic agricultural products per year

[1] NOP final guidance, instructions, and policy memos can be found in the NOP Program Handbook, available on the NOP Web site at: *http://www.ams.usda.gov/NOPProgramHandbook.*

[2] *Ibid.*

[3] Notice of Guidelines on Procedures for Submitting National List Petitions, January 18, 2007, available on the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&navID=NationalOrganicProgram&leftNav=NationalOrganicProgram&page=NOPFilingaPetition&description=Filing%20a%20Petition.*

[4] NOP 5057: The Use of Kelp in Organic Livestock Feed, available in the NOP Program Handbook on the NOP Web site at: *http://www.ams.usda.gov/NOPProgramHandbook.*

(7 U.S.C. 6505; 7 CFR 205.101(a)). The livestock producer pointed out that the OFPA was passed in 1990, and the $5,000 limit has been subject to inflation since 1990. This commenter proposed that the small operation exemption be raised to $10,000 or $20,000. Since the $5,000 exemption from certification is a specific OFPA requirement, an increase in the exemption amount must be enacted through Congress and cannot be amended through the regulatory process.

A veterinarian, who also is an organic egg producer, supports the NOP, stating there is a good system of certifiers and inspectors in place. However, this commenter expressed concern with changes in poultry health care practices and living condition standards being advocated by some organizations. The comments addressed issues on poultry access to pasture, animal behavior, bird stocking rate, age of bird, and temporary confinement. According to the commenter, changes in the organic standards on these issues should be based upon scientific merit, and not on human desires and social interactions. During NOSB deliberations, the NOSB considered technical information on livestock practice standards. In 2009 and 2011, the NOSB forwarded several recommendations on establishing more specific animal welfare requirements. These recommendations addressed issues on animal handling and transport and animal welfare, including stocking rates and livestock health care. The NOP is currently evaluating these recommendations to determine how to effectively process these recommendations through rulemaking.

Three accredited certifying agents provided comments in support of continuation of the regulations. A small accredited certifying agent commented on the burden of the expense of the periodic USDA-required accreditation audits on small organic certifiers and requested that audit fees should be scaled upon the size of the certifier. The two larger certifying agents also commented on the paperwork burden on operations seeking certification or continuing with certification. One certifying agent affirmed the need for regulations as critical to assure integrity and maintain consumer confidence in the organic industry. However, comments received from clients regarding the regulations were mostly concerned with the amount of paperwork required for recordkeeping, which some considered to be excessive and burdensome. This certifying agent stated there is a need to streamline paperwork and recordkeeping requirements for all organic operations. Another certifying agent also addressed the burden faced by certified operations, specifically organic dairy operations complying with pasture practice standards. This commenter stated that the pasture practice standards rule (75 FR 7154) was not needed, was excessively complex, would cause significant adverse effects for many small farms, and would be difficult for certifying agents to effectively implement. The NOP is aware of the commenter's concerns and notes that the pasture practice standards were developed over a period of five years with input of multiple stakeholders. There were a significant number of oral and written responses submitted during public comment periods associated with the development of this rule. The majority of commenters, including many dairy operations, supported the addition of detailed pasture practice standards.

During NOP trainings for accredited certifying agents conducted in 2012 and 2013, the NOP received statements from certifying agents on farmers reporting that they are spending too much of their time completing program forms and maintaining program records. As required in 7 CFR 205.103, recordkeeping is essential to ensure organic operations are implementing required organic practice standards. The NOP has considered how to minimize the regulatory burden when implementing the regulations. As a result, the NOP began implementing an initiative in 2013 to identify and remove barriers to certification, to streamline the certification process, to focus enforcement activities, and to work with organic producers and handlers to correct small issues before they become larger issues. When developing this initiative, the NOP outlined five objectives: (1) Develop efficient processes by eliminating bureaucratic processes that do not contribute to organic integrity; (2) streamline recordkeeping requirements to ensure that required records support organic integrity and are not a barrier for farms and businesses to maintain organic compliance; (3) apply common sense to an operation's organic system plans that clearly capture organic practices; (4) implement fair and focused enforcement; and (5) maintain or improve organic integrity by focusing on factors that impact organic integrity. The NOP continues to work with certifying agents to implement these objectives with regard to the recordkeeping and reporting requirements for certifying agents and organic producers and handlers.

Three organic handlers commented on the RFA Section 610 review. An ingredient processor submitted a comment requesting clarification on why non-organic ethanol is not permitted in the U.S. for use in processing organic products. The processor stated that their product, processed with ethanol, was marketed with an organic label in the European Union (EU), where ethanol is allowed for organic processing in the EU regulations. In the U.S., ethanol is available in certified organic, natural, and synthetic forms. The use of certified organic ethanol would be permitted in the production of the processor's product under the USDA organic regulations. Non-organic ethanol is allowed for use in organic crop and livestock production as a sanitizer. Non-organic ethanol cannot be used in organic processing under the USDA organic regulations since it is not included on the National List in either 7 CFR 205.605 or 7 CFR 205.606. Use of non-organic ethanol in organic processing requires amendment of the National List through the petition process to include non-organic ethanol on the National List, and subsequent rulemaking.

A beverage association comment disagreed with Alcohol, Tobacco Tax, and Trade Bureau (TTB) labeling requirements for wine that requires approval for changes to a vintage year on an organic wine label that was previously approved. This requirement is outside of the scope of the USDA organic regulations. The TTB reviews and approves wine labels, including any requirements for changing the vintage year. Under a Memorandum of Understanding between AMS and TTB, the TTB receives, reviews, and approves or rejects labeling applications for alcohol products bearing an organic claim. TTB has informed the NOP of their change in the TTB list of the allowable revisions that may be made to an approved label without the need for resubmission contained on the TTB Application for and certification of label/bottle approval. TTB removed the caveat that the change in vintage dates did not apply to organic products.

A comment from an organic co-operative retailer supported the continued need for the regulations. The commenter gave a description of the positive impacts of the complexity of the regulation on their business, and emphasized that the regulations do not overlap, duplicate, or conflict with other Federal, state or local rules for the operation.

A comment from a consumer claimed that certification requirements for organic operations are unfair because nonorganic operations are not required to disclose to the public the uses of harmful substances. All food products in the normal stream of commerce are subject to Federal, state, and local laws and regulatory requirements that contribute to maintaining food safety and restrict or prohibit the use of harmful substances.

Another consumer comment expressed support for continuation of the regulations. This commenter chooses organic products to assure that the food is raised humanely and without synthetic ingredients. However, the commenter also expressed concern that the regulations may be more burdensome to small dairy operations. As noted in prior discussion, the NOP started an initiative on 2013 to reduce the regulatory burden on organic operations.

An organic agricultural business expressed strong support for continuation of the regulations. This commenter stated that the regulations need to be routinely amended since organic production is based upon a concept of continual improvement, and the regulation should adhere to this principle. Such amendments should take into account innovations and improvements by organic practitioners. The commenter proposed several amendments to the regulations, some of these proposed amendments were identified as opportunities to decrease regulatory complexity and reduce regulatory burden without sacrificing organic integrity or compromise consumer confidence. A summary of these proposed amendments include:

- The NOP should prohibit blending of organic and non-organic forms of the same ingredient in ''made with organic'' products. On May 2, 2014, the NOP published final guidance NOP 5032: Products in the ''made with Organic * * * Labeling Category to address this issue.[5] This guidance describes requirements for products in the ''made with organic (specified ingredients or food group(s))'' category. This guidance clarifies product composition, labeling claims, use of organic and nonorganic forms of the same ingredient, percentage of organic ingredient statements, and ingredients or food groups in the ''made with organic * * *'' claim.
- The regulations should allow the use of non-synthetic substances allowed for use in crop production to control pest infestation in post-harvest handling pest control when preventive practices are ineffective. On April 25, 2014, the NOP published draft guidance, NOP 5023: Substances Used in Post-Harvest Handling of Organic Products.[6] This draft guidance describes substances that may be used in post-harvest handling of organic products. The guidance clarifies: (1) What substances may be used; (2) the difference between post-harvest handling of raw agricultural crops and further processing; and (3) the provisions for facility pest management.
- The NOP should amend 7 CFR 205.237(a) to allow commercial availability to be applied to minor agricultural ingredients fed to organic livestock to alleviate burden on small organic livestock producers. On February 28, 2013, the NOP published NOP 5030, Evaluating Allowed Ingredients and Sources of Vitamins and Minerals For Organic Livestock Feed.[7] This guidance clarifies the agricultural, nonsynthetic, and synthetic ingredients permitted in organic livestock feed and also addresses the feed supplements and feed additives that must be reviewed for compliance with regulations. Under the USDA organic regulations, organic producers must provide livestock feed pursuant to 7 CFR 205.237. Section 205.237 states that agricultural ingredients included in the ingredients list for livestock feed products must be organically produced.
- The NOP should amend the National List petition procedures and processes as they are complicated, costly, lengthy, arbitrary, and may not provide due process to the petitioners. In May 2014, the NOP in collaboration with the NOSB initiated a process to revise National List petition procedures in an effort to make the petition submission procedures clearer for petitioners. The revised procedures will clarify how to submit complete petitions, explain to petitioners what to expect in the petition process, and make the review process for the NOSB clearer and more consistent.
- The NOP should increase collaboration between NOP and other government agencies with authority related to organic agricultural production. Historically, NOP has established and maintained collaborative interactions with the U.S. Food and Drug Administration (FDA) on organic food processing and handling and livestock healthcare products and feed ingredients; with the U.S. Environmental Protection Agency (EPA) on pest control ingredients and applications; with TTB on labeling of organic alcohol beverages; and with the Federal Trade Commission on product labeling. As part of these interactions, NOP continues to collaborate regarding agricultural products that fall within the scope of organic certification.
- The NOP should alter restrictions on the use of plastic mulch (§ 205.601(b)(2)(ii)) so that biodegradable plastic mulch could remain on the soil beyond harvest or end of the growing season. The commenter indicated there is no listing for mulch made from biodegradable plastic on the National List, and a petition would have to be submitted to add this new material. In August 2013, the NOP published proposed rule (78 FR 52100), based upon NOSB recommendations, which would add a new definition for biodegradable biobased mulch film to 7 CFR 205.2 and add biodegradable biobased mulch film to the National List in 7 CFR 205.601 for use in organic crop production.[8]

Upon the completion of the RFA Section 610 review of the USDA organic regulations, AMS has determined that there is no critical need to amend the regulations. Since becoming effective on the October 21, 2002, there have been multiple amendments of the regulations, mostly to the National List. Some of these amendments have reduced the burden on small operations, while some amendments, that have served to protect organic integrity and support consumer confidence, may have increased the burden on small operations. Based on the findings from the review, AMS has determined that the NOP is not overly complex and does not significantly overlap, or conflict with other regulations.

Based upon the review, AMS has determined that the NOP should continue. The USDA organic regulations are dynamic in nature and the NOP continues to collaborate with the NOSB and the organic community on rulemaking and development of guidance documents, such as recently published rulemaking on pesticide residue testing, and published guidance on composting, wild crop harvesting,

[5] NOP 5032: Products in the ''made with Organic * * * Labeling Category, available in the NOP Program Handbook on the NOP Web site at: *http://www.ams.usda.gov/NOPProgramHandbook.*

[6] Draft Guidance NOP 5023: Substances Used in Post-Harvest Handling of Organic Products. NOP draft guidance can be found on the NOP Web site at: *http://www.ams.usda.gov/NOPDraftGuidance.*

[7] NOP 5030: Evaluating Allowed Ingredients and Sources of Vitamins and Minerals For Organic Livestock Feed, available in the NOP Program Handbook on the NOP Web site at: *http://www.ams.usda.gov/NOPProgramHandbook.*

[8] National Organic Program; Proposed Amendments to the National List of Allowed and Prohibited Substances (Crops and Processing); Proposed rule; Available on the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5104847*

handling unpackaged organic goods, and the list of permitted substances for crops.

Authority: 7 U.S.C. 6501–6522.

Dated: April 30, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

7 CFR Chapter 0

RIN 0575–ZA00

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 91 and 93

[HUD FR–5647–N–02]

RIN 2501–ZA01

Final Affordability Determination—Energy Efficiency Standards

AGENCY: U.S. Department of Housing and Urban Development and U.S. Department of Agriculture.

ACTION: Notice of Final Determination.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) have determined that adoption of the 2009 edition of the International Energy Conservation Code (IECC) for single family homes and the 2007 edition of the American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) 90.1 for multifamily buildings will not negatively affect the affordability and availability of certain HUD- and USDA-assisted housing specified in section 481 of the Energy and Independence and Security Act of 2007 (EISA). This determination fulfills a statutory requirement established under EISA that HUD and USDA adopt revisions to the 2006 IECC and ASHRAE 90.1–2004 subject to: A determination that the revised codes do not negatively affect the availability or affordability of new construction of single family and multifamily housing covered by EISA; and a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' For the more recent IECC and ASHRAE codes that have been published since the publication of the 2009 IECC and ASHRAE 90.1–2007, HUD and USDA intend to follow this Notice of Final Determination with an advance notice that addresses the next steps the agencies plan to take on the 2015 IECC and ASHRAE 90.1–2013 codes.

DATES: This notice of final determination will be effective according to the implementation schedule described herein that commences no earlier than June 5, 2015.

FOR FURTHER INFORMATION CONTACT: HUD: Rachel Isacoff, Office of Economic Resilience, Department of Housing and Urban Development, 451 7th Street SW., Room 10180, Washington, DC 20410; telephone number 202–402–3710 (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 toll-free at 800–877–8339. USDA: Meghan Walsh, Rural Housing Service, Department of Agriculture, 1400 Independence Avenue SW., Room 6900–S, Washington, DC 20250; telephone number 202–205–9590 (this is not a toll-free number).

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I. Background

A. Statutory Requirements

HUD and USDA have a statutory responsibility to adopt minimum energy standards for new construction of certain HUD- and USDA-assisted housing, following procedures established in EISA. Section 481 of EISA amended section 109 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez) (42 U.S.C. 12709), which establishes procedures for setting minimum energy standards for certain HUD and USDA programs. The two standards referenced in EISA (the IECC and ASHRAE 90.1) apply to different building types: the IECC standard applies to single family homes and low-rise multifamily buildings (up to three stories), while ASHRAE 90.1 applies to multifamily mid- or high-rise residential buildings (four or more stories).[1]

The following HUD and USDA programs are specified in the statute:

(A) New construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to

[1] The IECC addresses both residential and commercial buildings. ASHRAE 90.1 covers commercial buildings only, including multifamily buildings four or more stories above grade. The IECC adopts, by reference, ASHRAE 90.1; that is, compliance with ASHRAE 90.1 qualifies as compliance with the IECC for commercial buildings.

mortgages insured under the National Housing Act; [2]

(B) New construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949; [3] and,

(C) Rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v).

In addition to these EISA-specified categories, sections 215(a)(1)(F) and (b)(4) of Cranston-Gonzalez make new construction of rental housing and homeownership housing assisted under the HOME Investment Partnerships Program (HOME) subject to section 109 of Cranston-Gonzalez and, therefore, to section 481 of EISA. From the beginning of the HOME program, the regulation at 24 CFR 92.251 implemented section 109. However, compliance with section 109 of Cranston-Gonzalez was omitted from the July 2013 HOME program final rule because HUD planned to update and implement energy efficiency standards through a separate proposed rule (see the discussion in the preamble to the HOME proposed rule published on December 16, 2011 (76 FR 78344)). Although the energy standards at 24 CFR 92.251(a)(2)(ii) are reserved in the July 2013 HOME final program rule, the statutory requirements of section 109 continue to apply to all newly-constructed housing funded by the HOME program. Therefore, this notice is applicable to the HOME program when the regulations at 24 CFR 92.251 in the 2013 HOME final rule (78 FR 44627) become effective. The HOME program will issue Guidance for HOME Participating Jurisdictions (PJs) that provides notice that the new standard takes effect. A conforming amendment to the HOME regulation will be published at a later date.

Section 109(a) of Cranston Gonzalez, as amended by EISA, required HUD and USDA to collaborate and develop their own energy efficiency building standards if they met or exceeded the 2006 IECC or ASHRAE 90.1–2004, but if the two agencies did not act on this option, EISA specifies that the 2006 IECC and ASHRAE 90.1–2004 standards would apply. The two agencies did not develop independent energy efficiency building standards, and, therefore, the 2006 IECC or ASHRAE 90.1–2004 applied to covered HUD and USDA programs, and the provision of section 109(d) of Cranston-Gonzalez must be followed.

This notice implements section 109(d) of Cranston-Gonzalez, as amended by EISA, which establishes procedures for updating HUD and USDA energy standards, following periodic revisions to the 2006 IECC and ASHRAE 90.1–2004 codes. Specifically, section 109(d) provides that subsequent revisions to the IECC or ASHRAE codes will apply to HUD and/or USDA's programs if: (1) Either agency ''make[s] a determination that the revised codes do not negatively affect the availability or affordability'' of new construction housing covered by the Act, and (2) the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised codes would improve energy efficiency (see 42 U.S.C. 12709(d)). Otherwise, the 2006 IECC and ASHRAE 90.1–2004 will continue to apply.

B. HUD and USDA Preliminary Determination

On April 15, 2014, at 79 FR 21259, HUD and USDA announced in the **Federal Register** their Preliminary Determination that the 2009 IECC and ASHRAE 90.1–2007 would not negatively affect the affordability and availability of housing covered by the Act. This Preliminary Determination followed the Department of Energy's (DOE) Determination that the 2009 IECC and ASHRAE 90.1–2007 standards would improve energy efficiency.[4] The April 15, 2014, HUD–USDA notice solicited public comment on this Preliminary Determination for a period of 45 days, and the public comment period concluded on May 30, 2014. HUD and USDA convened a conference call for interested parties on May 15, 2014, at which the agencies summarized the key features of the notice and answered several questions from participants.

C. Public Comments on Preliminary Determination and HUD Responses

1. Overview of Comments

HUD received 13 public comments, representing 28 organizations or individuals, on this notice. Comments were received from a wide range of stakeholders, including one state (Colorado), the two code bodies represented in this notice (the International Code Council and ASHRAE), as well as several national associations representing mortgage lenders, home builders, environmental and energy efficiency advocates, consumers, State energy offices, insulation and other building product trade associations, and other interested parties. All but two of the comments were from single organizations or individuals. Multiple organizations were represented in two comments, one submitted on behalf of another three organizations, and another on behalf of 16 additional national organizations.

The overwhelming majority of the comments expressed support for HUD's and USDA's Preliminary Determination. Of these supportive comments, most expressed support for HUD's and USDA's methodology and conclusions, but in turn urged HUD and USDA to rapidly move to adopt the more recent IECC or ASHRAE 90.1 codes that have been promulgated since the publication of the 2009 edition of the IECC and the 2007 edition of ASHRAE 90.1 that are addressed in this notice. In addition, several commenters suggested that HUD and USDA allow alternative compliance pathways for these standards through equivalent or higher state standards, or through one or more green building standards that have seen rapid growth in adoption rates in recent years.

Three of the 13 comments expressed concerns or opposition to one or more features of the Preliminary Determination. The concerns raised were in three primary areas: the use of the Social Cost of Carbon (SCC) as an appropriate cost-benefit metric for this determination; the proposed timetable for implementing the proposed standards after a Final Determination is published; and the relatively longer payback periods of 10 or more years estimated by HUD and USDA for adoption of ASHRAE 90.1–2007 in some States.

This discussion of the public comments received on the Preliminary Determination presents the significant issues and questions raised by the commenters.

2. Support for Preliminary Determination

Comment: Support for Preliminary Determination. The large majority of comments supported the Preliminary Determination. These comments generally agreed with HUD's and USDA's methodology in arriving at the determination that the 2009 IECC and ASHRAE 90.1–2007 would not negatively impact the affordability and availability of the housing covered by the Determination.

[2] This subsection of EISA refers to HUD programs only. See Appendix 1 for specific HUD programs covered by the Act.

[3] This subsection of EISA refers to USDA programs only. See Appendix 1 for specific USDA programs covered by the Act.

[4] See HUD's April 15, 2014 **Federal Register** notice for additional information about DOE's determination. *http://www.gpo.gov/fdsys/pkg/FR-2014-04-15/pdf/2014-08562.pdf.*

One commenter noted, for example, ''that it is well settled and no longer in dispute that the 2009 IECC, as well as the 2007 ASHRAE 90.1 . . . increase the energy efficiency of homes and buildings constructed to meet them.'' The commenter commended HUD and USDA for ''an exceptionally thorough and comprehensive review of both the available research and literature relating to the cost effectiveness of building homes and multifamily units to the IECC and/or ASHRAE 90.1,'' and pointed out that HUD and USDA had reached the same conclusion as experts and building code authorities in the majority of States: that building single family and multifamily homes to the 2009 IECC is cost-effective, results in greater affordability, and lowers energy use and energy expenses.

The commenter also stressed the importance of assessing affordability on the basis of operating costs as well as the first cost of the home: ''if the monthly utility bill is lowered by 10 or 20 percent, as a result of energy efficient code requirements, the home is more affordable, even if the initial cost increases by several thousand dollars, since the increase in the monthly amortized mortgage cost will be less than the decrease in utility costs.''

Another representative comment characterized the HUD and USDA determination as a ''comprehensive and robust evaluation of the reasons to adopt the current updated standards under consideration based on the Departments' statutory responsibilities under federal law to establish minimum energy standards.'' Another commenter stated that ''HUD and USDA's determination . . . is well supported by law and policy.''

Another commenter indicated that recent experience with the adoption of the 2009 IECC and ASHRAE 90.1–2007 codes, as well as with ''premium'' labels such as ENERGY STAR, offers clear and convincing evidence that the codes do not harm affordability and availability. The commenter noted that ''[i]f builders were unable or unwilling to build homes that meet the codes, or buyers were unable or unwilling to pay for them, there would not be new homes in states that have adopted the codes, or new homes with green labels.''

The commenter also provided national data reflecting housing production in the 32 States and the District of Columbia that have adopted the 2009 IECC or a comparable statewide code as follows: 1.6 million residential building permits were issued between when the 2009 IECC went into effect and the end of 2013, with 538,000 permits issued in the 12 months after the 2009 IECC went into effect, compared to 433,000 beforehand–an increase of 24 percent. For ASHRAE 90.1–2007, the commenter provided similar data: 650,000 units were built since the codes were implemented in 37 States and the District of Columbia, 168,000 of them in the first 12 months after the codes were enacted, compared to 109,000 in the previous 12 months. The commenter concludes that ''codes do not seem to be harming construction in states that have implemented them,'' and also references the significant number of homes (81,000 in 2012 alone) that have been built voluntarily to a higher (ENERGY STAR) standard.

HUD–USDA Response: HUD and USDA acknowledge the support expressed by these commenters for the Preliminary Determination. These comments indicate confidence in HUD and USDA's use of DOE's and the Pacific Northwest National Laboratory's (PNNL's) analysis of the subject codes, and in their overall conclusions regarding the lack of a negative impact that these codes would have on the affordability and availability of housing covered by EISA.

Comment: HUD should proceed quickly to adoption of the more recent IECC/ASHRAE codes. Several commenters who were supportive of the Preliminary Determination also encouraged HUD and USDA to move quickly to adoption of the next or most recent IECC and ASHRAE codes. One commenter urged HUD and USDA to ''provide a consistent Federal Government approach'' by endorsing ASHRAE 90.1–2010, and to ''promptly update their regulations'' to ASHRAE 90.1–2013 upon a favorable DOE determination. The commenter noted that ''[a] single, consistent U.S. Standard will enable better enforcement and compliance and avoid marketplace confusion, ultimately moving the U.S. toward President Obama's goal of significant improvement in building energy efficiency.''

Another commenter and 16 national consumer, environmental, energy efficiency, or building organizations urged HUD and USDA to finalize this determination and incorporate the codes into their loan processes as soon as possible, and to ''move quickly to complete a determination on the 2012 IECC and ASHRAE 90.1–2010, which have already been determined by DOE to save energy, and which have been shown to be very cost-effective.'' The commenter also urged HUD and USDA to ''help and encourage builders to comply with the new requirements'' through education and quality assurance efforts.

HUD–USDA Response: HUD and USDA will address the affordability of the more recent IECC and ASHRAE 90.1 codes in an advance notice in the near future, according to the timetable prescribed in EISA. For adoption or consideration of these codes and future code revisions, HUD and USDA are committed to timely and expeditious compliance with the EISA statutory requirements. However, it is unlikely that HUD and USDA will be able to meet the statutory one-year compliance period prescribed under Cranston-Gonzalez section 109(c) as amended by EISA, because of the time required to do the following: publish a Preliminary Determination, allow for public comments on the Preliminary Determination, and publish a Final Determination along with the requisite clearances by HUD and USDA and the Office of Management and Budget (OMB).

Accordingly, while HUD and USDA will continue to explore ways to comply with the one-year compliance period set forth in section 109(c), HUD and USDA intend to address the next code cycles under the requirements of section 109(d) of Cranston-Gonzalez. Section 109(d) requires that, after failure to comply with section 109(c), the two agencies will conduct an analysis of the impact that the new code will have on the ''affordability and availability'' of covered housing. As is the case for this Final Determination on the 2009 IECC and ASHRAE 90.1–2007, for future code determinations HUD and USDA will rely on the following reports or notices from DOE and PNNL: (1) An efficiency determination required under Title III of the Energy Conservation and Production Act of 2005; and (2) a subsequent cost analysis by PNNL.

3. Objections To or Concerns With Preliminary Determination

Comment: The payback periods shown for ASHRAE 90.1–2007 that exceed 10 years are too long to require compliance with this standard. One commenter recommends that, while the 2009 IECC shows payback periods of less than 10 years, this is not the case for ASHRAE 90.1–2007. Appendix 4 in the Preliminary Determination showed that six of the 11 states evaluated for ASHRAE 90.1–2007 have payback periods that exceed this period. The commenter also maintains that multifamily rental property investors expect to see annual rental receipts that are approximately 11 percent of the value of the property. This implies a 100 percent increased first cost/11 percent increase in rental receipts or a 9-year simple payback on energy efficiency

requirements. If that rate of return is not achieved, then the likelihood of a project being built will be reduced. Paybacks of greater than 9 years may therefore reduce the future availability of multifamily rental properties. Given these ''two realities,'' the commenter does not support the HUD–USDA finding that compliance with ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by EISA—at least in those six States with longer payback periods of more than 10 years.

HUD–USDA Response: Note that ASHRAE 90.1–2007 only impacts HUD-insured or -assisted properties; USDA multifamily properties are not covered by EISA. Of the 12 States that have not yet adopted this standard, Appendix 4 of the Preliminary Determination (amended as Table 6 in this Final Determination) showed six States with paybacks of more than 10 years: Hawaii, Colorado, Minnesota, Missouri, Oklahoma, and Tennessee. With the exception of Hawaii, all of these States showed simple paybacks of less than 15 years:

PRELIMINARY DETERMINATION—APPENDIX 4
ESTIMATED COSTS AND BENEFITS PER DWELLING UNIT FROM ADOPTION OF ASHRAE 90.1–2007

State	Incremental cost/unit ($)	Energy cost savings/unit ($/year)*	Simple payback/unit (years)
AK	489	57.68	8.5
AZ	340	52.12	6.5
CO	354	31.96	11.1
HI	476	8.17	58.4
KS	338	59.37	5.7
ME	373	42.66	8.8
MN	413	33.96	12.2
MO	366	26.60	14.3
OK	309	21.96	14.1
SD	317	34.53	9.2
TN	318	25.61	12.5
WY	319	33.09	9.7

The estimated energy cost savings per unit and simple paybacks provided in this table in the Preliminary Determination used national average prices for natural gas of $1.2201 per therm, and $.0939 per kWh for electricity, using the methodology used by PNNL in their cost determination of ASHRAE 90.1–2007.[5] In this Final Determination, HUD and USDA have updated the PNNL methodology by using individualized state-by-state fuel and electricity prices, in order to provide a more current and accurate estimate of cost savings. The updated and revised estimated cost savings and paybacks are now presented in Table 6 of the Final Determination as follows:

FINAL DETERMINATION—TABLE 6.
ESTIMATED COSTS AND BENEFITS PER DWELLING UNIT FROM ADOPTION OF ASHRAE 90.1–2007

State	Incremental cost/unit ($)	Energy cost savings/unit ($/year)*	Simple payback/unit (years)
AK	489	68.95	7.1
AZ	340	76.88	4.4
CO	354	28.70	12.4
HI	476	31.66	15.1
KS	338	80.13	4.2
ME	373	62.95	5.9
MN	413	31.15	13.3
MO	366	36.28	10.1
OK	309	31.79	9.7
SD	317	32.32	9.8
TN	318	30.40	10.5
WY	319	33.38	9.6

Using individual state-by-state fuel and electricity prices, rather than a national average as used by PNNL, of the 12 States that have not yet adopted ASHRAE 90.1–2007, seven States show simple paybacks of less than 10 years (Alaska, Arizona, Kansas, Maine, Oklahoma, South Dakota, and Wyoming) and four States show paybacks of less than 15 years (Colorado, Minnesota, Missouri, Tennessee). One state (Hawaii) shows a payback of more than 15 years (15.1 years).

With regard to the five States with paybacks of more than 10 years, while we agree that shorter paybacks are generally better when considering simple payback periods as a measure of cost-effectiveness or affordability, we believe that the 10-year simple payback limit proposed by the commenter is too limiting for the purpose of this analysis, for two reasons. First, the life of the

[5] Pacific Northwest National Laboratory, *Cost Effectiveness and Impact Analysis of Adoption of ASHRAE 90.1–2007 for New York State.* (U.S. Department of Energy, PNNL–18552, June 2009). http://www.pnl.gov/main/publications/external/technical_reports/PNNL–18552.pdf.

energy efficient equipment or materials installed as a result of complying with ASHRAE 90.1–2007 (*e.g.,* windows, doors, insulation, boilers, etc.) is likely to be significantly longer than 10 years, in some cases for the life of the building; a cost-benefit analysis for these measures indicates a net-positive result over the much longer life of the equipment. Second, as noted in the Preliminary Determination, another important factor is the incremental cost involved; the per-unit costs shown above (in the $300–$400 range) are a small fraction of the Total Development Cost (TDC) per unit.

In addition, the price-ratio measure referenced by the commenter may mix the expected return on an entire property with the expected return on a particular aspect of the property (the upgraded features). In order to cause a development not to be pursued, the new standard would have to violate the return threshold for the entire property. And, it ignores the possibility that efficiency measures, to some extent, would be internalized in rent receipts.

To best understand the profitability of multifamily housing, it may be preferable to examine the capitalization rate (rental income less operating costs divided by the market value of the property) rather than the rent-to-price ratio, since the capitalization rate takes into account operating costs and therefore is more likely to reflect the building's energy efficiency than the rent-to-price ratio. According to the 2012 Rental Housing Finance Survey (RHFS), the median capitalization rate of rental buildings is 6 percent. For some states, the cost savings are close to 6 percent. However, as described in the notice, the return on investment (ROI) is almost always positive, which would increase affordability. Perhaps most important, at an estimated average cost per unit of $441, the cost of compliance is less than 1 percent (0.24%) of the average TDC per unit of $185,000, and is more than offset by the benefits of this notice. Thus, the value of the construction project will not be adversely affected by the higher code adopted as a result of this notice.

Comment: HUD should ease compliance with the code requirements for single family homes by updating and accepting Form HUD–92541 as evidence of compliance. One commenter indicated that, while it ''does not disagree with USDA and HUD's estimates about affordability,'' it is concerned about how mortgage lenders should demonstrate compliance for single-family new construction. The commenter noted that this is ''particularly important when underwriting loans for new construction in unincorporated localities, where there may not be public inspectors and other third-party specialists, such as Home Energy Rating System (HERS) rating specialists within several hundred miles, such as in states like Colorado or South Dakota.'' The commenter recommends that HUD modify form HUD–92541 by changing box number four, ''International Energy Conservation Code (IECC) 2006,'' to read ''IECC 2009 or a higher standard,'' and that this form should be available when the Final Determination is issued. The commenter also recommends that the HUD handbook be updated to reflect the single family new construction requirement and that Form HUD–92541 be treated as an acceptable method of certifying the property's minimum energy efficient status.

HUD–USDA Response: HUD agrees that Builder's Certification form HUD–92541 will be the primary tool for ensuring compliance of single family FHA-insured properties with the 2009 IECC and intends to update the form to reflect the code (the 2009 IECC) established by this notice. HUD cannot commit to this being completed simultaneously with the publication of the Final Determination, in light of Paperwork Reduction Act requirements; however, it is anticipated that the updated Builder's Certification form HUD–92451, as well as any handbook updates, will be completed during the 180-day implementation period, in order to ensure maximum compliance with the new code requirement.

4. Comments Regarding Data and Methodology

Comment: The Social Cost of Carbon (SCC) should not be included in this notice. One commenter objected to the use of the Social Cost of Carbon in this notice, and proposed its deletion. The commenter maintained that the SCC is ''discordant with the best scientific literature on the equilibrium climate sensitivity and the fertilization effect of carbon dioxide—two critically important parameters for establishing the net externality of carbon dioxide emissions.'' The commenter also notes that the SCC [is] ''at odds with existing Office of Management and Budget (OMB) guidelines for preparing regulatory analyses, and founded upon the output of Integrated Assessment Models (IAMs) which encapsulate such large uncertainties as to provide no reliable guidance as to the sign, much less the magnitude of the social cost of carbon.'' The commenter also suggests that the IAMs, as run by the Interagency Working Group (IWG) produce ''illogical results'' that indicate a ''misleading disconnect between a climate change and the SCC value.'' Further, the commenter believes that sea-level rise projections (and thus SCC) of at least one of the IAMs (DICE 2010) cannot be supported by the mainstream climate science.

Based on these objections to the SCC, the commenter proposes that the SCC should be ''barred from use in this and all other federal rulemaking. It is better not to include any value for the SCC in cost/benefit analyses such as these, than to include a value which is knowingly improper, inaccurate and misleading.'' The commenter proposes ''to remove any and all analyses in this Preliminary Determination that makes reference to, or incorporates a value of, the social cost of carbon as determined by the federal Interagency Working Group.'' Specifically, the commenter proposes that HUD–USDA remove Table 8 and related text from the notice.

An alternative, supportive, view of the SCC was provided by another commenter. This commenter strongly argues for the use of the SCC as a measure of nonenergy benefits. This commenter notes that ''SCC calculations are important for evaluating the costs of activities that produce greenhouse gas emissions and contribute to climate change, such as burning fossil fuels to produce energy. The SCC is also important for evaluating the benefits of policies that would reduce the amount of those emissions going into the atmosphere. For example, in order to properly evaluate standards that reduce the use of carbon-intensive energy or that improve energy efficiency—like the proposed updated energy codes—it is important to understand the benefits they will provide, including the benefit of reducing carbon pollution and the harm it causes.''

This commenter also defends the Interagency Working Group's (IWG) analysis as ''science-based, open, and transparent'' and believes that ''the IWG correctly used a global SCC value.'' While conceding that the IWG can improve its SCC methodology, the commenter nevertheless argues that ''HUD and USDA should continue to use the current IWG estimate of the SCC.''

HUD Response: HUD and USDA acknowledge the critique of the SCC from the commenter, but believe that the SCC is an important and established element of a regulatory impact analysis for energy-related governmental regulations. Lower energy consumption involving fossil fuels will by default result in lower carbon emissions; there are economic, health and safety costs

associated with these emissions, and, conversely, cost benefits when these emissions are reduced. While the commenter is correct that the SCC is not specifically required for the affordability or availability analysis specified under EISA (the primary analysis for that purpose involves energy and cost savings accruing directly to the property owner or resident) the SCC is relevant to the larger economic costs and benefits required for a regulatory impact analysis. The cost benefits of carbon saved as a result of adopting the higher standards specified in the notice can and should be incorporated in the regulatory impact analysis, and do not affect, or undermine, the underlying affordability or availability findings of the notice.

Comment: Additional research shows similar results as DOE findings. One commenter cited a study by the National Association of Home Builders (NAHB) Research Center (now the Home Innovation Research Labs) (Research Center) that shows the national average simple payback for the 2009 IECC of 5.6 years compared to the DOE study cited in the Preliminary Determination of 5.1 years. The commenter notes that the slightly longer payback from the Research Center may be because the initial construction costs were assumed to be about 35 percent higher in the Research Center analysis than in the PNNL analysis for DOE, due to the Research Center's reference home being based on national averages with more wall area than assumed in the PNNL analysis (2,580 vs. 2,380 sq. ft.) while having slightly less floor area (2,352 vs. 2,400 sq. ft.). In addition, the commenter points out that construction costs used in the Research Center study generated by actual builders were higher than those used by PNNL, which were developed by commercial estimators.

HUD–USDA Response: HUD and USDA relied on DOE and PNNL analysis of the 2009 IECC and ASHRAE 90.1–2007 in order to maximize alignment of our findings with those of other Federal agencies. We appreciate and recognize the additional independent findings on the 2009 IECC referenced by the commenter in the Research Center report. Despite the differences noted in the characteristics of the assumed reference house, the NAHB Research Center's results show very similar payback periods to those arrived at by DOE and PNNL (5.6 years vs. 5.1 years), thereby confirming and reinforcing HUD and USDA's findings on the cost effectiveness of the 2009 IECC.[6] While the PNNL and Research Center paybacks are similar, the incremental costs for the 2009 IECC in the Research Center report are higher than those determined by PNNL.

These incremental cost differences result from the differences in the reference homes used in each report. The PNNL methodology defines a residential prototype building to be representative of typical new residential construction using data from the U.S. Census Bureau, the American Housing Survey, and NAHB, and establishes typical construction and operating assumptions, whereas the Research Center uses national averages. The assumptions were subjected to a public review through a Request for Information (RFI) process.[7] We believe that the PNNL methodology provides an objective prototype most suitable for a national sample.

Comment: Updated information in local or statewide adoption of the subject codes. The Preliminary Determination identified 18 States that have not yet adopted the 2009 IECC and 12 States that have not yet adopted ASHRAE 90.1–2007. Two commenters provided updated information that at least five of these States (Colorado, Arizona, Kansas, Missouri and Maine) have seen significant local adoption of the 2009, or even the 2012, IECC. In Colorado, for example, jurisdictions that have adopted either of these standards represent 90 percent of the statewide population; in Arizona, it is estimated at 70 percent. It was also noted by one commenter that two States (Kentucky and Louisiana) have ''already adopted'' the 2009 IECC or ''almost its equivalent,'' while two additional States are either in the final stages of adopting or are in the process of adopting the 2009 IECC (Minnesota and Arkansas, respectively).

HUD–USDA Response: HUD and USDA recognize these updates on State or local adoption of the 2009 or 2012 IECC. Statewide adoption of energy codes is an evolving process, with new States (or home rule municipalities) adopting the more recent codes on an ongoing basis. The 18 states that had not yet adopted the 2009 IECC or ASHRAE 90.1–2007 cited in the Preliminary Determination reflected information posted by DOE's Building Energy Codes Program (BECP) at or near the time of publication of the Preliminary Determination. The updated data on two additional States provided by the commenters does not change the overall affordability and availability finding for the remaining States that have not yet adopted the 2009 IECC or ASHRAE 90.1–2007 (that the subject codes will not negatively impact the affordability and availability of covered housing); rather, these data have the effect of lowering the number of units estimated to be impacted by the adoption of the codes addressed in this notice. Similarly, to the extent that there are local jurisdictions that have adopted higher codes than those adopted by local jurisdictions within States that have not yet adopted the code statewide, this will have the effect of lowering the overall costs (and related benefits) associated with this notice. HUD and USDA have updated the estimated impacts in the Final Determination, in order to reflect the most recent code adoption status reported by the BECP at *http://www.energycodes.gov/adoption/states* (as of May 2014).

5. Alternative Green Standards or Equivalent State or Local Standards

Comment: HUD and USDA should accept one or more green building standards as alternative compliance paths. One commenter proposed that the ICC 700 National Green Building Standard (NGBS) should be accepted as an alternative compliance certification, for the following reasons: NGBS certification requirements ensure that all certified buildings achieve a minimum energy efficiency performance 15 percent more efficient than the 2009 IECC, and many homes/buildings that achieve NGBS certification far exceed that baseline; the NGBS is designed to cover all residential construction, and can be applied to all housing types noted in the notice; and NGBS certification offers a quality assurance mechanism, in that all units are verified by an independent, third-party NGBS Green Verifier. Another commenter proposed similar adoption by HUD and USDA of LEED for Homes (Version 8) as a compliance path, and another commenter indicated that the codes referenced in the notice are already included as a minimum requirement in the Enterprise Green Communities standard.

Comment: Equivalent energy performance. One commenter suggested that HUD and USDA recognize State and/or local jurisdictions that have established standards that have equal or

[6] NAHB Research Center, *2009 IECC Cost Effectiveness Analysis,* May 2012. *http://www.homeinnovation.com/~/media/Files/Reports/Percent%20Energy%20Savings%202009%20IECC%20Cost%20Effectiveness%20Analysis.PDF.*

[7] The PNNL methodology for the residential prototype is published online at *http://www.energycodes.gov/development/residential/methodology.*

better energy savings. The commenter cites title IV, section 410, of the American Recovery and Reinvestment Act, that provided specific language that dealt with equivalency by considering any energy code that ''achieves equivalent or greater energy savings'' as an acceptable alternative code. This would benefit States such as California that already exceed the 2009 IECC with their independently developed Title 24 energy efficiency standard. The commenter suggests that a reference to energy equivalency be included in the ''Implementation'' section of the notice.

HUD–USDA Response: The 2009 IECC and ASHRAE 90.1–2007 codes addressed in this Determination establish a floor, not a ceiling, for HUD- and USDA-covered programs. HUD and USDA recognize that the green building certifications referenced by the commenters, such as the NGBS (Performance Path), LEED for Homes, and Enterprise Green Communities, have incorporated the 2009 IECC or ASHRAE 90.1–2007 as minimum required energy standards. Accordingly, HUD and USDA will accept these standards as evidence of compliance with the 2009 IECC or ASHRAE 90.1–2007. In addition to these standards, these may include LEED for New Construction, ENERGY STAR Certified New Homes or ENERGY STAR for Multifamily High Rise, Enterprise Green Communities, and other regionally or locally recognized green building standards, such as Earth Advantage, Earthcraft, and others.

With regard to State standards that have equivalent or higher standards, there is documented evidence that Title 24 in California exceeds the standards specified in the HUD–USDA notice, so by definition any project in California complying with Title 24 will automatically comply with the 2009 IECC and/or ASHRAE 90.1–2007. If documented evidence is provided to HUD and USDA that a specific state standard equals or exceeds the standards specified in this notice, these State standards will also be accepted as a compliance path.

6. Suggested Changes and Alternatives to Preliminary Determination

Comment: Hawaii should not be exempted from ASHRAE 90.1–2007. HUD and USDA solicited comments on whether Hawaii should be exempted from complying with ASHRAE 90.1–2007, as was proposed in the Preliminary Determination. Using average national electricity prices in the Preliminary Determination, Hawaii showed a 58-year payback for adoption of ASHRAE 90.1–2007; however, using Hawaii electricity prices, the payback dropped to 17 years. (As discussed below, this Final Determination uses more recent October 2014 electricity prices, and the resulting payback for Hawaii declines further to 15.1 years.)

Two commenters disagreed with the Preliminary Determination's finding that exempted Hawaii from adopting ASHRAE 90.1–2007 and proposed instead that HUD and USDA require Hawaii compliance with ASHRAE 90.1–2007. The most detailed comment was provided by one commenter. This commenter notes that the Hawaii State Building Code Council has approved the 2009 IECC (roughly equivalent to ASHRAE 90.1–2007) for adoption in its four counties, and one county has already adopted these requirements. The commenter argues that ''if Hawaii has already found the code to be sensible for all residential and commercial buildings in its unique climate zone, we do not see any reason to exclude it from the updated HUD/USDA energy efficiency standard.''

The commenter also maintains that Hawaii's cooling needs are very different from New York's, on which HUD's and USDA's conclusion was based, and that ''a simple payback analysis is [not] a complete enough foundation from which to make a decision on cost-effectiveness.'' The Preliminary Determination found that when Hawaii's average electricity costs are applied to the HUD/USDA analysis (rather than a national average), mid-rise apartment buildings achieved simple payback in 17 years. The commenter suggested that a 17-year payback should not automatically be deemed not cost-effective, considering the expected lifetime of a multifamily building (30 to 100 years). The commenter suggests that a closer consideration of Hawaii will demonstrate a much more rapid payback, but even if the payback period is 17 years, EISA does not set a specific simple payback period or even require a simple payback analysis. The commenter notes that the relevant inquiry is whether the home or dwelling unit is ''affordable,'' and by a life-cycle analysis of 30 years, ''multifamily buildings in Hawaii should be required to meet ASHRAE 90.1–2007.''

Another commenter reached a similar conclusion. The commenter noted Hawaii has exceptionally high energy prices, and Hawaii is in a different climate zone with different requirements and thus will have different costs than New York, on which the Preliminary Determination was based. In fact, the Hawaii Building Code Council adopted the 2009 IECC (roughly equivalent for commercial buildings to ASHRAE 90.1–2007) with amendments, suggesting that the Hawaiians found the code reasonable for their State.

HUD–USDA Response: In this Final Determination HUD and USDA are amending the proposed exemption in the Preliminary Determination of HUD-assisted or FHA-insured multifamily properties in Hawaii from compliance with ASHRAE 90.1–2007. HUD acknowledges that the Hawaii Building Code Council has already adopted the 2009 IECC (roughly equivalent to ASHRAE 90.1–2007), as well as the fact that current (October 2014) EIA data show the average cost per kilowatt hour in Hawaii as of October 2014 has risen to 36 cents per kilowatt hour—even higher than the 32 cents cited in the Preliminary Determination, thereby lowering the estimated payback period for Hawaii to 15.1 years. At 36 cents per kilowatt hour, the simple payback of 15.1 years for energy savings in Hawaii is consistent with the other four States shown in table 6 with paybacks that are longer than 10 years; *i.e.,* Colorado, Minnesota, Missouri, and Tennessee, whose paybacks range from 10.1 years to 13.3 years. Accordingly, HUD-assisted or FHA-insured multifamily properties in Hawaii are covered under this Final Determination.

Comment: Extend implementation period for ASHRAE 90.1–2007 for multifamily buildings from 90 to 180 days. Two commenters requested that the implementation timetable for multifamily properties be extended to 180 days. The notice currently states that for FHA-insured multifamily programs, the new standard would apply to those properties for which mortgage insurance applications are received by HUD 90 days after the effective date of a final determination. One commenter maintains that multifamily loan applications must include ''almost full'' plans and specifications; the design of the project will therefore have been completed or nearly-completed at the time of the loan application within 90 days. A 90-day notice may therefore result in developers having to modify plans and specs, which could be costly so late in the design process. Similarly, another commenter expressed a concern that multifamily new construction or substantial rehabilitation transactions have a long lead time and, for locations where the new standard represents a change, a longer lead time would ensure that the standard would not affect financings already in the development or application stages.

HUD Response: HUD proposes to retain the 90-day implementation period for multifamily properties but, to

address the concerns expressed by the commenters that this could impact projects already in the development or application stages, HUD will clarify that the 90 days refers to the preapplication; *i.e.,* not the application for Firm Commitment. This 90-day period would commence 30 days after the Final Determination is published, thereby effectively providing a 120-day implementation period.[8] Multifamily properties have different compliance dates than single family properties, since the process is different for securing FHA single family mortgage insurance or USDA single family loan guarantees versus multifamily insurance. Multifamily developers submit preapplication proposals to FHA for insurance very early in the application process, whereas there is no such similar preapplication requirement for FHA single family. HUD does not want the implementation to impede or slow down projects in the pipeline, but is also aware that there have been two code cycles since ASHRAE 90.1–2007 and that it is important that this standard be implemented as expeditiously as possible.

D. Adoption of Preliminary Determination as Final Determination

After consideration of the public comments on the Preliminary Determination, HUD and USDA adopt the Preliminary Determination as their Final Determination. This Final Determination takes into consideration the public comments received in response to HUD and USDA's Preliminary Determination.

After careful consideration of the issues raised by the comments, HUD and USDA have made five changes as follows:

(1) Modified the implementation schedule for multifamily properties to clarify that the 90-day implementation period commences after the 30-day effective date of the Final Determination, and that the implementation period refers to preapplications received by HUD for multifamily insurance, not the application for Firm Commitment. The Final Determination also includes an implementation schedule for new HOME units covered by the statute;

(2) Provided an alternative compliance path for properties meeting ENERGY STAR Certified Homes, ENERGY STAR for Multifamily High Rise and certain green building standards;

(3) Provided additional detail on administrative and regulatory actions that HUD and USDA will take to implement the code requirements;

(4) Updated the status of code adoption of certain States or localities to reflect the status reported in the comments as confirmed by DOE. These include Louisiana and Kentucky, both of which, as of November 2014, have adopted the 2009 IECC, and adjustments of the estimated number of impacted units in Colorado and Arizona to reflect home rule municipalities' adoption of these codes in the absence of statewide legislation; and,

(5) Removed the exemption proposed in the Preliminary Determination of HUD-assisted or FHA-insured multifamily properties in Hawaii from compliance with ASHRAE 90.1–2007.

This notice does not address the more recent IECC and ASHRAE codes for which DOE has published efficiency determinations:

- Final Determination for the 2010 edition of ASHRAE 90.1 (published October 19, 2011);
- Final Determination for the 2012 edition of the IECC (published May 17, 2012);
- Final Determination for the 2013 edition of ASHRAE 90.1 (published September 26, 2014); [9]
- Preliminary Determination for the 2015 edition of the IECC (published September 26, 2014).[10]

DOE has also completed a cost analysis of the 2012 IECC for 43 of the 50 States and the District of Columbia, a national cost analysis of ASHRAE 90.1–2010, and a cost analysis of the ASHRAE 90.1–2010 for 22 of the 50 States and the District of Columbia.[11] DOE intends to publish a similar national cost-effectiveness analysis for ASHRAE 90.1–2013 in 2015.

The impact of these more recent codes on the affordability and availability of HUD- and USDA-funded new construction is currently being assessed by the two agencies. Since HUD and USDA's affordability determination relies on DOE's analysis, HUD and USDA will address the affordability of these codes in a subsequent notice in the near future. It is HUD's and USDA's intention that while adoption of future IECC and ASHRAE 90.1 standards can be implemented with a Determination such as this one, each program will subsequently update its handbooks, mortgagee letters, relevant forms, or other administrative procedures each time HUD and USDA determine that the new standard will not negatively impact the affordability or availability of housing under the covered programs.

Although HUD and USDA are adopting the 2009 IECC and ASHRAE 90.1–2007 energy codes, as noted in their April 15, 2014, Preliminary Determination, HUD and USDA, along with other Federal agencies, have also adopted the December 2011 energy alignment framework of the interagency Rental Policy Working Group. According to this framework, several HUD competitive grant programs already require or provide incentives to grantees to comply with energy efficiency standards that exceed the 2009 IECC and ASHRAE 90.1–2007 standards outlined in this notice.[12] This standard is typically ENERGY STAR Certified New Homes for single family properties or ENERGY STAR for Multifamily High Rise for multifamily properties. Nothing in this notice will preclude these competitive programs from maintaining these higher standards, or raising them further. A list of current program requirements or incentives prior to publication of this notice is shown in Table 1, below.

TABLE 1—CURRENT ENERGY STANDARDS AND INCENTIVES FOR HUD AND USDA PROGRAMS

[New construction only]

Program	Type	Current energy efficiency requirements and incentives
HUD		
Choice Neighborhoods—Implementation.	Competitive Grant	Single family and low-rise multifamily: ENERGY STAR Certified New Homes. Multifamily high-rise (4 or more stories): ENERGY STAR for Multifamily High Rise. Additional 2 rating points for achieving Certified LEED–ND or similar standard; or 1 point if project complies with goal of achieving LEED–ND or similar standard.

[8] Note that the 90 days applies to *preapplications* for FHA multifamily insurance, whereas the 180 days applies to *building permits* for FHA single family insurance.

[9] U.S. Department of Energy, ''Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1–2013: Energy Standard for Buildings Except Low-Rise Residential Buildings,'' **Federal Register** Notice, 79–FR–57900, September 26, 2014. *https://federalregister.gov/a/2014-22882.*

[10] Current status of determinations are listed by DOE at *https://www.energycodes.gov/determinations.*

[11] ASHRAE 90.1 cost-effectiveness analyses are provided at *https://www.energycodes.gov/development/commercial/cost_effectiveness.*

[12] Rental Policy Working Group, *Federal Rental Alignment: Administration Proposals,* December 31, 2011. *www.huduser.org/portal/aff_rental_hsg/rpwg_conceptual_proposals_fall_2011.pdf.*

TABLE 1—CURRENT ENERGY STANDARDS AND INCENTIVES FOR HUD AND USDA PROGRAMS—Continued

[New construction only]

Program	Type	Current energy efficiency requirements and incentives
Choice Neighborhoods—Planning.	Competitive Grant	Eligible for Stage 1 Conditional Approval of all or a portion of the neighborhood targeted in their Transformation Plan for LEED for Neighborhood Development from the U.S. Green Building Council.
HOPE VI	Competitive Grant	While no new grants are being awarded, the most recent Notice of Funding Availability provided the following rating points: 3 points if new units were certified to one of several recognized green building programs, including Enterprise Green Communities, National Green Building Standard, LEED for Homes, LEED New Construction, or local or regional standards such as Earthcraft; 2 points if new construction was certified to ENERGY STAR for New Homes standard; 1 point if only ENERGY STAR-certified products and appliances were used in new units.
Section 202 Supportive Housing for the Elderly.	Competitive Grant	Single family and low-rise multifamily: ENERGY STAR Certified New Homes. Multifamily high-rise (4 or more stories): ENERGY STAR for Multifamily High Rise. Applicants earn additional points if they meet one of several recognized green building standards. *http://archives.hud.gov/funding/2010/202elderly.pdf.* (Note: capital advances for new construction last awarded in FY 2010).
Section 811 for Persons with Disabilities Project Rental Assistance.	Competitive Grant	ENERGY STAR Certified New Homes for single family homes, or ENERGY STAR for Multifamily High Rise for multifamily buildings. *http://archives.hud.gov/funding/2012/sec811pranofa.pdf.* (Note that HUD is no longer awarding Section 811 grants for new units.)
Rental Assistance Demonstration (RAD).	Conversion of Existing Units	Minimum 2006 IECC or ASHRAE 90.1–2004 for new construction or any successor code adopted by HUD; applicants encouraged to build to ENERGY STAR Certified New Homes or ENERGY STAR for Multifamily High Rise. Minimum WaterSense and ENERGY STAR appliances required and the most cost-effective measures identified in the Physical Condition Assessment (PCA). (Note that most RAD units will be conversions of existing units, not new construction).
FHA Multifamily Mortgage Insurance.	Mortgage Insurance	2006 IECC or ASHRAE 90.1–2004 (Multifamily Accelerated Processing Guide at *http://portal.hud.gov/hudportal/documents/huddoc?id=4430GHSGG.pdf*).
FHA Single Family Mortgage Insurance.	Mortgage Insurance	2006 IECC (See Builder's Certification form HUD–92541 at *http://portal.hud.gov/hudportal/documents/huddoc?id=92541.pdf.*)
HOME Investment Partnerships Program.	Formula Grant	Cranston-Gonzalez sections 215(b)(4) and section 215(a)(1)(F) require HOME units to meet minimum energy efficiency standards promulgated by the Secretary in accordance with Cranston Gonzalez section 109 (42 U.S.C. 12745). Final HOME Rule published July 24, 2013 at *www.onecpd.info/home/home-final-rule/reserves* the energy standard for a separate rulemaking at 24 CFR 92.251.
Public Housing Capital Fund	Formula Grant	2009 IECC and ASHRAE 90.1–2010, or successor standards, Capital Final Rule October 24, 2013, at *http://www.gpo.gov/fdsys/pkg/FR-2013-10-24/pdf/2013-23230.pdf.* ENERGY STAR appliances are also required unless not cost effective.
USDA		
Section 502 Guaranteed Housing Loans.	Loan Guarantee	2006 IECC at minimum.* Rural Energy Plus program requires compliance with most recent version of IECC, which is currently IECC 2012.
Section 502 Rural Housing Direct Loans.	Loan Guarantee	2006 IECC at minimum.* A pilot is being created that gives incentive points for participation in ENERGY STAR Certified New Homes, Green Communities, Challenge Home, NAHB National Green Building Standard, and LEED for Homes
Section 502 Direct Loans for Section 523 Mutual Self-Help Loan program homeowner participants.	Loan Guarantee	2006 IECC at minimum.* A pilot is being created that gives incentive points for participation in ENERGY STAR Certified New Homes, Green Communities, Challenge Home, NAHB National Green Building Standard, and LEED for Homes

* USDA programs updated annually per Administrative Notice.

II. HUD–USDA Final Affordability Determination

The specific HUD and USDA programs covered by this notice are listed in Appendix I. While not specifically referenced in EISA, the Home Investment Partnerships Program (HOME) is covered, pursuant to a requirement in the HOME statute at section 215(b)(4) (42 U.S.C. 12745(b)(4)) and section 215(a)(1)(F) (42 U.S.C. 12745(a)(1)(f)) of Cranston-Gonzalez, which set the minimum standard for new construction of HOME-funded units at the standard established through this determination under Cranston-Gonzalez section 109.

Several exclusions are worth noting. EISA's application to the ''rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants'' is no longer applicable, since funding for HOPE VI

has been discontinued. HUD's Housing Choice Voucher program, also known as Section 8 Tenant-Based Rental Assistance (TBRA), is excluded since the agency does not have the authority or ability to establish housing standards for properties before they are rented by tenant households under that program; *i.e.,* when they are newly built. Indian housing programs are excluded because they do not constitute assisted housing and are not authorized under the National Housing Act (12 U.S.C. 1701 *et seq.*) as specified in EISA. For instance, the Section 184 Loan Guarantee Program is authorized under section 184 of the Housing and Community Development Act of 1992 (42 U.S.C. 1715z–13a). Similarly, housing financed with Community Development Block Grant (CDBG) funds is not included, since CDBG, which is authorized by the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*), is neither an assisted housing program nor a National Housing Act mortgage insurance program. Finally, only single family USDA programs are covered by EISA, whereas both single family and multifamily HUD programs are covered.

A. Discussion of Market Failures

Before focusing on the specific costs and benefits associated with adoption of the IECC and ASHRAE codes addressed in this notice, the extent to which market failures or barriers exist in the residential sector that may prompt the need for these higher codes is discussed below. There is a wide body of literature on a range of market failures that have resulted in an ''energy efficiency gap'' between the actual level of investment in energy efficiency and the higher level of investment that would be cost beneficial from the consumer's (*i.e.,* the individual's or firm's) point of view.[13] More broadly, market *failures* involve externalities, market power, and inadequate or asymmetric information. Market *barriers* include capital market barriers and incomplete markets for energy efficiency; *i.e.,* the fact that energy efficiency is generally purchased as an attribute of another product (in this case shelter or a building).

Within this broader world of market failures and barriers, suboptimal energy efficient investment in housing imposes two primary costs: Increased energy expenditures for households and an increase in the negative externalities associated with energy consumption. In addition to complying with the EISA statute, HUD and USDA have two primary motivations in the promulgation of this notice: (1) To reduce the total cost of operating and thereby increasing the affordability of housing by promoting the adoption of cost-effective energy technologies, and (2) to reduce the social costs (negative externalities) imposed by residential energy consumption. The first justification (lowering housing costs) requires that there exist significant market failures or other barriers that deter builders from supplying the energy efficiency demanded by consumers of housing. Alternatively, there may be market barriers that limit consumer demand for energy efficiency, which builders might readily supply if such demand existed. While the gains from cost-effective investments in energy efficiency are potentially very large, the argument that the market will not provide energy efficient housing demanded by households is somewhat complex.

The second justification (reducing social costs) requires that the consumption of energy imposes external costs that are not internalized by the market. There is near universal agreement among scientists and economists that energy consumption leads to indirect costs. The challenge is to measure those costs.

Under Investment in Energy-Saving Technologies

The production of energy efficient housing may be substantial, but if there are market failures or barriers that are not reflected in the return on the investment, the market penetration of energy efficient investments in housing will be less than optimal.

When analyzing energy efficiency standards, the generation of savings is typically the greatest of the different categories of benefits. Using potential private benefits to justify costly energy efficiency standards is often criticized.[14] A skeptic of this approach of measuring the benefits discussed in this notice would indicate that if, indeed, there were net private benefits to energy efficient housing, consumers would place a premium on that characteristic and builders would respond to market incentives and provide energy-efficient homes. The noninterventionist might argue that the analyst who finds net benefits of implementing a standard did not measure the benefits and costs correctly.[15] The existence of unobserved costs (either upfront or periodic) is a potential explanation for low levels of investment in energy-saving technology. Finally, a proponent of the market approach could argue that the very existence of energy efficient homes is ample proof that the market functions well. If developers build energy efficient housing, the theoretical challenge is to explain why there is an undersupply.

Despite the economic argument for nonintervention, there are many compelling economic arguments for the existence of an energy efficiency gap. Thaler and Sunstein attribute the energy efficiency gap to incentive problems that are exaggerated because upfront costs are borne by the builder, whereas the benefits are enjoyed over the long term by tenants.[16] Four justifications deserve special consideration: (1) Imperfect information concerning energy efficiency, (2) inattention to energy efficiency, (3) split incentives for energy efficient investments in the housing market, and (4) lack of financing for energy efficient retrofits.[17]

(1) Imperfect information. Assuming information concerning energy efficiency affects investment, one can imagine two scenarios in which imperfect information would lead to an underinvestment in energy efficiency. First, consumers may be unaware of the potential gains from energy efficiency or even of the existence of a particular energy-saving investment. Second, imperfect information may inhibit energy efficient investments. A consumer may be perfectly capable of evaluating energy efficiency and making rational economic decisions but researching the options is costly. Establishing standards reduces search costs: consumers will know that newer housing possesses a minimal level of efficiency. Similarly, because it may be costly for consumers to identify energy efficient housing, the real estate industry may hesitate to invest in energy efficiency.

(2) Consumer inattention to energy efficiency. Consumers may be inattentive to long-run operating costs (energy bills) when purchasing durable energy-using goods.[18] Procrastination and self-control also may affect the

[13] The existence of this gap has been documented in many cases. See Marilyn A. Brown, ''Market Failures and Barriers as a Basis for Clean Energy Policies,'' *Energy Policy 29* (2001): 1197–1207.

[14] Hunt Allcott and Michael Greenstone, *Is There An Energy Efficiency Gap?* National Bureau of Economic Research, Working Paper No. 17766, January 2012. *http://www.nber.org/papers/w17766.pdf.*

[15] For a detailed example, see Allcott and Greenstone, *Is There an Energy Efficiency Gap?*

[16] Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (New Haven: Yale University Press, 2008).

[17] Allcott and Greenstone, *Is There an Energy Efficiency Gap?*

[18] *Ibid,* 21.

rationality of long-run decisions.[19] These behavioral phenomena may deter energy efficiency choices. Establishing minimal standards that do not impose excessive costs but generate economic gains will benefit consumers who, when making housing choices, concentrate on other characteristics of the property.

(3) Split incentives. For owner-occupied homes, the prospect of ownership transfer may create a barrier to energy efficient investment.[20] If owners, builders, or buyers do not believe that they will be able to recapture the value of the investment upon selling their home, they will be deterred from investing in energy efficiency. As indicated by McKinsey and Company in their landmark 2009 report, the length of the payback period and lifetime of the stream of benefits is longer than a large proportion of households' tenure. This concern may lead to the exclusive pursuit of investments for which there is an immediate payback.

For rental housing, split incentives exist that lead to sub-optimal housing.[21] There is an agency problem when the landlord pays the energy bill and cannot observe tenant behavior or when the tenant pays the energy bill and cannot observe the landlord's investment behavior.[22]

(4) Lack of financing. Energy efficient investment may require a significant investment that cannot be equity financed. Capital constraints are a formidable barrier to energy efficiency for low-income households.[23] While there is a wide variety of financing alternatives for home purchases, there are not many financing alternatives specifically for undertaking energy retrofits of for-sale housing.[24] Building energy efficiency into housing at the time of construction allows homeowners and landlords to finance the energy-saving improvement with a lower mortgage interest rate, as opposed to a less affordable home improvement loan specifically for energy retrofits.[25]

Nonenergy Benefits

Even if there were no investment inefficiencies and individual consumers who were able to satisfy their need for energy efficiency, nonenergy consumption externalities could justify energy conservation policy. The primary nonenergy co-benefits of reducing energy consumption are the reduction of emissions, and health benefits. The emission of pollutants (such as particulate matter) cause health and property damage. Greenhouse gases (such as carbon dioxide) cause global warming, which imposes a cost on health, agriculture, and other sectors. Greater energy efficiency allows households to afford energy for heating during severe cold or cooling during intense heat, which could have positive health effects for vulnerable populations. For example, studies have found a strong link between health outcomes and indoor environmental quality, of which temperature, lighting, and ventilation are important determinants.[26] Clinch and Healy discuss how to value the effect on mortality and morbidity in a cost-benefit analysis of energy efficiency.[27]

In addition to the direct health benefits for residents of energy efficient housing, there will be indirect public health benefits. First, the local population will gain from reducing emissions of particulate matter that have harmful health effects. Second, there may be a positive safety effect from reducing the probability of fires by eliminating the need for supplemental heating sources.[28]

B. 2009 IECC Affordability Determination

The IECC is a model energy code developed by the ICC through a public hearing process involving national experts for single family residential and commercial buildings.[29] The code contains minimum energy efficiency provisions for residential buildings, defined as single family homes and low-rise residential buildings up to three stories, offering both prescriptive and performance-based approaches. Key elements of the code are building envelope requirements for thermal performance and air leakage control.

The IECC is typically published every 3 years, though there are some exceptions. In the last two decades, full editions of its predecessor, the Model Energy Code, came out in 1989, 1992, 1993, and 1995, and full editions of the IECC came out in 1998, 2000, 2003, 2006, 2009, and 2012. Though there were changes in each edition of the IECC from the previous one, the IECC can be categorized into two general eras: 2003 and before, and 2004 and after. The residential portion of the IECC was heavily revised in 2004. The climate zones were completely revised (reduced from 17 zones to 8 primary zones), and the building envelope requirements were restructured into a different format.[30] The post-2004 code became much more concise and simpler to use, but these changes complicate comparisons of State codes based on pre-2004 versions of the IECC to the 2009 IECC.

The 2009 IECC substantially revised the 2006 code as follows: [31]

- The duct system has to be tested and the air leakage out of ducts must be kept to an acceptable maximum level. Testing is not required if all ducts are inside the building envelope (for example in heated basements), though the ducts still have to be sealed.

[19] Dan Ariely, *Predictably Irrational.* Revised and Expanded Edition (New York: Harper Collins, 2009).

[20] McKinsey and Company, *Unlocking Efficiency in the U.S. Economy* (July 2009), p.24. *http://www.mckinsey.com/client_service/electric_power_and_natural_gas/latest_thinking/unlocking_energy_efficiency_in_the_us_economy.*

[21] Kenneth Gillingham, Matthew Harding and David Rapson, ''Split Incentives and Household Energy Consumption,'' *Energy Journal* 33:2 (2012): 37–62.

[22] Such agency problems are not unique to energy. A landlord does not know in advance of extending a lease to what extent a tenant will inflict damage, make an effort to take care of the property, or report urgent problems. The response is to raise rent and lower quality.

[23] McKinsey and Company, *Unlocking Efficiency.*

[24] Alastair McFarlane, ''The Impact of Home Energy Retrofit Loan Insurance: A Pilot Program,'' *Cityscape: A Journal of Policy Development and Research, Volume 13, Number 3.* U.S. Department of Housing and Urban Development Office of Policy Development Research (2011): 237–249.

[25] With the exception of a few programs serving specific markets and a Federal Housing Administration (FHA) pilot program, affordable financing for home energy improvements that reflects sound lending principles is limited. Unsecured consumer loans or credit card products for home improvements typically charge high interest rates. Home equity lines of credit require owners to be willing to borrow against the value of their homes during a period when home values are flat or declining in many markets. Utility ''on bill'' financing (in which a home energy retrofit loan is amortized through an incremental change on a utility bill) serves only a handful of markets on a small scale. Property Assessed Clean Energy (PACE) financing programs have encountered resistance because of their general requirement to have priority over existing liens on a property.

[26] William J. Fisk, ''How IEQ Affects Health, Productivity,'' *ASHRAE Journal* 57 (2002).

[27] Peter J. Clinch and John D. Healy, ''2001 Cost-benefit Analysis of Domestic Energy Efficiency,'' *Energy Policy* 29 (2001): 113–124.

[28] Martin Schweitzer and Bruce Tonn, *Nonenergy Benefits from the Weatherization Assistance Program: A Summary of Findings from the Recent Literature.* ORNL/CON–484 (Oak Ridge National Laboratory, April 2002).

[29] The IECC also covers commercial buildings. States may choose to adopt the IECC for residential buildings only, or may extend the code to commercial buildings (which include multifamily residential buildings of four or more stories).

[30] In the early 2000s, researchers at the U.S. Department of Energy's Pacific Northwest National Laboratory prepared a simplified map of U.S. climate zones. This PNNL-developed map divided the United States into eight temperature-oriented climate zones. *http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/4_3a_ba_innov_buildingscienceclimatemaps_011713.pdf.*

[31] Pacific Northwest National Laboratory for the U.S. Department of Energy, *Impacts of the 2009 IECC for Residential Buildings at State Level* (September 2009). *https://www.energycodes.gov/impacts-2009-iecc-residential-buildings-state-level-0.*

- 50 percent of the lighting (bulbs, tubes, etc.) in a building has to be energy efficient. Compact fluorescent light bulbs qualify; standard incandescent bulbs do not.
- Trade-off credit can no longer be obtained for high-efficiency heating, ventilation, and air conditioning (HVAC) equipment. For example, if a high-efficiency furnace is used, no reduction in wall insulation is allowed.
- Vertical fenestration U-factor requirements are reduced from 0.75 to 0.65 in Climate Zone 2, 0.65 to 0.5 in Climate Zone 3, and 0.4 to 0.35 in Climate Zone 4.
- The maximum allowable solar heat gain coefficient for glazed fenestration (windows) is reduced from 0.40 to 0.30 in Climate Zones 1, 2, and 3.
- R–20 walls in climate zones 5 and 6 (increased from R–19).
- Modest basement wall and floor insulation improvements.
- R–3 pipe insulation on hydronic distribution systems (increased from R–2).
- Limitation on opaque door exemption both size and style (side hinged).
- Improved air-sealing language.
- Controls for driveway/sidewalk snow melting systems.
- Pool covers are required for heated pools.

1. Current Adoption of the 2009 IECC

As of November 2014, 34 States and the District of Columbia have voluntarily adopted the 2009 IECC, its equivalent, or a more recent energy code (Table 2).[32] The remaining 16 States have not yet adopted the 2009 IECC.[33] (In certain cases, cities or counties within a State have a different code from the rest of the State. For example, the cities of Austin and Houston, Texas, have adopted energy codes that exceed the minimum Texas statewide code).[34] [35]

[32] Not shown in Table 2 are the U.S. Territories. The status of IECC code adoption in these jurisdictions is as follows: Guam, Puerto Rico, and the U.S. Virgin Islands have adopted the 2009 IECC for residential buildings. The Northern Mariana Islands have adopted the Tropical Model Energy Code, which is equivalent to the 2003 IECC. American Samoa does not have a building energy code. These territories are all covered by EISA, for any covered HUD and USDA program that operates in these localities.

[33] In addition, there are two territories that have not yet adopted the 2009 IECC: the Northern Mariana Islands and American Samoa. Accordingly, they will be covered by the affordability and availability determinations of this notice.

[34] Pacific Northwest National Laboratory, *Impacts of the 2009 IECC.*

[35] HUD and USDA do not currently maintain a list of local communities that may have adopted a different code than their State code. There are cities and counties that have adopted the 2009 or even the 2012 IECC in States that have not adopted the 2009 IECC or equivalent/better. For example, most major cities or counties in Arizona have adopted the 2009 IECC or better. And Maine has adopted the 2009 IECC but allows towns under 4,000 people to be exempt. The code requirements can also vary. Kentucky, for example, adopted the 2009 IECC for all homes except those that have a basement. The following Web site notes locations that have adopted the 2012 (but not the 2009) IECC: *http://energycodesocean.org/2012-iecc-and-igcc-local-adoptions.*

HUD and USDA are primarily interested in those States that have not yet adopted the 2009 IECC, since it is in these States that any affordability impacts will be felt relative to the cost of housing built to current State codes. As noted, in instances where a local entity has a more stringent standard, the affordability impacts within a State will differ.

An increasing number of States have in recent years adopted, or plan to adopt, the 2009 IECC, in part due to section 410 of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub L. 111–5, approved February 17, 2009), which established as a condition of receiving State energy grants the adoption of an energy code that meets or exceeds the 2009 IECC (and ASHRAE 90.1–2007), and achievement of 90 percent compliance by 2017. All 50 State governors subsequently submitted letters notifying DOE that the provisions of section 410 would be met.[36]

TABLE 2—CURRENT STATUS OF IECC ADOPTION BY STATE [37]

[As of November 2014]

2009 IECC or equivalent or higher (34 states and DC)	Prior codes (16 states)
Alabama	2006 IECC or Equivalent (6 States)
California (Exceeds 2012 IECC).	Hawaii.
Connecticut	Minnesota.
Delaware (2012 IECC).	Oklahoma.
District of Columbia (2012 IECC).	Tennessee.
Florida	Utah.
Georgia	Wisconsin.
Idaho	
Illinois (2012 IECC)	2003 IECC or Equivalent (2 States)
Indiana	Arkansas.
Iowa (2012 IECC)	Colorado.
Kentucky	
Louisiana	No Statewide Code (8 States)
Maryland (2012 IECC).	Alaska.
Massachusetts (2012 IECC).	Arizona.
Michigan	Kansas.
Montana	Maine.
Nebraska	Mississippi.
Nevada	Missouri.
New Hampshire	South Dakota.
New Jersey	Wyoming.
New Mexico	
New York	
North Carolina	
North Dakota	
Ohio	
Oregon	
Pennsylvania	
Rhode Island (2012 IECC)	
South Carolina	
Texas	
Vermont	
Virginia (2012 IECC)	
Washington (2012 IECC)	
West Virginia	

[36] American Recovery and Reinvestment Act, Pub L. 111–5, division A, section 410(a)(2).

[37] ''Status of State Energy Code Adoption,'' U.S. Department of Energy, *http://www.energycodes.gov/adoption/states.*

2. 2009 IECC Affordability Analysis

In this notice, HUD and USDA address two aspects of housing affordability in assessing the impact that the revised code will have on housing affordability. As described further below, the primary affordability test is a life-cycle cost (LCC) savings test, the extent to which the additional, or incremental, investments required to comply with the revised code are cost effective; *i.e.,* the additional measures pay for themselves with energy cost savings over a typical 30-year mortgage period. A second test is whether the incremental cost of complying with the code as a share of total construction costs—regardless of the energy savings associated with the investment—is affordable to the borrower or renter of the home.

In determining the impact that the 2009 IECC will have on HUD and USDA assisted, guaranteed or insured new homes, the agencies have relied on a cost-benefit analysis of the 2009 IECC completed by PNNL for DOE.[38] This study provides an assessment of both the initial costs and the long-term estimated savings and cost-benefits associated with complying with the 2009 IECC. It offers evidence that the 2009 IECC may not negatively impact the affordability of housing covered by EISA. The financing assumptions used in the LCC analysis prepared by PNNL for DOE contains several variables that may not fully represent the target population of FHA-insured and USDA-guaranteed borrowers relative to borrowers utilizing conventional

[38] U.S. Department of Energy, *National Energy and Cost Savings for New Single- and Multifamily Homes: A Comparison of the 2006, 2009 and 2012 Editions of the IECC* (April 2012). *http://www.energycodes.gov/sites/default/files/documents/NationalResidentialCostEffectiveness.pdf.*

financing. For example, it assumes a higher down payment (20 percent) than FHA single family borrowers usually have, and it does not incorporate the Mortgage Insurance Premiums associated with FHA-insured single family mortgages.[39] However, these variables do not change the overall affordability and/or availability findings in this Determination. While FHA average housing prices are lower than the national average, and the down payment requirements are lower for FHA than for conventional financing (3.5 percent vs. as high as 20 percent), these differences do not impact the overall cost-benefit findings, given the very small incremental costs involved. For example, the lower 3.5 percent down payment allowed by FHA will make the ''mortgage payback'' for the incremental cost of the higher energy code somewhat more attractive—in that the increase in the down payment to cover the added construction cost for the new energy code will be lower for FHA than conventional financing. The remaining amount will be amortized over 30 years for the FHA loan and will therefore actually improve cash flow to the consumer.

Note that there may be other benefits associated with energy efficient homes, in addition to positive cash flows. A March 2013 study by the University of North Carolina (UNC) Center for Community Capital and the Institute for Market Transformation (IMT) shows a correlation between greater energy efficiency and lower mortgage default risk for new homes. The UNC study surveyed 71,000 ENERGY STAR-rated homes and found that mortgage default risks are 32 percent lower for these more energy efficient homes than homes without ENERGY STAR ratings.[40]

3. Cost-Effectiveness Analysis and Results

The DOE study, *National Energy and Cost Savings for New Single and Multifamily Homes: A Comparison of the 2006, 2009, and 2012 Editions of the IECC,* published in April 2012 (2012 DOE study), shows positive results for the cost effectiveness of the 2009 IECC for new homes. This national study projects energy and cost savings, as well as LCC savings that assume that the initial costs are mortgaged over 30 years. The LCC method is a ''robust cost-benefit metric that sums the costs and benefits of a code change over a specified time frame. LCC is a well-known approach to assessing cost effectiveness.'' [41] In September 2011, DOE solicited input via **Federal Register** notice on their proposed cost-benefit methodology [42] and this input was incorporated into the final methodology posted on DOE's Web site in April 2012.[43] A further Technical Support Document was published in April 2013.[44]

In summary, DOE calculates energy use for new homes using EnergyPlus™ energy modeling software, Version 5.0. Two buildings are simulated: A 2,400 square foot single family home and an apartment building (a three-story multifamily prototype with six dwelling units per floor) with 1,200 square-foot per dwelling. DOE combines the results into a composite average dwelling unit based on 2010 Census building permit data for each State and eight climate zones. Single family home construction is more common than low-rise multifamily construction; the results are weighted accordingly to reflect this. Census data also is used to determine climate zone and national averages weighted for construction activity.

Four heating systems are considered: Natural gas furnaces, oil furnaces, electric heat pumps, and electric resistance furnaces. The market share of heating system types are obtained from the U.S. Department of Energy Residential Energy Consumption Survey (2009). Domestic water heating systems are assumed to use the same fuel as the space heating system.

For all 50 States, DOE estimates that the 2009 IECC saves 10.8 percent of energy costs for heating, cooling, water heating, and lighting over the 2006 IECC. LCC savings over a 30-year period are significant in all climate zones: Average consumer savings range from $1,944 in Climate Zone 3, to $9,147 in Climate Zone 8 when comparing the 2009 IECC to the 2006 IECC.[45]

The published cost and savings data for all 50 States provides weighted average costs and savings for both single family and low-rise multifamily buildings. For the 16 States impacted by this notice, DOE provided disaggregated data for single family homes and low-rise multifamily housing to HUD and USDA. These disaggregated data are shown in Table 3. Front-end construction costs range from $550 (Kansas) to $1,950 (Hawaii) for the 2009 IECC over the 2006 IECC. On the savings side, average LCC savings over a 30-year period of ownership range from $1,633 in Utah to $6,187 in Alaska when comparing the 2009 IECC to the 2006 IECC.[46]

In addition to LCC savings, the 2012 DOE study also provides simple paybacks and ''net positive cash flows'' for these investments. These are additional measures of cost effectiveness. Simple payback is a measure, expressed in years, of how long it will take for the owner to repay the initial investment with the estimated annual savings associated with that investment. Positive cash flow assumes that the measure will be financed with a 30-year mortgage, and reflects the break-even point—equivalent to the number of months or years after loan closing—at which the cost savings from the incremental energy investment exceeds the combined cost of: (1) The additional down payment requirement and (2) the additional monthly debt service resulting from the added investment.

For example, the average LCC for Minnesota's adoption of the 2009 IECC over its current standard (the 2006 IECC) is estimated at $2,174, with a simple payback of 7.2 years, and a net positive cash flow (mortgage payback) of 2 years. Mississippi homeowners will save $2,674 over 30 years under the 2009 IECC, with a simple payback of 3.8 years, and a positive cash flow of 1 year on the initial investment. As shown in Table 3, below, similar results were obtained for the remaining States analyzed, with simple paybacks ranging from a high of 8.3 years (Louisiana) to a low of 2.6 years (Alaska). The positive cash flow for all 18 impacted States is always 1 or 2 years, while the simple

[39] Pacific Northwest National Laboratory for the U.S. Department of Energy, *Methodology for Evaluating Cost-Effectiveness of Residential Energy Code Changes* (April 2012), 3–11. *http://www.energycodes.gov/sites/default/files/documents/residential_methodology.pdf.*

[40] University of North Carolina, *Home Energy Efficiency and Mortgage Risks* (March 2013). *http://www.imt.org/uploads/resources/files/IMT_UNC_HomeEEMortgageRisksfinal.pdf.*

[41] U.S. Department of Energy, *National Energy and Cost Savings for new Single- and Multifamily Homes.*

[42] U.S. Department of Energy, *Building Energy Codes Cost Analysis* (**Federal Register** notice 76–FR–56413, September 13, 2011). *https://federalregister.gov/a/2011-23236.*

[43] Pacific Northwest National Laboratory for the Department of Energy *Methodology for Evaluating Cost-Effectiveness of Residential Energy Code Changes.*

[44] Pacific Northwest National Laboratory for the Department of Energy (V. Mendon, R. Lucas, S. Goel), *Cost-Effectiveness Analysis of the 2009 and 2012 IECC Residential Provisions—Technical Support Document* (April 2013). *http://www.energycodes.gov/sites/default/files/documents/State_CostEffectiveness_TSD_Final.pdf.*

[45] U.S. Department of Energy, *National Energy and Cost Savings,* 3.

[46] Disaggregated single family and low-rise multifamily data provided by DOE to HUD and USDA. Data shows LCC savings disaggregated for single family homes only (subset of LCC savings for both single family and low-rise multifamily shown in an April 2012 DOE study. Data are posted at *www.hud.gov/resilience.*

payback averages 5.1 years, and is always less than 10 years (the longest payback is 8.3 years in Louisiana).

As noted, the costs and savings estimates for the 16 States presented here do not use the composite single family/low-rise multifamily data presented in the 2012 DOE study. Rather, DOE provided HUD and USDA with the unpublished underlying disaggregated data for single family housing, to more accurately reflect the housing type receiving FHA single family mortgage insurance or USDA loan guarantees. These disaggregated data for single family homes are available at *www.hud.gov/resilience*.

TABLE 3—LIFE-CYCLE COST (LCC) SAVINGS, NET POSITIVE CASH FLOW, AND SIMPLE PAYBACK FOR THE 2009 IECC[47]

State*	Weighted average incremental cost ($ per unit)	Weighted average energy cost savings per year ($)	Life-cycle cost (LCC) savings ($ per unit)	Net positive cash flow (years)	Simple payback (years)
Alaska	940	357	6,187	1	2.6
Arizona	1,364	242	3,411	1	5.6
Arkansas	1,090	173	2,320	2	6.3
Colorado	902	134	1,782	2	6.7
Hawaii	1,950	393	5,861	1	5.0
Kansas	550	176	2,934	1	3.1
Maine	910	305	5,261	1	3.0
Minnesota	1,275	176	2,174	2	7.2
Mississippi	643	168	2,674	1	3.8
Missouri	967	151	2,077	2	6.4
Oklahoma	1,293	202	2,680	2	6.4
South Dakota	869	196	3,070	1	4.4
Tennessee	643	143	2,158	1	4.5
Utah	925	128	1,633	2	7.2
Wisconsin	1,027	239	3,788	1	4.3
Wyoming	885	155	2,215	1	5.7
Avg. of U.S.	980	203	3,069	1.4	5.1
Avg. of 16 States	1,019	215	3,066	1.3	5.0

*Only the 16 States that have not yet adopted the 2009 IECC as of November 2014 are included in this table.

4. Limitations of Cost Benefit Analysis

HUD and USDA are aware of studies that discuss limitations associated with cost-savings models such as these developed by PNNL for DOE. For example, Alcott and Greenstone suggest that ''it is difficult to take at face value the quantitative conclusions of the engineering analyses'' associated with these models, as they suffer from several empirical problems.[48] They cite two problems in particular. First, engineering costs typically incorporate upfront capital costs only and omit opportunity costs or other unobserved factors. For example, one study found that nearly half of the investments that engineering assessments showed would have short payback periods were not adopted due to unaccounted physical costs, risks, or opportunity costs. Second, engineering estimates of energy savings can overstate true field returns, sometimes by a large amount, and some engineering simulation models have still not been fully calibrated to approximate actual returns. Another limitation may be the uncertainty as to the extent to which home rule municipalities have adopted higher energy codes in the absence of statewide adoption.

HUD and USDA nevertheless believe that the PNNL–DOE model used to estimate the savings shown in this notice represents the current state-of-the art for such modeling, is the product of significant public comment and input, and is now the standard for all of DOE's energy code simulations and models.

5. Distributional Impacts on Low-Income Consumers or Low Energy Users

For reasons discussed below, HUD and USDA project that affordability will not decrease for many low-income consumers of HUD- or USDA-funded units as a result of the determination in this notice. The purpose of this regulatory action is to lower gross housing costs. For rental housing, the gross housing cost equals contract rent plus utilities (unless the contract rent includes utilities, in which case gross housing costs equal the contract rent). For homeowners, housing cost equals mortgage payments, property taxes, insurance, utilities, and other maintenance expenditures. Reducing periodic utility payments is achieved through an upfront investment in energy efficiency. The cost of building energy efficient housing will be passed on to residents (either renters or homeowners) through the price of the unit (either rent or sales price). Households will gain so long as the net present value of energy savings to the consumer is greater than the cost to the builder of providing energy efficiency. The 2012 DOE study cited in this notice provides compelling evidence that this is the case for the energy standards in question; *i.e.,* that they would have a positive impact on affordability. In the 16 States impacted by the 2009 IECC, one of two codes addressed in the notice, the average incremental cost of going to the higher standard is just $1,019 per unit, with average annual savings of $215, for a 5.0 year simple payback, and a 1.3 year net positive cash flow.[49]

Households that would gain the most from this regulatory action would be those that consume energy the most intensively. However, it is possible, although unlikely, that a minority of households could experience a net increase in housing costs as a result of the regulatory action. Households that consume significantly less energy than the average household could experience

[47] Data provided by DOE to HUD and USDA showing disaggregated LCC savings for single family homes only (subset of LCC savings for both single family and low-rise multifamily published in April 2012 DOE study). Data are posted at www.hud.gov/resilience.

[48] Allcott and Greenstone, *Is There An Energy Efficiency Gap?*, 3–28.

[49] U.S. Department of Energy, *National Energy and Cost Savings.*

a net gain in housing costs if their energy expenditures do not justify paying the cost of providing energy efficient housing.

There are a few reasons why a significant number of these households are not expected to be inconvenienced. First, in the rare case that a household does not value the benefits of energy efficient housing, much of the preexisting housing stock is available at a lower standard. Those that would lose from the capitalization of energy savings in more efficient housing could choose alternative housing from the large stock of existing and less energy efficient housing.

Second, to the extent that the majority of users of HUD/USDA programs are likely to be lower-income households, these households may suffer more from the ''energy efficiency gap'' than higher income households. Low-income households pay a larger portion of their income on utilities and so are not likely to be adversely affected by requiring energy efficiency rules. According to data from the 2012 Consumer Expenditure Survey, utilities represent almost 10 percent of total expenditures for the lowest-income households, as opposed to just 5 percent for the highest income. A declining expenditure share indicates that utilities are a necessary good. One study of earlier data from the Consumer Expenditure Survey found a short-run income elasticity of demand of 0.23 (indicating that energy is a normal and necessary good).[50] Given these caveats, the expectation is that the overwhelming majority of low-income households will gain from this regulatory action.

TABLE 4—QUINTILES OF INCOME BEFORE TAXES AND SHARES OF AVERAGE ANNUAL EXPENDITURES

Item	Lowest 20 percent	Second 20 percent	Third 20 percent	Fourth 20 percent	Highest 20 percent	All consumer units (%)
Total Housing*	40	38	34	31	30	33
Shelter	25	22	20	18	18	19
Utilities, fuels, and public services	9.8	9.1	8.3	7.0	5.4	7.1
Natural gas	0.9	0.8	0.8	0.7	0.6	0.7
Electricity	4.3	3.7	3.2	2.5	1.9	2.7
Fuel oil and other fuels	0.3	0.3	0.3	0.2	0.2	0.3
Telephone services	3.0	3.0	2.9	2.5	1.8	2.4
Water and other public services	1.3	1.3	1.2	1.0	0.8	1.0

*Housing expenditures are composed of shelter, utilities, household operations, housekeeping expenses, furniture, and appliances.
Source: Consumer Expenditure Survey, 2012, shares calculated by HUD.

Third, as noted above, the standards under consideration in this notice are not overly restrictive and are expected to yield a high benefit-cost return.

Notwithstanding the LCC savings and rapid simple paybacks on the initial investment described in this notice, low-income households face severe capital constraints; as a result there may be a question as to whether low-income families could be adversely impacted by the front-end incremental costs associated with adopting these codes. Based on the analysis provided in this Determination, the incremental costs are not sufficiently large to disadvantage low-income families in relation to the immediate benefits of that cost. Assuming a 3.5 percent down payment for an FHA-insured mortgage, low-income families will be required to pay an additional $35 at closing on the average incremental cost of approximately $1,000 required for the 2009 IECC. In addition, while HUD and USDA recognize the disproportionate burden that the incremental cost associated with higher code adoption has on low-income families, the benefits would also be shared disproportionately (this time positively), as a result of the much higher share of income low-income families spend on utilities relative to other households.

6. Conclusion

For the 34 States and the District of Columbia that have already adopted the 2009 IECC or a stricter code, there will be little or no impact on HUD and USDA's adoption of this standard for the programs covered under EISA, since all housing in these States is already required to meet this standard as a result of state legislation. For the remaining 16 States that have not yet adopted the 2009 IECC, HUD and USDA expect no negative affordability impacts from adoption of the code as a result of the low incremental first costs, the rapid simple payback times, and the LCC savings documented above.

For the States that have not yet adopted the 2009 IECC, the evidence shows that the 2009 IECC is cost effective in all climate zones and on a national basis. Cost effectiveness is based on LCC cost savings estimated by DOE for energy-savings equipment financed over a 30-year period. In addition, simple paybacks on these investments are typically less than 10 years, and positive cash flows are in the 1- to 2-year range. HUD and USDA therefore determine that the adoption of the 2009 IECC code for HUD and USDA assisted and insured new single family home construction does not negatively impact the affordability of those homes.

C. ASHRAE 90.1–2007 Affordability Determination

EISA requires HUD to consider the adoption of ASHRAE 90.1 for HUD-assisted multifamily programs (USDA multifamily programs are not covered). ASHRAE 90.1 is an energy code published by the ASHRAE for commercial buildings, which, by definition, include multifamily residential buildings of more than three stories. The standard provides minimum requirements for the energy efficient design of commercial buildings, including high-rise residential buildings (four or more stories). By design of the standard revision process, ASHRAE 90.1 sets requirements for the cost-effective use of energy in commercial buildings.

Beginning with ASHRAE 90.1–2001, the standard moved to a 3-year publication cycle. Substantial revisions to the standard have occurred since 1989. Significant requirements in ASHRAE 90.1–2007 over the previous (2004) code included stronger building insulation, simplified fenestration

[50] Raphael E. Branch, ''Short Run Income Elasticity of Demand for Residential Electricity Using Consumer Expenditure Survey Data,'' *Energy Journal* 14:4 (1993): 111–121.

requirements, demand control ventilation requirements for higher density occupancy, and separate simple and complex mechanical requirements.

ASHRAE 90.1–2007 included 44 changes, or addenda, to ASHRAE 90.1–2004.[51] In an analysis of the code, DOE preliminarily determined that 30 of the 44 would have a neutral impact on overall building efficiency; these included editorial changes, changes to reference standards, changes to alternative compliance paths, and other changes to the text of the standard that may improve the usability of the standard, but do not generally improve or degrade the energy efficiency of the building. Eleven changes were determined to have a positive impact on energy efficiency and two changes to have a negative impact.[52]

The 11 addendums with positive impacts on energy efficiency include: increased requirement for building vestibules, removal of data processing centers from exceptions to HVAC requirements, removal of hotel room exceptions to HVAC requirements, modification of demand-controlled ventilation requirements, modification of fan power limitations, modification of retail display lighting requirements, modification of cooling tower testing requirements, modification of commercial boiler requirements, modification of part load fan requirements, modification of opaque envelope requirements, and modification of fenestration envelope requirements.

1. Current Adoption of ASHRAE 90.1–2007

Thirty-eight States and the District of Columbia have adopted ASHRAE 90.1–2007, its equivalent, or a stronger commercial energy standard (Table 5).[53] In many cases, that standard is adopted by reference through adoption of the commercial buildings section of the 2009 IECC, while in other cases ASHRAE 90.1 is adopted separately. Twelve States either have previous ASHRAE codes in place or no statewide codes. ASHRAE 90.1–2007 was also the baseline energy standard established under ARRA for commercial buildings (including multifamily properties), to be adopted by all 50 States and for achieving a 90 percent compliance rate by 2017.[54]

TABLE 5—CURRENT STATUS OF ASHRAE CODE ADOPTION BY STATE[54]

[as of November 2014]

ASHRAE 90.1–2007 or higher (38 states and District of Columbia)	Prior or no statewide codes (12 States)
Alabama	ASHRAE 90.1–2004 or Equivalent (4 States)
Arkansas	Hawaii.
California	Minnesota.
Connecticut	Oklahoma.
Delaware	Tennessee.
District of Columbia	
Florida	ASHRAE 90.1–2001 or Equivalent (1 State)
Georgia	Colorado.
Idaho	
Illinois	No Statewide Code (7 States)
Indiana	Alaska.
Iowa	Arizona.
Kentucky	Kansas.
Louisiana	Maine.
Maryland	Missouri.
Massachusetts	South Dakota.
Michigan	Wyoming.
Mississippi (Effective July 1, 2013)	
Montana	
Nebraska	
Nevada	
New Hampshire	
New Jersey	
New Mexico	
New York	
North Carolina	
North Dakota	
Ohio	
Oregon	
Pennsylvania	
Rhode Island	
South Carolina	
Texas	
Utah	
Vermont	
Virginia	
Washington	
West Virginia	
Wisconsin	

2. ASHRAE 90.1–2007 AffordabilityAnalysis

Section 304(b) of Energy Conservation and Policy Act of 2005 (ECPA) requires the Secretary of DOE to determine whether a revision to the most recent ASHRAE standard for energy efficiency in commercial buildings will improve energy efficiency in those buildings.[55] In its determination of improved energy efficiency for commercial buildings, DOE developed both a ''qualitative'' analysis and a ''quantitative'' analysis to assess increased efficiency of ASHRAE Standard 90.1.[56] The qualitative analysis evaluates the changes from one version of Standard 90.1 to the next and assesses if each individual change saves energy overall. The quantitative analysis estimates the energy savings associated with the change, and is developed from whole building simulations of a standard set of buildings built to the standard over a range of U.S. climates.

3. Energy Savings Analysis

DOE's quantitative analysis for ASHRAE 90.1–2007 concluded that on average for mid-rise apartment buildings nationwide, electric energy use intensity would decrease by 2.1 percent and natural gas energy use intensity would decrease by 11.5 percent, for a total site decrease in energy use intensity of 4.3 percent under ASHRAE 90.1–2007.[57] The energy cost index for this building type was also calculated to decrease by 3 percent.

DOE also completed a state-by-state assessment of the impacts of ASHRAE 90.1–2007 on residential (mid-rise apartments), nonresidential, and semi-heated buildings subject to commercial building codes.[58] This analysis included energy and cost savings over current commercial building codes by both State and climate zone, by comparing each State's base code at the time of the study to ASHRAE standard 90.1–2007. Results of this savings analysis for the 12 States that have not yet adopted Standard 90.1–2007 can be found in Appendix 2. Results are shown for the percent reduction estimated by DOE in both overall site energy use and energy cost resulting from adoption of Standard 90.1–2007 over the base case.[59]

[51] Pacific Northwest National Laboratory for the U.S. Department of Energy, *Impacts of Standard 90.1–2007 for Commercial Buildings at State Level* (September 2009). *https://www.energycodes.gov/impacts-standard-901-2007-commercial-buildings-state-level.*

[52] The two negative impacts on energy efficiency are: (1) Expanded lighting power exceptions for use with the visually impaired, and (2) allowance for louvered overhangs.

[53] Not shown in Table 5 are the U.S. Territories. Guam, Puerto Rico, and the U.S. Virgin Islands have adopted ASHRAE 90.1–2007 for multifamily buildings. The Northern Mariana Islands have adopted the Tropical Model Energy Code, equivalent to ASHRAE 90.1–2001. American Samoa does not have a building energy code.

[54] ''Status of State Energy Code Adoption.''

[55] 42 U.S.C. 6833(b)(2)(A). *http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap81-subchapII-sec6833.pdf.*

[56] U.S. Department of Energy, *Building Energy Standards Program: Determination Regarding Energy Efficiency Improvements in the Energy Standard for Buildings, Except Low-Rise Residential Buildings, ANSI/ASHRAE/IESNA Standard 90.1–2007* (**Federal Register** notice 76–FR–43287, July 20, 2011). *https://www.federalregister.gov/articles/2011/07/20/2011-18251/building-energy-standards-program-determination-regarding-energy-efficiency-improvements-in-the.*

[57] Pacific Northwest National Laboratory, *Impacts of Standard 90.1–2007 for Commercial Buildings at State Level.*

[58] *Ibid,* 9ff. Individual state reports also available at *https://www.energycodes.gov/impacts-standard-901-2007-commercial-buildings-state-level.*

[59] Energy cost savings were estimated using national average energy costs of $0.0939 per kWh for electricity and $1.2201 per therm for natural gas.

ASHRAE 90.1–2007 was projected to generate both energy and cost savings in all States in all climate zones over existing codes.

As shown in Appendix 2, the highest energy and cost savings projected by DOE for residential buildings, for example, was in Topeka, Kansas (Climate Zone 4A), where adoption of ASHRAE 90.1–2007 would provide 10.3 percent energy savings and 6.8 percent cost savings over the current energy code of the State of Kansas. The lowest energy and cost savings estimated by DOE for residential buildings were in Honolulu, Hawaii (Climate Zone 1A), at 0.8 percent in reduced electricity consumption and costs. (Differentials between energy savings and cost savings reflect price differences and varying shares of the total for different fuel sources.)

As shown in Table 6, estimated front-end construction costs for the 12 States that have not yet adopted ASHRAE Standard 90.1–2007 range from $309 (Oklahoma) to $489 (Alaska). On the savings side, the estimated cost savings per unit range from a low of $28.70/year/unit in Colorado, to a high of $80.13/year/unit in Kansas. Simple paybacks on the initial investment range from a low of 4.2 years (Kansas) to a high of 15.1 years (Hawaii).

TABLE 6—ESTIMATED COSTS AND BENEFITS PER DWELLING UNIT FROM ADOPTION OF ASHRAE 90.1–2007 [60]

State	Incremental cost/unit ($)	Energy cost savings/unit ($/year)*	Simple payback/unit (years)
AK	489	68.95	7.1
AZ	340	76.88	4.4
CO	354	28.70	12.4
HI	476	31.66	15.1
KS	338	80.13	4.2
ME	373	62.95	5.9
MN	413	31.15	13.3
MO	366	36.28	10.1
OK	309	31.79	9.7
SD	317	32.32	9.8
TN	318	30.40	10.5
WY	319	33.38	9.6

* Note on Energy Cost Savings: This table uses EIA fuel prices by state.

4. Cost Effectiveness Analysis and Results

As discussed above, while DOE has completed an analysis of projected *savings* that will result from ASHRAE 90.1–2007, an equivalent to the *cost* studies conducted by DOE of the 2009 IECC does not exist for ASHRAE 90.1–2007. However, in 2009 PNNL completed an analysis for DOE of the incremental costs and associated cost benefits of complying with the new standard for the State of New York, and this analysis was used by HUD and USDA as the basis for determining the overall affordability impacts of the new standard.[61] Note, however, a number of limitations exist in this analysis. For their cost analysis, PNNL compared ASHRAE 90.1–2007 to the prevailing code in New York at the time, the 2003 IECC (that references ASHRAE 90.1–2001) whereas the current minimum standard for HUD-assisted multifamily buildings is ASHRAE 90.1–2004. On the other hand, for their benefits analysis (*i.e.,* energy savings) PNNL compared savings that would result from the adoption of ASHRAE 90.1–2007 to prevailing state codes at the time. For the 12 states that have not yet adopted ASHRAE 90.1–2007, the prevailing state codes used by PNNL were equivalent to the current HUD standard, ASHRAE 90.1–2004, in three States. For the remaining States, the prevailing State codes used by PNNL were ASHRAE 90.1–2001 in two States, a State-specific code in one State (Minnesota) and ASHRAE 90.1–1999 in five States in the absence of a statewide code. Despite these limitations as to the baseline codes used by PNNL compared to current minimum HUD standards, the PNNL baseline analysis as used in this Determination is the best available analysis upon which to base a Determination on the costs and benefits associated with the adoption of ASHRAE 90.1–2007.

In its New York analysis, PNNL found that adoption of ASHRAE 90.1–2007 would be cost effective for all commercial building types, including multifamily buildings, in all climate zones in the State. The incremental first cost of adopting the revised standard for a hypothetical 31-unit mid-rise residential prototype building in New York was projected to be $21,083, $10,423, and $9,525 per building for each of three climate zones in New York (Climate Zones 4A, 5A, and 6A, respectively), for an average across all climate zones of $13,677 per building, or $441 per dwelling unit. (Costs in Climate Zone 4A were high because the sample location chosen for construction costs was New York City.)

Annual energy cost savings in New York were projected to be $2,050, $1,234, and $1,185 for Climate Zones 4A, 5A, and 6A per building, respectively, for an average building, yielding cost savings of $1,489 per building for all climate zones, and average savings of $45 per unit. The average simple payback period for this investment in New York is 9.8 years, with a range of approximately 8 to 10 years.

Using New York as a baseline, HUD and USDA used Total Development Cost (TDC) adjustment factors developed by HUD in order to determine an estimate of the incremental costs associated with ASHRAE 90.1–2007 in the 12 States that have not yet adopted this code. HUD develops annual TDC limits for multifamily units for major metropolitan areas in each State. The average TDC for each State was derived by averaging TDCs for walkup- and elevator-style building types in each of

[60] Sources: HUD estimate of incremental costs and cost savings associated with ASHRAE 90.1–2007; incremental costs/unit were estimated by adjusting the New York incremental cost of $441 per unit by Total Development Cost (TDC) adjustment factors in Appendix 2B. Energy cost savings/unit were derived using EIA's Average Retail Price of Electricity in October 2014 (*http://www.eia.gov/electricity/monthly/,* Table 5.6 for October 2014 data from the December 2014 Electric Power Monthly) and October 2014 Natural Gas Prices (*http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PRS_DMcf_m.htm*).

[61] Pacific Northwest National Laboratory, *Cost Effectiveness and Impact Analysis of Adoption of ASHRAE 90.1–2007 for New York State.*

several metropolitan areas in that State. Note that TDC costs include soft costs, site improvement costs, and management costs, and are derived by a standard adjustment factor applied to hard construction costs, referred to as Housing Construction Costs (HCC). HCC limits are determined by averaging R.S. Means ''average'' and Marshall and Swift ''good'' cost indices. Section 6(b) of the United States Housing Act of 1937 and regulations at 24 CFR 941.306 require HUD to establish TDC limits by multiplying the HCC construction cost guideline by 1.6 for elevator type structures and by 1.75 for non-elevator type structures. For the State of New York, TDCs were averaged for all of the State's metro areas, and arrived at an average New York TDC of $221,607 per unit.[62] HUD and USDA then developed a TDC adjustment factor, which consists of the ratio of the average New York TDC of $221,607 for a two-bedroom unit against the average TDC for a similar unit in other States (Appendix 3). This TDC adjustment factor was then applied to the average cost per unit of $441 for complying with ASHRAE 90.1–2007 in New York, to arrive at an incremental cost per unit for the 12 States that have not yet adopted ASHRAE 90.1–2007 (Table 6).

In developing this adjustment factor, HUD considered whether to use IECC location cost indices developed by PNNL [63] or HCC costs (TDC minus soft and site improvement costs) rather than TDC costs. With regard to possible use of the IECC cost indices, since TDC cost indices were specifically developed for HUD-assisted properties, they are appropriately used here rather than the IECC cost indices. In addition, TDC (and HCC) costs apply to mid- and high-rise multifamily properties, while the IECC cost indices may or may not be transferable since they were developed for a different building type (single family or low-rise multifamily). With regard to using the HCC rather than the TDC, since the TDC is a standard function of the HCC, the adjustment factor will be the same for both the TDC (including soft costs) and the HCC (excluding soft costs).

In their April 15 Preliminary Determination HUD and USDA used national averages for electricity and fuel rates to estimate energy savings. In this Final Determination HUD and USDA use current State average electricity and natural gas rates (October 2014) published by the EIA, and apply those rates to an average of DOE's estimated energy savings across climate zones in each State to generate statewide energy savings estimates and to calculate simple payback periods for the ASHRAE 90.1–2007 investments.[64] For example, as shown in Table 6 and Appendix 2, the average annual cost savings per unit resulting from adopting ASHRAE 90.1–2007 in Arizona is estimated to be 5.5 percent of baseline utility costs of $1,393 per unit per year, or $76.88 in per unit annual energy cost savings. For an estimated average incremental cost of $340 per unit, the simple payback derived from these costs savings in Arizona is 4.4 years.[65] Note that the same baseline code used for the New York incremental cost analysis (the IECC 2003 or ASHRAE 90.1–2001) is assumed for these States; the actual baseline codes in these States may vary from the New York baseline (see Appendix 2).

5. Conclusion

USDA's multifamily programs are not covered by EISA, and therefore will not be impacted by ASHRAE 90.1. For impacted HUD programs in the 38 States and the District of Columbia that have adopted ASHRAE 90.1–2007 or a higher standard, there will, by default, be no adverse affordability impacts of adopting this standard. For the remaining 12 States that have not yet adopted ASHRAE 90.1–2007, HUD and USDA estimate the incremental cost of ASHRAE 90.1–2007 compliance at under $500 per dwelling unit, with the highest incremental cost at $490 per dwelling unit (Alaska), and the lowest cost at $310 per dwelling unit (Oklahoma). This estimate compares favorably to the cost of complying with the 2009 IECC for single family homes, which shows a somewhat higher average incremental cost of $1,019 per dwelling unit. With one exception (Hawaii), simple payback times using the most recent State average energy prices from EIA are 15 years or under.

The estimated payback for Hawaii slightly exceeds 15 years (15.1 years). While the Preliminary Determination had proposed to exempt Hawaii, as a result of this Final Determination, HUD will require Hawaii to comply with ASHRAE 90.1–2007 for HUD-assisted or FHA-insured multifamily properties specified in EISA. This is because the Hawaii Building Code Council has already adopted the 2009 IECC (roughly equivalent to ASHRAE 90.1–2007), as well as the fact that current (October 2014) EIA data show the average cost per kilowatt hour in that State as of February 2014 has risen to 36 cents per kilowatt hour, thereby lowering the payback period to 15.1 years. The payback of 15.1 years is consistent with the other four States shown in Table 6 with paybacks that are longer than 10 years.

Accordingly, given the low incremental cost of compliance with the new standard and the generally favorable simple payback times, HUD and USDA have determined that adoption of ASHRAE 90.1–2007 by the covered HUD programs will not negatively impact the affordability of multifamily buildings built to the revised standard in the 12 States that have not yet adopted this standard.

D. Impact on Availability of Housing

EISA requires that HUD and USDA assess both the affordability *and* availability of housing covered by the Act. This section of this notice addresses the impact that the EISA requirements would have on the ''availability'' of housing covered by the Act. ''Affordability'' is assumed to be a measure of whether a home built to the updated energy code is affordable to potential homebuyers or renters, while ''availability'' of housing is a measure associated with whether builders will make such housing available to consumers at the higher code level; *i.e.,* whether the higher cost per unit as a result of complying with the revised code will impact whether that unit is likely to be built or not. A key aspect of determining the impact on availability is the proportion of affected units in relation to total units funded by HUD and USDA or total for-sale units. These issues are discussed below.

1. Impact of Increases in Housing Prices and Hedonic Effects

Though both higher construction costs and hedonic increases in demand for more energy-efficient housing are expected to contribute to an increase in housing prices or contract rents, HUD and USDA do not project such higher prices to decrease the quantity of

[62] ''2011 Unit Total Development Cost (TDC) Limits,'' U.S. Department of Housing and Urban Development, *http://portal.hud.gov/huddoc/2011tdcreport.pdf.*

[63] Pacific Northwest National Laboratory, *Cost-Effectiveness Analysis of the 2009 and 2012 IECC Residential Provisions—Technical Support Document.*

[64] U.S. Energy Information Administration, Independent Statistics and Analysis, October 2014, at *http://www.eia.gov/electricity/monthly/,* Table 5.6 for October 2014 data from the December 2014 Electric Power Monthly, and *http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PRS_DMcf_m.htm.*

[65] While the 12 States that have not yet adopted ASHRAE 90.1–2007 have a variety of different energy codes, for the purposes of these estimates, the current codes in those States are assumed to be roughly equivalent to those in New York (ASHRAE 90.1–2004) at the time of the DOE study. States that have pre-2004 codes in place are likely to yield greater savings.

affordable housing exchanged in the market. For reasons explained in the above discussion of market failures, improved standards are expected to reduce operating costs per square foot, which will motivate consumers to increase demand for more housing at each rent level, and for developers or builders to respond to such demand with increased supply. Therefore, regulatory action that leads to investments with positive net present value can be expected to maintain or increase the quantity of housing consumed.

Measuring the hedonic value (demand effect) of energy efficiency improvements is fraught with difficulty, and there is little consensus in the empirical literature concerning the degree of capitalization.[66] However, whatever their methodology, studies do suggest a significant and positive influence of energy efficiency on real estate values. One of the most complete studies on the hedonic effects of energy efficiency is on commercial buildings.[67] The results indicate that a commercial building with an ENERGY STAR certification will rent for about 3 percent more per square foot, increase effective rents by 7 percent, and sell for as much as 16 percent more. The authors skillfully disentangle the energy savings required to obtain a label from the unobserved effects of the label itself. Energy savings are important: a 10 percent decrease in energy consumption leads to an increase in value of about 1 percent, over and above the rent and value premium for a labeled building. According to the authors of the study, the ''intangible effects of the label itself'' seem to play a role in determining the value of green buildings.

2. Impact of 2009 IECC on Housing Availability

For the 34 States and the District of Columbia that have already adopted the 2009 IECC, there will be few negative effects on the availability of housing covered by EISA as a result of HUD and USDA establishing the 2009 IECC as a minimum standard. For those 16 States that have not yet adopted the revised codes, HUD and USDA have estimated the number of new construction units built under the affected programs in FY 2011. As detailed in Table 7, in FY 2011, a total of 15,425 units of HUD- and USDA-assisted new single family homes were built in these States, including 11,533 that were FHA-insured new homes, 850 that received USDA Section 502 direct loans, and 2,864 that received Section 502 guaranteed loans. Overall, this represented 4.6 percent of all new single family home sales in the United States, and 0.3 percent of all U.S. single family home sales in FY 2011.[68]

Assuming similar levels of production as in 2011, the share of units estimated as likely to be impacted by the IECC in the 16 States that have not yet adopted this code is likely to be similar; *i.e.,* approximately 4.6 percent of all new single family home sales in those 16 States, and 0.3 percent of all single family home sales in those 16 States.

TABLE 7—ESTIMATED NUMBER OF HUD- AND USDA-SUPPORTED UNITS POTENTIALLY IMPACTED BY ADOPTION OF 2009 IECC

States not yet adopted 2009 IECC	HOME	FHA Single family	USDA Sec. 502 direct	USDA Sec. 502 guaranteed	Total
AK	16	207	25	53	301
AR	10	672	127	412	1,221
AZ	14	866	28	115	1,023
CO	5	195	5	8	212
HI	10	109	35	165	319
KS	5	686	28	52	771
ME	0	175	50	95	320
MN	14	1,659	20	72	1,765
MO	13	1,456	48	284	1,801
MS	10	506	114	361	991
OK	15	1,074	100	275	1,464
SD	6	182	30	80	298
TN	28	1,609	57	349	2,043
UT	14	1,224	156	314	1,708
WI	19	743	15	66	843
WY	0	171	12	163	346
Total	178	11,533	850	2,864	15,425

Adoption of the 2009 IECC for affected HUD and USDA programs represents an estimated one-time incremental cost increase for new construction single family units of $15 million nationwide, and an estimated annual benefit of $3.0 million in energy cost savings, for an estimated simple payback of 5 years, as shown in Appendix 5.

3. Impact of ASHRAE 90.1–2007 on Housing Availability

ASHRAE 90.1–2007 has been adopted by 38 States and the District of Columbia; the availability of HUD-assisted housing will therefore not be negatively impacted in these States with the adoption of this standard by the two agencies. As shown in Table 8, in the 12 States that have not yet adopted this code, 5,256 new multifamily units were funded or insured through HUD programs in FY 2011. HUD and USDA project that of the units produced in the programs shown in Table 8, only units for which HOME Investment Partnership Program (HOME) funds are committed on or after January 24, 2015, and future units under FHA-insured

[66] Joseph Laquatra *et al,* ''Housing Market Capitalization of Energy Efficiency Revisited,'' (paper presented at the 2002 ACEEE Summer Study on Energy Efficiency in Buildings, 2002). *http://www.eceee.org/library/conference_proceedings/ACEEE_buildings/2002/Panel_8/p8_12/paper.*

[67] P. Eichholz, N. Kok and J. Quigley, ''Doing Well by Doing Good? Green Office Buildings,'' *American Economic Review* 100:5 (2010): 2492–2509.

[68] New single family home sales totaled 333,000 in 2011; all single family home sales totaled 5,236,000. ''FHA Single-Family Activity in the Home-Purchase Market Through November 2011,'' Federal Housing Administration, February 2012, *http://portal.hud.gov/hudportal/documents/huddoc?id=fhamkt1111.pdf.*

multifamily programs will be affected by this Notice of Final Determination. Using FY 2011 unit production as the baseline, HUD and USDA project this to be approximately 3,217 units annually. This total, as well as other totals in Table 8 below, reflect a discount factor for Arizona and Colorado to reflect current home rule adoption of higher codes in those States (70 percent and 90 percent, respectively).

Although covered under EISA, HUD's Public Housing Capital Fund, the Sections 202 and 811 Supportive Housing and the HOPE VI programs are not projected to be covered by the codes addressed in this notice, due to the fact that the Public Housing Capital Fund currently already requires a more recent building energy code for new construction (ASHRAE 90.1–2010); the Sections 202 and 811 Supportive Housing programs no longer fund new construction, and, in any case have established higher standards for new construction in recent notices of funding availability (NOFAs) (ENERGY STAR Certified New Homes and ENERGY STAR Certified Multifamily High Rise buildings); and HOPE VI is no longer active.

TABLE 8—ESTIMATED NUMBER OF HUD-ASSISTED UNITS POTENTIALLY IMPACTED BY ADOPTION OF ASHRAE 90.1–2007

States not yet adopted ASHRAE 90.1–2007	Public housing capital fund	Section 202/811	HOME	HOPE VI	FHA-Multifamily	Total
AK	.....	16	53	.....	0	69
AZ*	.....	0	175	.....	82	257
CO*	.....	1	15	.....	164	181
HI	.....	0	138	.....	0	138
KS	.....	24	35	.....	0	59
ME	.....	0	0	.....	0	0
MN	.....	204	80	.....	180	464
MO	.....	134	532	.....	144	810
OK	.....	10	215	.....	1,086	1,311
SD	.....	0	79	.....	60	139
TN	.....	33	91	.....	144	268
WY	.....	0	9	.....	72	81
Unallocated	1,155	.....	.....	323	.....	.....
Total Units Produced in FY2011	1,155	422	1,422	323	1,932	5,256
Total Units Projected to be Covered Under this Notice	.....	.....	1,422	.....	1,932	3,217

*AZ and CO statewide numbers adjusted by 70 percent and 90 percent respectively, to reflect estimated adoption rate of the code by home rule municipalities.

Of the total, approximately 15 new multifamily projects with 1,932 units were endorsed by FHA in 2011 in these States. The 1,932 multifamily units endorsed by FHA in FY 2011 in States that have not yet adopted ASHRAE 90.1–2007 represented approximately 1 percent of a total of 180,367 units receiving FHA multifamily endorsements nationwide in FY 2011. The 15 projects with affected units represented a mortgage value of $187 million, or 1.6 percent of a total FHA-insured mortgage amount of $11.68 billion in FY 2011. Assuming a similar share of impacted units as in FY 2011 in future years, HUD and USDA assume that approximately 1 percent of FHA multifamily endorsements will be impacted by ASHRAE 90.1–2007, and less than 2 percent of total loan volume.

For both HOME and FHA-insured units shown in Table 8 (above) adoption of ASHRAE 90.1–2007 by the covered HUD programs represents an estimated one-time incremental cost increase for new multifamily residential units of $1 million nationwide, and an estimated annual benefit of $93,400 nationwide, resulting in an estimated simple payback time of less than 12 years, as shown in Appendix 5.

4. Conclusion

Given the extremely low incremental costs associated with adopting both the 2009 IECC and ASHRAE 90.1–2007 described above, and that the estimated number of new construction units built under the affected programs in FY 2011 in States that have not yet adopted the revised codes is a small percentage of the total number of new construction units in those programs nationwide, HUD and USDA have determined that adoption of the codes will not adversely impact the availability of the affected units.

E. Implementation Schedule

Section 109(d) of Cranston-Gonzalez automatically applies 2009 IECC and ASHRAE 90.1–2007 to all covered programs upon completion of this determination by HUD and USDA, and the previously published energy efficiency determinations by DOE. Accordingly, the adoption of the 2009 IECC or ASHRAE 90.1–2007 new construction standards described in this notice will take effect as follows:

(1) For FHA-insured multifamily programs, to those properties for which mortgage insurance pre-applications are received by HUD 90 days after the effective date of this Final Determination;

(2) For FHA-insured and USDA-guaranteed single family loan programs, to properties for which building permits are issued 180 days after the effective date of a Final Determination.

(3) For the HOME program, the standards set forth by this notice are applicable to projects upon publication of guidance by HUD related to property standard requirements at 24 CFR 92.251.

HUD and USDA will take such administrative actions as are necessary to ensure timely implementation of, and compliance with, the energy codes, to include mortgagee letters, notices, Builder's Certification form HUD–92541, and amendments to relevant handbooks. Conforming rulemaking will also be required for one HUD program to update previous regulatory standards: the Federal Housing Administration's (FHA) single family minimum property standards, for which the regulations are codified at 24 CFR 200.926d. In addition, USDA will update minimum energy requirements codified in USDA regulations at 7 CFR 1924.

F. Alternative Compliance Paths

HUD and USDA will accept certifications for a range of energy and green building standards that require energy efficiency levels that meet or exceed the 2009 IECC or ASHRAE 90.1–2007 as evidence of compliance with the standards addressed in this notice. These include the ICC–700 National Green Building Standard (Performance Path), Enterprise Green Communities, ENERGY STAR Certified New Homes, ENERGY STAR Multifamily High Rise, LEED–NC, LEED–H, or LEED–H Midrise, and several regional or local green building standards, such as Earthcraft House, Earthcraft Multifamily, Earth Advantage New Homes, or GreenPoint Rated New Homes. These standards all require energy efficiency levels that meet or exceed the 2009 IECC and ASHRAE 90.1–2007. In addition, several States have adopted energy efficiency codes or standards that exceed the efficiency levels of the 2009 IECC and ASHRAE 90.1–2007, including, for example, the Title 24 California Energy Code in California, and Focus on Energy in Wisconsin. HUD and USDA will accept certifications of compliance with these State codes or standards as well as other State codes or standards for which credible third-party documentation exists that these exceed the 2009 IECC and ASHRAE 90.1–2007.

G. Cost Benefit Analysis

1. Energy Costs and Savings

For both single family units complying with the 2009 IECC and multifamily units complying with ASHRAE 90.1–2007, the combined cost of implementing the updated codes is estimated at $16.1 million, with an estimated annual energy cost savings of $3.1 million, yielding a simple payback of 5.2 years. Annualized costs for this initial investment over 10 years are $1.8 million. Over 10 years, the present value of these cost savings, using a discount rate of 3 percent, is $27.0 million, for a net present value savings of $10.9 million over 10 years.

2. Social Benefits of Energy Standards

In addition to energy savings (described above) that will result from adoption of the energy standards addressed in this Determination, additional benefits are realized (in the form of lower social costs) from the resulting reductions in emissions of pollutants (such as particulate matter) that cause health and property damage and greenhouse gases (such as carbon dioxide) (CO_2) that cause global warming.

The ''social cost of carbon'' (SCC) is an estimate used by EPA and other Federal agencies to describe the economic damages associated with a small increase in CO_2 emissions, conventionally 1 metric ton, in a given year. This dollar figure also represents the value of damages avoided for a small emission reduction (*i.e.,* the benefit of a CO_2 reduction).[69] The SCC is meant to be a comprehensive estimate of climate change damages and includes, but is not limited to, changes in net agricultural productivity, human health, and property damages from increased flood risk.[70]

The marginal social cost of carbon is taken from the Interagency Working Group on Social Cost of Carbon (2013) and adjusted by the Gross Domestic Product deflator to the 2012 price level. To calculate the social cost of carbon in any given year, the Interagency Working Group on Social Cost of Carbon estimated the future damages to agriculture, human health, and other market and nonmarket sectors from an additional unit (metric ton) of carbon dioxide emitted in a particular year.[71] The interagency group provides estimates of the damage for every year of the analysis from a future value of $39 in 2013 to $96 in 2027 (a 25-year stream of benefits). A worst-case scenario was presented by the Interagency Working Group with costs starting at $110 in 2013 and rising to $196 by 2037.

The emission rate of metric tons of CO_2 for each British thermal unit (BTU) consumed varies by power or fuel source. The primary source for these data is emissions factors developed by the U.S. Energy Information Administration (EIA) and utilized by the EIA Voluntary Reporting of Greenhouse Gases Program, as well as other EIA sources.[72]

HUD uses a range for its emission factor of 0.107 to 0.137 metric tons of CO_2 per million BTUs. The lower figure of 0.107 metric tons of CO_2 per million BTUs was derived as follows: the most direct method of calculating the CO_2 emission rate for the residential sector is to divide total reported CO_2 emissions from energy consumption in the energy sector (1,162 million metric tons) by the corresponding energy consumption (10,833 trillion BTUs) including coal, natural gas, petroleum, and retail electricity. The average emission factor would be 107 kg CO_2 per million BTUs.

The higher figure of 0.137 metric tons of CO_2 per million BTUs was derived using a more detailed and comprehensive analysis for specific power or fuel sources: the emission rates for coal, natural gas, and petroleum[73] are those for the residential and commercial sectors as provided the EIA. Carbon dioxide emission coefficients from the generation of electricity were calculated from the 2012 United States Electricity Profile 2012.[74] HUD included both direct (sales) and indirect (energy losses) emissions using an emission factor of 169.8 metric tons of CO_2 per million BTUs for both.[75] HUD found that the weighted average CO_2 emission factor is 137.7 metric tons CO_2 per million BTUs by weighting the emission coefficient factors by the share of residential energy consumption from each power source except biomass.[76]

Given that both approaches are credible but arrive at a different estimate, HUD and USDA used a range for its emission factor of from 0.107 to 0.137 metric tons of CO_2 per million BTUs.

Based on studies by DOE, HUD estimates energy savings of 1.79 million BTUs per housing unit per year from the ASHRAE 90.1–2007 standard and a reduction of 7.3 million BTUs per housing unit per year from the 2009 IECC. The expected aggregate energy

[69] Definition of Social Cost of Carbon at *http://www.epa.gov/climatechange/EPAactivities/economics/scc.html.*

[70] *Ibid.* Given current modeling and data limitations, the SCC does not include all important damages. As noted by the Intergovernmental Panel on Climate Change Fourth Assessment Report, it is ''very likely that [SCC] underestimates'' the damages. The models used to develop SCC estimates, known as integrated assessment models, do not currently include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature because of a lack of precise information on the nature of damages and because the science incorporated into these models naturally lags behind the most recent research. Nonetheless, the SCC is a useful measure to assess the benefits of CO_2 reductions.

[71] Interagency Working Group on Social Cost of Carbon, *Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866,* United States Government, 2010. The interagency group chose a global measure of the social cost of carbon because emissions of most greenhouse gases contribute to damages around the world.

[72] The EIA Voluntary Reporting Greenhouse Gas Reporting Program was discontinued in 2011, but the emissions factors utilized by that program, posted at *http://www.eia.gov/oiaf/1605/emission_factors.html*, and utilized here by HUD and USDA, remain valid.

[73] Petroleum consumption includes distillate fuel oil, kerosene, and liquefied petroleum gases. The emission coefficient is the one for ''Home Heating and Diesel Fuel.''

[74] U.S. Energy Information Administration, ''State Electricity Profiles,'' 2012. *http://www.eia.gov/electricity/state/unitedstates/.*

[75] This estimate is very close to that of *www.carbonfund.org,* which estimates a CO_2 emission factor of 173 using EPA eGRID data.

[76] Energy Information Administration, *Annual Energy Review,* 2013, Table 2.1b.

savings (technical efficiency) is approximately 118,300 million BTUs annually.[77]

Whatever the predicted energy savings (technical efficiencies) of an energy efficiency upgrade, the actual energy savings by a household are likely to be smaller due to a behavioral response known as the ''rebound effect.'' A rebound effect has been observed when an energy efficient investment effectively lowers the price of the outputs of energy (heat, cooling, and lighting), which may lead to both income and substitution effects by raising the demand for energy. Increasing energy efficiency reduces the expense of physical comfort and may thus increase the demand for comfort. To account for the wide range of estimates for the scale of the rebound effect and the uncertainty surrounding these estimates, HUD assumes a range of between 10 and 30 percent.[78] The size of the rebound effect does not reduce the benefit to a consumer of energy efficiency but indicates how those benefits are allocated between reduced energy costs and increased comfort. Taking account of the rebound effect, the technical efficiencies provided by the energy standards discussed in this notice produce an estimated energy savings between 82,810 million and 106,470 million BTUs.

Table 9 below summarizes the aggregate social benefits realized from reducing carbon emissions for different marginal social cost scenarios (average and worst case), lifecycles, and scenario assumptions. The highest benefits will be for a high marginal social cost of carbon, long life cycle, low rebound factor, and high emissions factor.

Marginal Social Costs as used here are a measure of the non-energy economic costs associated with carbon emissions. Marginal Social Costs are defined by the Business Dictionary as the ''incremental cost of an activity as viewed by the society and expressed as the sum of marginal external cost and marginal private cost.'' As discussed in more detail above, the Marginal Social Cost of carbon is the social cost of each additional ton of CO_2 resulting from energy consumption. As defined by the Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis, ''(t)he SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services due to climate change.[79]

TABLE 9—ANNUALIZED VALUE OF REDUCTION IN CO_2 EMISSIONS

[$2012 million]

Life cycle	Emission factor of 0.107				Emission factor of 0.137			
	Rebound 30%		Rebound 10%		Rebound of 30%		Rebound of 10%	
	Median MSC *	High MSC	Median MSC *	High MSC	Median MSC *	High MSC	Median MSC *	High MSC
10 years	0.39	1.14	0.49	1.45	0.49	1.45	0.64	1.86
15 years	0.41	1.20	0.52	1.55	0.52	1.54	0.67	2.01
20 years	0.43	1.26	0.55	1.62	0.55	1.62	0.70	2.11
25 years	0.44	1.33	0.57	1.70	0.57	1.70	0.72	2.18

* MSC = Marginal Social Cost.

The annualized value of the social benefits of reducing carbon emissions, discounted at 3 percent, ranges from $390,000 (median MSC over 10 years) to $2.18 million (high MSC over 25 years).[80] The corresponding present values range from $3.4 to $16.3 million over 10 years and from $7.9 million to $39 million over 25 years.

III. Findings and Certifications

Environmental Review

A Finding of No Significant Impact with respect to the environment was made with respect to the preliminary affordability determination in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), and remains applicable to this final affordability determination. That finding is posted at *www.regulations.gov* and *www.hud.gov/resilience* and is available for public inspection between the hours of 8 a.m. and 5 p.m., weekdays, in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202–402–3055 (this is not a toll-free number).

Dated: April 23, 2015.

Julián Castro,

Secretary, U.S. Department of Housing and Urban Development.

Dated: April 23, 2015.

Thomas J. Vilsack,

Secretary, U.S. Department of Agriculture.

Appendix 1. Covered HUD and USDA Programs

	Legal authority	Regulations
HUD Programs:		
Public Housing Capital Fund	Section 9(d) and section 30 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g(d) and 1437z–2).	24 CFR parts 905, 941, and 968.

[77] Aggregated energy savings are derived as follows: 1.79 MMBTU × 3,217 multifamily units + 7.3 MMBTU × 15,425 single family units.

[78] Sorrel, Steven, *The Rebound Effect: An Assessment of the Evidence for Economy-Wide Energy Savings from Improved Energy Efficiency,* UK Energy Research Centre, October 2007.

[79] Under Executive Order 12866, Interagency Working Group on Social Cost of Carbon.

[80] Because the Interagency Group used a 3 percent rate to calculate the present value of damage, HUD uses the same rate in order to be consistent with the federally approved estimates of damage.

	Legal authority	Regulations
HOPE VI Revitalization of Severely Distressed Public Housing.	Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v)	24 CFR part 971.
Choice Neighborhoods Implementation Grants.	Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v)	24 CFR part 971.
Choice Neighborhoods Planning Grants.	Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v)	24 CFR part 971.
Section 202 Supportive Housing For the Elderly.	Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended	24 CFR part 891.
Section 811 Supportive Housing for Persons with Disabilities.	Section 811 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended	24 CFR part 891.
HOME Investment Partnerships (HOME).	Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742 *et seq.*).	24 CFR part 92.
FHA Single Family Mortgage Insurance Programs.	National Housing Act Sections 203(b) (12 U.S.C. 1709(b)), Section 251 (12 U.S.C. 1715z–16), Section 247 (12 U.S.C. 1715z–12), Section 203(h) (12 U.S.C. 1709(h)), Housing and Economic Recovery Act of 2008 (Pub. L. 110–289), Section 248 of the National Housing Act (12 U.S.C. 1715z–13).	24 CFR parts 203, Subpart A; 203.18(i); 203.43i; 203; 203.49; 203.43h.
FHA Multifamily Mortgage Insurance Programs.	Sections 213, 220, 221, 231, and 232 of the National Housing Act (12 U.S.C.1715e, 12 U.S.C.1715v, 12 U.S.C.1715k, 12 U.S.C.17151, 12 U.S.C.1715w).	24 CFR parts 200, subpart A, 213; 231; 220;221, subparts C and D; and 232.
USDA Programs:		
Section 502 Guaranteed Housing Loans.	Section 502 of Housing Act (42 U.S.C. 1472)	7 CFR part 1980.
Section 502 Rural Housing Direct Loans.	Section 502 of Housing Act (42 U.S.C. 1472)	7 CFR part 3550.
Section 502 Mutual Self Help Loan program, homeowner participants.	Section 502 of Housing Act (42 U.S.C. 1472)	7 CFR part 3550.

Appendix 2. Estimated Energy and Cost Savings from Adoption of ASHRAE 90.1–2007 [81]

State	Location	Climate zone	Energy savings (%)	Baseline energy costs ($/unit/year)	Energy cost savings ($/unit/year)	Energy cost savings (%)
AK	Anchorage	7	6.5	2,202	70.40	3.3
	Fairbanks	8	4.7	2,428	67.50	2.8
	Average		*5.6*	*2,315*	*68.95*	*3.0*
AZ	Phoenix	2B	6.6	1,385	82.55	6.0
	Sierra Vista	3B	6.1	1,342	76.29	5.7
	Prescott	4B	8.7	1,407	92.76	6.6
	Flagstaff	5B	5.7	1,437	55.92	3.9
	Average		*6.8*	*1,393*	*76.88*	*5.5*
CO	La Junta	4B	7.4	1,300	45.28	3.5
	Boulder	5B	7.5	1,304	46.13	3.5
	Eagle	6B	1.7	1,295	8.18	0.6
	Alamosa	7B	2.7	1,306	15.20	1.2
	Average		*4.8*	*1,301*	*28.70*	*2.2*
HI	Honolulu	1A	0.8	3,930	31.66	0.8
	Average		*0.8*	*3,930*	*31.66*	*0.8*
KS	Topeka	4A	10.3	1,615	109.83	6.8
	Goodland	5A	5.2	1,594	50.43	3.2
	Average		*7.8*	*1,605*	*80.13*	*5.0*
ME	Portland	6A	4.5	1,907	47.78	2.5
	Caribou	7	5.4	2,104	78.12	3.7
	Average		*5.0*	*2,005*	*62.95*	*3.1*
MN	St. Paul	6A	2.2	1,462	12.04	0.8
	Duluth	7	5.2	1,546	50.27	3.3
	Average		*3.7*	*1,504*	*31.15*	*2.1*
MO	St. Louis	4A	3.5	1,370	36.05	2.6
	St. Joseph	5A	3.6	1,383	36.51	2.6
	Average		*3.6*	*1,377*	*36.28*	*2.6*
OK	Oklahoma City	3A	1.5	1,325	21.27	1.6

[81] Source: Pacific Northwest National Laboratory (PNNL), Department of Energy, *Impacts of Standard 90.1–2007 for Commercial Buildings at State Level,* September 2009. States for which figures are provided are States that have not yet adopted ASHRAE 90.1–2007. Available at *http://www.energycod5.6es.gov/impacts-standard-901-2007-commercial-buildings-state-level.* This table updates the energy cost savings presented in this report, by utilizing current individual State fuel and electricity prices (as of October 2014), whereas the PNNL report utilizes national average prices.

State	Location	Climate zone	Energy savings (%)	Baseline energy costs ($/unit/year)	Energy cost savings ($/unit/year)	Energy cost savings (%)
	Guymon	4A	3.6	1,374	42.32	3.1
	Average		*2.6*	*1,349*	*31.79*	*2.4*
SD	Yankton	5A	4.1	1,409	32.49	2.3
	Pierre	6A	4.2	1,411	32.14	2.3
	Average		*4.2*	*1,410*	*32.32*	*2.3*
TN	Memphis	3A	3.4	1,174	35.68	3.0
	Nashville	4A	3.2	1,221	25.12	2.1
	Average		*3.3*	*1,198*	*30.40*	*2.5*
WY	Torrington	5B	4.2	1,316	31.21	2.4
	Cheyenne	6B	4.5	1,347	33.72	2.5
	Rock Springs	7B	4.7	1,372	35.20	2.6
	Average		*4.5*	*1,345*	*33.38*	*2.5*

Appendix 3. TDC Adjustment Factors For States That Have Not Adopted ASHRAE 90.1–2007

State	TDC Limit ($)	TDC adjustment factor*
AK	245,882	1.11
AZ	171,058	0.77
CO	178,241	0.80
HI	239,412	1.08
KS	170,213	0.77
ME	187,802	0.85
MN	207,475	0.94
MO	184,221	0.83
OK	155,578	0.70
SD	159,576	0.72
TN	160,222	0.72
WY	160,431	0.72
Avg.	185,009	

*Uses New York TDC as baseline; assumes average 2–BR multifamily unit.

Appendix 4. Estimated Total Costs and Energy Cost Savings From Adoption of 2009 IECC

State	Total incremental cost per state ($)	Total energy cost savings per state ($ per year)
AK	282,940	107,457
AR	1,330,890	211,233
AZ*	1,394,963	247,493
CO*	190,953	28,368
HI	622,050	125,367
KS	424,050	135,696
ME	291,200	97,600
MN	1,840,895	432,425
MO	1,158.043	302,568
MS	1,263,525	174,416
OK	1,892,952	295,728
SD	258,962	58,408
TN	1,313,649	292,149
UT	1,579,900	218,624
WI	865,761	201,477
WY	306,210	53,630
Total	15,016,943	2,982,639

*AZ and CO statewide estimates were adjusted by 70 percent and 90 percent, respectively, to reflect estimated adoption rate of code by home rule municipalities.

Appendix 5. Estimated Total Costs and Energy Cost Savings From Adoption of ASHRAE 90.1–2007

State	Total incremental cost/state ($)	Total energy cost savings/state ($/year)
AK	25,945	3,069
AZ*	87,658	13,956
CO*	63,873	5,762
KS	11,860	2,074
ME[82]	0	0
MN	107,396	8,749
MO	247,930	17,948
OK	402,972	28,271
SD	44,159	4,909
TN	74,960	6,009
WY	25,871	2,669
Total	1,092,624	93,416

*AZ and CO statewide estimates adjusted by 70 percent and 90 percent, respectively, to reflect estimated adoption rate of code by home rule municipalities.

[FR Doc. 2015–10380 Filed 5–5–15; 8:45 am]

BILLING CODE 4210–67–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE31

Chartering and Field of Membership Manual

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing a final regulation to amend the associational common bond provisions of NCUA's chartering and field of membership requirements. Specifically, the amendments establish a threshold requirement which provides that, in order for an association to qualify to be part of a federal credit union's (FCU) field of membership (FOM), the association must not have been formed primarily for the purpose of expanding credit union membership. The amendments also expand the criteria in NCUA's current totality of the circumstances test, which is a regulatory tool used to determine if an association, after satisfying the above-referenced threshold requirement, also satisfies the associational common bond requirements necessary to qualify for inclusion in an FCU's FOM. The amendments will better ensure that FCUs comply with established membership requirements. Additionally, NCUA is granting automatic membership qualification under the associational common bond requirements to certain categories of associations that NCUA has routinely approved for FCU membership in the past. For ease of reading, NCUA uses the terms ''association'' and ''group'' interchangeably in this rulemaking.

DATES: This rule is effective July 6, 2015.

FOR FURTHER INFORMATION CONTACT: Robert Leonard, Director, Division of Consumer Access, and Rita Woods, Director, Division of Consumer Access—South, Office of Consumer Protection, at 1775 Duke Street, Alexandria, VA 22314, or by telephone (703) 518–1140; or Frank Kressman, Associate General Counsel, Office of General Counsel, at the above address, or by telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Legal Background and Summary of the April 2014 Proposal
II. Summary of the Public Comments and the Final Rule
III. Regulatory Procedures

[82] No units were produced under affected programs in Maine in FY 2011, the baseline year used for this analysis; therefore, no estimated costs or savings are shown for this State.

I. Legal Background and Summary of the April 2014 Proposal

A. Legal Background

NCUA has implemented the Federal Credit Union Act's (FCU Act) FOM requirements [1] in NCUA's Chartering and Field of Membership Manual (Chartering Manual), which is incorporated as Appendix B to part 701 of NCUA's regulations.[2] NCUA also has published the Chartering Manual as an Interpretative Ruling and Policy Statement (IRPS), the current version of which is published as IRPS 08–2, as amended by IRPS 10–1.

Section 109 of the FCU Act provides for three types of FCU charters: (1) Single common bond (occupational or associational); (2) multiple common bond (multiple groups); and (3) community.[3] Section 109 of the FCU Act also describes the individual membership criteria for each of these three types of charters.[4] Further, each type of charter is subject to, and shaped by, certain applicable limitations.

An FOM consists of those persons and entities eligible for membership for each type of charter, respectively. The Chartering Manual provides that a single common bond FCU consists of one group having a common bond of occupation or association.[5] A multiple common bond FCU consists of more than one group, each of which has a common bond of occupation or association.[6]

Associational Common Bond

A single associational common bond consists of individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests.[7] Separately chartered associational groups can establish a single common bond relationship with each other if those groups are integrally related and share common goals and purposes.[8] The Chartering Manual more specifically enumerates the individuals and groups eligible for membership in a single associational common bond credit union. Eligible individuals and groups are natural and non-natural person members of the association, employees of the association, and the association itself.[9]

Under NCUA's current FOM regulations, NCUA determines if a group satisfies the associational common bond requirements, for purposes of qualifying for membership in an FCU, by applying the below factors, commonly referred to as the totality of the circumstances test.[10] The test consists of the following seven factors: [11]

(1) Whether members pay dues;

(2) Whether members participate in the furtherance of the goals of the association;

(3) Whether the members have voting rights; [12]

(4) Whether the association maintains a membership list;

(5) Whether the association sponsors other activities;

(6) The association's membership eligibility requirements; and

(7) The frequency of meetings.

Additionally, the Chartering Manual specifies certain examples of associations that may or may not qualify as having an associational common bond. It states that educational groups, student groups, and consumer groups may qualify as having an associational common bond.[13] Associations based primarily on a client-customer relationship, however, do not satisfy the associational common bond requirements.[14]

B. Summary of the April 2014 Proposal

In April 2014, NCUA issued a proposal to amend the associational common bond requirements in the Chartering Manual.[15] The following is a summary of the proposed amendments.

Threshold Requirement Regarding the Purpose for Which an Association Is Formed

The proposal established a threshold requirement that, in order for an association to qualify to be part of an FCU's FOM, the association must not have been formed primarily for the purpose of expanding credit union membership. As part of the chartering analysis, NCUA would determine if an association has been formed primarily for the purpose of expanding credit union membership. If NCUA determines it has, then the association is denied inclusion in the FCU's FOM. If NCUA determines that the association was formed to serve some other organizational function, not primarily to expand credit union membership, then NCUA will continue the analysis by applying the totality of the circumstances test to determine if the association satisfies the associational common bond requirements. As part of satisfying the threshold requirement, the proposal would have required that the association being reviewed must have been operating as an independent organization for at least one year prior to the request to add the association to the FCU's FOM.

As discussed more fully below in the section summarizing the public comments and the final rule, NCUA, as a result of the comments, is amending the threshold requirement to provide additional regulatory relief to FCUs.

Totality of the Circumstances Test

NCUA proposed to amend the totality of the circumstances test, as discussed more fully below. The proposal noted that by clarifying and expanding the test, NCUA would be better able to ensure that only an association that satisfies the associational common bond requirements would be eligible for inclusion in an FCU's FOM.

More specifically, NCUA proposed to enhance the totality of the circumstances test by adding to it an additional factor regarding corporate separateness. NCUA would review whether corporate separateness exists between an FCU and the association the FCU wishes to add to its FOM. To satisfy this proposed additional factor, the FCU and the association must operate in a way that demonstrates the separate corporate existence of each entity. NCUA proposed to consider the degree to which the following factors are present to determine if corporate separateness exists:

- The FCU's and the association's respective business transactions, accounts, and records are not intermingled;
- Each observes the formalities of its separate corporate procedures;
- Each is adequately financed as a separate entity in light of normal obligations reasonably foreseeable in a business of its size and character;
- Each is held out to the public as a separate enterprise; and
- The association maintains a separate physical location, which does not include a P.O. Box or other mail drop, and not on premises owned or

[1] 12 U.S.C. 1759.

[2] 12 CFR part 701, appendix B.

[3] 12 U.S.C. 1759(b).

[4] *Id.*

[5] 12 CFR part 701, appendix B (Chapter 2, Section I.A.1). A community FCU consists of persons or organizations within a well-defined local community, neighborhood, or rural district.

[6] *Id.* This final rule does not affect the current requirements for occupational common bond FCUs.

[7] 12 CFR part 701, appendix B (Chapter 2, Section III.A.1).

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] To meet this requirement, members do not have to vote directly for an officer, but may vote for a delegate who in turn represents the members' interests.

[13] 12 CFR part 701, appendix B (Chapter 2, Section III.A.1).

[14] *Id.*

[15] 79 FR 24623 (May 1, 2014).

leased by the FCU. Acknowledged exceptions to this factor include associations located on the premises of a labor union or church.

The presence or absence of any one of these factors is not determinative.

The proposed rule stated that qualified associations already within an FCU's FOM are grandfathered and would not be subject to the corporate separateness factor.

As discussed more fully below in the section summarizing the public comments and the final rule, NCUA, as a result of the comments, is amending the totality of the circumstances test with respect to the corporate separateness factor to provide additional regulatory relief to FCUs.

While NCUA proposed to add this additional factor to the totality of the circumstances test, NCUA did not propose to remove any of the current criteria from the test. However, the Board clarified in the proposal that, after examining an association's purpose as a threshold matter, NCUA's primary focus under the totality of the circumstances test will be on the following factors: (1) Whether *the association provides opportunities for its* members to participate in the furtherance of the goals of the association; [16] (2) whether the association maintains a membership list; (3) whether the association sponsors other activities; and (4) whether the association's membership eligibility requirements are authoritative.[17]

As part of applying the totality of the circumstances test, NCUA also proposed to consider whether an FCU enrolls a member in an association without the member's knowledge or consent. This practice would reflect negatively on the association's qualification for FCU membership because it suggests that the members do not truly support the goals and mission of the association given they may not even know they are members. However, an FCU may pay a member's associational dues if the member has given his or her consent to do so.

Automatic Approval of Certain Categories of Associations

Historically, NCUA has approved certain categories of associations almost without exception because their structures, practices, and functions so clearly demonstrate compliance with the Chartering Manual's associational common bond requirements. By their very nature, these categories of associations are comprised of members who consistently participate in activities developing common loyalties, mutual benefits, and mutual interests to further the goals and purposes of the associations.

Accordingly, the proposed rule provided for the automatic membership approval of the following categories of associations into an FCU's FOM, if the FCU chooses to add one or more to its FOM: (1) Religious organizations including churches; (2) homeowner associations; (3) scouting groups; (4) electric cooperatives; (5) alumni associations; and (6) labor unions. Additionally, for the reasons stated above, NCUA proposed to automatically approve associations that have a mission based on preserving or furthering the culture of a particular national or ethnic origin. However, with respect to all of these associations, NCUA proposed not to include in the automatic approval those individuals who are considered to be honorary members or other classes of non-regular members of the associations.

The automatic approval of the above-referenced associations will provide regulatory relief for FCUs, as they will no longer be required to devote resources to the regular approval process. It also will enable NCUA to more efficiently use its own resources. This aspect of the proposed rule is adopted as proposed, and as discussed below, additional categories of associations are to be automatically approved.

Grandfathering Members

NCUA proposed to grandfather in existing FCU members who attained FCU membership by virtue of their membership in an association currently part of an FCU's FOM.

II. Summary of the Public Comments and the Final Rule

NCUA received forty-three comments on the proposed rule. The comments were received from one bankers association, twenty-three FCUs, three federally insured, state-chartered credit unions, three law firms, and thirteen credit union trade associations. Most of the commenters supported the intent of the proposed rule, but, for various reasons, did not agree with the substance of the rule.

General Comments

Five commenters generally supported the proposed rule as written. These commenters noted that the rule is consistent with the intent of the FCU Act and reinforces the common bond relationship that is central to credit union membership. In addition, these commenters stated that the proposed amendments, if strictly enforced, would thwart any attempt to expand an FCU's FOM beyond appropriate limits.

About half of the commenters articulated strong concerns with some aspect of the proposed rule. Four commenters recommended that NCUA enforce the proposed chartering provisions through guidance or as part of the supervisory process, rather than by rulemaking. Eight commenters stated that NCUA should withdraw the proposed rule. These commenters maintained that the proposed rule is a reaction to the behavior of only a few FCUs, but that it will cause unintended and undue hardship on all FCUs. A number of commenters urged NCUA to provide further clarification on certain aspects of the proposal and/or to reconsider them. Additionally, several commenters asked NCUA to consider changes outside of the scope of the proposed rule. The Board will consider such changes as part of its broader initiative to review policies and procedures governing FOM expansions and conversions.

Automatic Approval of Certain Categories of Associations

In the proposed rule, NCUA asked commenters to recommend certain categories of associations, in addition to those NCUA specifically identified in the proposal, which NCUA could consider for automatic approval. Almost thirty commenters were supportive of NCUA's proposal to automatically approve certain associations. In response to NCUA's request, a majority of these commenters suggested other categories of associations to be added to the list of automatically approved associations. Some of the most common examples include:

- Groups formed for support of school-based, school-sponsored, or community-based sports teams; extracurricular club activities; fraternal organizations; and social clubs.

[16] With respect to this factor, the underlined portion is additional language that clarifies that the factor is satisfied if the association provides a member with opportunities to participate in the furtherance of the association's goals even if the member does not choose to participate. This change in language is simply a clarification reflecting how NCUA interprets this provision. This also provides additional flexibility to an association that wishes to be included in an FCU's FOM.

[17] Prior to this final rule, the factor regarding an association's membership eligibility requirements did not contain the word ''authoritative.'' However, NCUA has long interpreted this factor to assess if an association's membership eligibility requirements are authoritative. The addition of the word ''authoritative'' to this factor is simply a clarification of NCUA's longstanding interpretation and practices, and not the imposition of any new requirement.

• Parent-teacher associations, military-affiliated associations, and 501(c)(3) nonprofits.
• Historical societies, library associations, and museum associations.
• YMCAs, local chamber and rotary affiliates (and other civic organizations), and industry groups.
• Farmer cooperatives.

The Board appreciates the suggestions made by the commenters. After considering the recommendations and further evaluating the agency's history of approving associational groups, the Board has determined to include additional types of groups that will automatically satisfy the associational common bond requirements. The Board clarifies that when a group ''automatically'' satisfies the associational common bond requirements, it means that the group will not be reviewed under the totality of the circumstances test. The Chartering Manual's other prerequisites for an FCU's charter expansion, including an FCU's capitalization level and safety and soundness record, must still be satisfied.[18]

The following additional types of groups will automatically satisfy the associational common bond provisions:

• Parent teacher associations (PTAs) organized at the local level to serve a single school district;
• Chamber of commerce groups (members only and not employees of members);
• Athletic booster clubs whose members have voting rights;
• Fraternal organizations or civic groups with a mission of community service whose members have voting rights; and
• Organizations promoting social interaction or educational initiatives among persons sharing a common occupational profession.

The table below provides samples of the types of groups that will and will not automatically satisfy the associational common bond requirements:

Type of group	Will automatically qualify	Will not automatically qualify
Parent Teacher Association	Anytown Chapter of the Parent Teacher Association of Anytown, Virginia.	National Council of Parent Teacher Associations in Anytown, Virginia.
Chamber of Commerce	Members of the Jonesboro, Georgia Chamber of Commerce.	Employees of Members of the Liverpool, New York Chamber of Commerce.
Athletic Booster Club	Voting members of the XYZ High School Booster Club in Hometown, Florida.	Members of PDQ Booster Club who become members by paying onetime dues and do not have voting rights.
Fraternal Organization	Members of the ABC Fraternal Organization who have voting rights.	Persons becoming members of ABC Fraternal Association who do not have voting rights.
Professional Organization	Voting members of the National Association of XYZ Profession.	Members of the National Association of XYZ Profession who do not have voting rights.

Further, commenters suggested some groups for automatic approval that NCUA has not regularly approved. For instance, NCUA has long held that health clubs, such as YMCAs, do not meet the associational common bond requirements because they are based primarily on a client-customer relationship.[19] While fraternal organizations with broad missions or museum associations may, under some circumstances, satisfy the associational common bond criteria, these groups often are not structured in a way that would warrant automatic approval into an FCU's FOM.

The Board received several comments recommending that NCUA consider automatically approving farmer cooperatives. After fully considering the agency's experience with farmer cooperatives, the Board has determined not to include them as a category of associations receiving automatic approval. The Board is concerned that farmer cooperatives are not as easily identifiable as other associations, such as religious groups or labor unions. While there is a National Association of Farmer Cooperatives, both it and the United States Department of Agriculture acknowledge that there are a variety of types of farmer cooperatives. The Board does not believe farmer cooperatives can be objectively classified and sufficiently described to support automatic approval as associations that satisfy the associational common bond requirements.

Further, NCUA has approved numerous farmer cooperatives as occupational groups, but has only approved one farmer cooperative as an associational group. Farmer cooperatives also often have characteristics of a customer-client relationship. In many cases, farmer members pay for the services the cooperative provides and the members do not typically interact with one another. As a result, farmer cooperatives will not be automatically approved, but NCUA welcomes the opportunity to evaluate FCU requests to serve

[18] Chartering Manual, Chapter 2, *IV.B.2—Numerical Limitation of Select Groups.* An existing multiple common bond FCU that submits a request to amend its charter must provide documentation to establish that the multiple common bond requirements have been met. The NCUA must approve all amendments to a multiple common bond credit union's field of membership. NCUA will approve groups to a credit union's field of membership if the agency determines in writing that the following criteria are met:

• The credit union has not engaged in any unsafe or unsound practice, as determined by the NCUA, which is material during the one year period preceding the filing to add the group;
• The credit union is ''adequately capitalized.'' NCUA defines adequately capitalized to mean the credit union has a net worth ratio of not less than six percent. For low-income credit unions or credit unions chartered less than ten years, the NCUA may determine that a net worth ratio of less than six percent is adequate if the credit union is making reasonable progress toward meeting the six percent net worth requirement. For any other credit union, the NCUA may determine that a net worth ratio of less than six percent is adequate if the credit union is making reasonable progress toward meeting the six percent net worth requirement, and the addition of the group would not adversely affect the credit union's capitalization level;
• The credit union has the administrative capability to serve the proposed group and the financial resources to meet the need for additional staff and assets to serve the new group;
• Any potential harm the expansion may have on any other credit union and its members is clearly outweighed by the probable beneficial effect of the expansion. With respect to a proposed expansion's effect on other credit unions, the requirements on overlapping fields of membership are also applicable; and
• If the formation of a separate credit union by such group is not practical and consistent with reasonable standards for the safe and sound operation of a credit union.

A detailed analysis is required for groups of 3,000 or more primary potential members requesting to be added to a multiple common bond credit union. It is incumbent upon the credit union to demonstrate that the formation of a separate credit union by such a group is not practical. The group must provide evidence that it lacks sufficient volunteer and other resources to support the efficient and effective operations of a credit union or does not meet the economic advisability criteria outlined in Chapter 1. If this can be demonstrated, the group may be added to a multiple common bond credit union's field of membership.

[19] 79 FR 24623, 24625 (May 1, 2014).

individual farm cooperatives on a case-by-case basis.

It is important to highlight that a credit union interested in serving a group which does not fall under the automatic approval categories can still submit documentation to NCUA to support how the group is a valid association. This provides for flexibility in considering unique circumstances when appropriate and may help to identify other groups which may automatically qualify in the future.

Service Areas and Reasonable Proximity

Thirteen commenters strongly suggested that NCUA should revisit the definitions of ''service areas'' and ''reasonable proximity'' as those terms relate to multiple common bond credit unions. These commenters suggested that NCUA should reconsider its interpretation of both definitions in light of the technological advancements now available to credit unions. These comments relate to multiple common bond expansion, an issue not addressed by the April 2014 proposed rulemaking, and which is outside the scope of this final rule. Therefore, this issue will not be part of the final rule but will be considered as part of NCUA's current review of FOM policies.

Threshold Requirement and Independent Organization for One Year

Twenty-six commenters expressed concern with the proposed threshold requirement. As described above, at the beginning of NCUA's associational evaluation process, NCUA would determine if the association was formed primarily for the purpose of expanding credit union membership. These commenters were concerned that NCUA was not specific enough about how it would apply the threshold requirement. These commenters also strongly urged NCUA to provide additional guidance in this regard.

Eleven commenters specifically stated their opposition to the proposed threshold requirement. These commenters posited that the threshold requirement seems particularly arbitrary, overly restrictive, and unnecessary. Some of these commenters believed that the NCUA could use its current totality of the circumstances test, or a modified version of that test, to determine if an association was or was not formed primarily for the purpose of expanding credit union membership.

The Board disagrees with the commenters' characterization of the threshold requirement. The threshold requirement will serve as an effective gatekeeper to prevent unqualified associations from joining FCUs. The Board emphasizes that only those groups that are formed primarily to expand credit union membership will fail to satisfy the threshold requirement. In addition, as discussed in the preamble to the proposed rule, NCUA is concerned that the current totality of the circumstances test may not be sufficiently filtering out those groups that do not meet the associational common bond requirements.

Six commenters expressed concern about the use of the term ''primarily'' in the phrase ''primarily for the purpose of expanding credit union membership'' in the proposed threshold requirement. These commenters noted that the term ''primarily'' is subjective and undefined in NCUA's regulations. Four of these commenters recommended NCUA change ''primarily'' to ''solely.'' The Board intends for the word ''primarily'' to be given its plain English definition. For purposes of this rule ''primarily'' means: *For the most part; essentially; mostly; chiefly; principally.*[20]

Twenty commenters had questions or expressed concern about the ''one-year'' requirement. In the proposed rule, as part of the discussion of the threshold requirement, NCUA stated that ''[i]n furtherance of this [threshold] requirement, the association must have been operating as an organization independent from the requesting FCU for at least one year prior to the request to add the group to the FCU's FOM.'' [21] These commenters questioned NCUA's reasoning for the one-year requirement and requested further clarification on what this requirement means. In addition, eleven of these commenters specifically stated their opposition to the one-year requirement. These commenters stated that NCUA did not provide a basis for this minimum time requirement, and the commenters did not believe that it should matter how long the association has been in existence if it serves its members and meets the criteria of the totality of the circumstances test.

Almost half of the commenters who opposed the one-year requirement believed the requirement would have adverse effects on FCU membership. These commenters maintained that it would cause the unintended consequence of preventing FCUs from being able to serve and support their communities. They also believed that this would create a competitive disadvantage for FCUs.

While the Board continues to believe that associations that have operated independently for at least one year are more likely to be associations that exist for organizational purposes beyond primarily expanding credit union membership,[22] the Board acknowledges the concerns raised by the commenters in this regard. Accordingly, the Board is taking action to relieve the regulatory burden that commenters associated with the one-year requirement. Specifically, the Board is eliminating the one-year requirement from the threshold test so that the one-year requirement is no longer a condition of satisfying the threshold test. This change will provide additional flexibility and opportunity for an association to qualify under the totality of the circumstances test. For example, even if an association has not operated independently for at least one year, the association may still qualify for FCU membership under the totality of the circumstances test.

Totality of the Circumstances Test

As discussed in more detail below, eighteen commenters expressed various concerns with the proposed amendments to the totality of the circumstances test. These commenters generally found the current totality of the circumstances test sufficient. In addition, four commenters requested that NCUA publish guidance to further explain how NCUA will apply the totality of the circumstances test in practice.

Four commenters had concerns with the criterion that assesses the degree to which an association's membership eligibility requirements are authoritative. NCUA clarified this criterion in the proposed rule to emphasize the importance that an association's particular membership requirements be authoritative. These commenters stated that the term ''authoritative'' was ambiguous and requested further clarification. The Board added the term ''authoritative'' to this criterion in the proposal to further stress NCUA's long held position that it is important for an association to avoid having lax enrollment standards, as that undercuts its ability to satisfy the associational common bond requirements.

Three commenters supported the criterion that an FCU may pay a member's associational dues if the member has given consent. Two commenters expressed concern with this criterion, suggesting that this transaction could indicate a lack of corporate separateness or that NCUA

[20] See Dictionary.com and m-w.com (Merriam-Webster online).

[21] 79 FR 24625 (footnote 17) (May 1, 2014).

[22] 59 FR 29066, 29076 (June 3, 1994).

should not dictate what an association's business model should look like.

The Board believes it is important to continue the policy of allowing an FCU to pay its member's associational dues, if the member has given his or her consent. The Board believes this policy helps to facilitate the appropriate use of qualified associations by providing FCUs with this additional flexibility. If an association is automatically approved or approved because it satisfies the totality of the circumstances test, then this practice is permissible for FCUs, but is not mandatory.

Corporate Separateness

There was little support among the commenters for the proposed corporate separateness requirement, although there was support for grandfathering a qualified association already within an FCU's FOM so it would not need to satisfy the corporate separateness requirement.

Two commenters had specific concerns about this criterion. One commenter believed that this provision would have the unintended consequence of discouraging qualified associations from seeking FCU membership. Another commenter suggested that smaller credit unions and their affiliated associations generally do not have the resources to meet these additional requirements, which could unfairly restrict their membership base. In addition, seven commenters maintained that it is inappropriate to measure the independence of an association by evaluating whether it maintains a separate physical location. These same seven commenters stated that the physical location of an association has no bearing on its separate corporate existence from an FCU.

The Board has carefully considered these concerns and agrees with commenters that the corporate separateness criterion may be too burdensome as presented in the proposed rule. The Board still believes that an association's degree of corporate separateness is a reasonable factor to consider in determining if an association satisfies the associational common bond requirements and that it is a useful indicator of the true purpose of an association. However, the Board acknowledges that the numerous factors comprising the corporate separateness criterion, as listed in the proposed rule, may be too difficult for some FCUs and associations to demonstrate. Accordingly, as a result of the comments, to simplify the final rule and provide regulatory relief to FCUs, the Board is reducing the multiple corporate separateness factors listed in the proposed rule to just one factor in the final rule. The sole factor to be included in the final rule, which is an easier standard for FCUs and associations to meet, is if an FCU's and an association's respective business transactions, accounts, and records are not intermingled. Also, in the final rule, the Board is adding the word ''corporate'' to describe what records are not to be intermingled. This addition is purely for clarification and adds no new burden.

The Board reiterates that, in reviewing this less burdensome corporate separateness factor along with the other seven factors that constitute the totality of the circumstances test, no one factor is determinative. Additionally, as noted above, the April 2014 proposed rule stated that qualified associations already within an FCU's FOM are grandfathered in this regard and will not be subject to the corporate separateness factor.

Quality Assurance Reviews

Over half of the commenters expressed concern about the quality assurance reviews that NCUA's Office of Consumer Protection (OCP) is conducting on currently approved associations. As discussed in the proposed rule, these reviews are intended to ensure that an association currently included in an FCU's FOM continues to satisfy the associational common bond requirements that are required for continued membership. These commenters noted specific concerns about how the reviews are being and will be conducted and what could result from them. The commenters requested that NCUA ensure these reviews are conducted using objective and transparent standards. In addition, some of these commenters noted they did not support NCUA reviewing currently approved associations.

Four commenters specifically questioned if NCUA would allow associations, determined to be out of compliance with the associational common bond requirements, the opportunity to get back into compliance, and, if so, how long would those associations have to do so. They also asked if NCUA's OCP would provide any assistance in that regard. Six commenters also asked if there would be a process by which an FCU could appeal an action by NCUA to remove an association from an FCU's FOM. These commenters recommended such an appeals process. These commenters suggested that an appeals process should establish time frames in which certain actions must be taken and that an FCU should be able to continue to add new members during the appeals process.

Ten commenters recommended that NCUA clearly articulate that, regardless of the outcome of a quality assurance review, existing FCU members, including those who qualified for FCU membership through membership in the subject qualified association, would be grandfathered and their memberships unaffected. The Board has long held the position that once a person attains membership in an FCU, he or she always remains a member of that FCU, unless expelled by the FCU or upon voluntary withdrawal.[23] Accordingly, the Board confirms that all existing FCU members discussed above are grandfathered and their memberships are unaffected by the results of any quality assurance review.

Twelve commenters stated that they did not support NCUA taking action to remove a currently approved association for any reason. Three of these commenters argued that any new associational common bond standards must only apply to associations seeking membership subsequent to the effective date of this final rule. In addition, six of these commenters requested that NCUA provide guidance on the process for removing an association from an FCU's FOM, including notice, timing, and appeals information. The Board agrees that such guidance is appropriate and has directed OCP to publish guidance in the near future. As noted below, however, NCUA considers removal of an association from an FCU's FOM a last resort.

Four commenters argued that a quality assurance review could usurp the rights of a currently approved association because the review could result in NCUA removing the association from an FCU's FOM without due process. These commenters noted that NCUA failed to cite to or reference the statutory authority on which NCUA relies to conduct these reviews. These commenters also stated that NCUA failed to provide sufficient notice to associations and FCUs that the agency continues to monitor associations' compliance with NCUA associational common bond requirements. In addition, these commenters argued that NCUA lacks the direct authority to remove an association from an FCU's FOM.

Many commenters have misinterpreted the purpose of the quality assurance reviews. They are intended to protect the integrity of NCUA's FOM requirements, not disrupt an FCU's ability to serve its members or

[23] 12 U.S.C. 1759(e).

to hamper an FCU's ability to thrive. NCUA will work cooperatively with FCUs and associations to ensure FOM compliance. Further, the Board emphasizes that quality assurance reviews are not a new phenomenon. NCUA's regional offices conducted them for many years and only ceased doing so once OCP assumed responsibility for field of membership processing and chartering activities after its inception in 2010.

OCP currently has in place quality control processes to review associations added to an FCU's FOM. OCP does not plan to change these processes following the adoption of this final rule. OCP's current quality assurance processes require its staff to review for compliance with NCUA's chartering regulations all new FCU requests, including required documentation, to serve groups prior to OCP making a final decision on the request. Specifically for associational groups, OCP has established a checklist for reviewing an association's bylaws and other associational documentation to ensure that OCP reviews all requests in a consistent manner. This process includes reviewing groups added through the Field of Membership Internet Application (FOMIA) system.[24] OCP staff reviews data entered by FCU officials, and, if necessary, OCP staff contacts FCU officials for additional documentation. Through the FOMIA system, OCP also randomly selects certain groups with no red flags for review. This sampling process helps ensure that FCU officials using the FOMIA system are using it as it was intended to be used.

NCUA does not envision the referenced processes or the quality assurance processes will change following the adoption of the final rule. In addition, whether with respect to a new request for an FOM addition or as part of a post-approval quality assurance review, OCP will work closely with FCU officials to determine if there are compliance problems and, if so, how to satisfactorily address those problems. NCUA considers the removal of an association from an FCU's FOM an action of last resort.

Geographic Limitation

Thirteen commenters raised concerns that certain language in the preamble to the proposed rule appeared to indicate that NCUA was seeking to impose a geographic limitation on associational groups, similar to the geographic limitation placed on multiple common bond FCUs. The Board clarifies that nothing in the preamble to the proposed rule was intended to impose such a geographic limitation. The Board reiterates that the Chartering Manual clearly states that single associational common bond FCUs do not have a geographic limitation.[25]

III. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.[26] For purposes of this analysis, NCUA considers small credit unions to be those having under $50 million in assets.[27] This rule focuses on the structure and operations of independent associations who wish to join an FCU's FOM. To the extent there is any cost to small entities to voluntarily participate in the determination of whether the association satisfies NCUA's associational common bond requirements, those costs are minimal and they are incurred infrequently. Because this final rule would affect relatively few small entities and the associated costs are minimal, NCUA certifies the rule will not have a significant economic impact on small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[28] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. This final rule amends the criteria NCUA will use to evaluate if an association satisfies NCUA's associational common bond requirements, but it requires essentially the same information from an FCU that was previously required and changes none of the relevant forms identified in the Chartering Manual. Therefore, this final rule will not create new paperwork burdens or modify any existing paperwork burdens.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule applies only to federally chartered credit unions. It does not apply to state-chartered credit unions, which are subject to the FOM requirements of their respective states. Accordingly, this rule will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined this rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[29]

E. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 [30] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act.[31] NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on April 30, 2015.

Gerard S. Poliquin,

Secretary of the Board.

For the reasons stated above, NCUA amends 12 CFR part 701, appendix B as follows:

[24] FOMIA is an online system that multiple common bond credit unions can use to add associational and/or occupational groups of 2,999 potential members or less as well as the non-natural person corporate account associated with that group.

[25] 12 CFR part 701, appendix B (Chapter 2, Section III.A.1).

[26] 5 U.S.C. 603(a).

[27] Interpretive Ruling and Policy Statement 03–2, 68 FR 31949 (May 29, 2003), as amended by Interpretative Ruling and Policy Statement 13–1, 78 FR 4032 (Jan. 18, 2013).

[28] 44 U.S.C. 3507(d); 5 CFR part 1320.

[29] Public Law 105–277, 112 Stat. 2681 (1998).

[30] Public Law 104–121, 110 Stat. 857 (1996).

[31] 5 U.S.C. 551.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Section III.A.1 of Chapter 2 of appendix B to part 701 is revised to read as follows:

Appendix B to Part 701—Chartering and Field of Membership Manual

* * * * *

Chapter 2

* * * * *

III.A.1—General

A single associational federal credit union may include in its field of membership, regardless of location, all members and employees of a recognized association. A single associational common bond consists of individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests. Separately chartered associational groups can establish a single common bond relationship if they are integrally related and share common goals and purposes. For example, two or more churches of the same denomination, Knights of Columbus Councils, or locals of the same union can qualify as a single associational common bond.

Individuals and groups eligible for membership in a single associational credit union can include the following:

- Natural person members of the association (for example, members of a union or church members);
- Non-natural person members of the association;
- Employees of the association (for example, employees of the labor union or employees of the church); and
- The association.

Generally, a single associational common bond does not include a geographic definition and can operate nationally. However, a proposed or existing federal credit union may limit its field of membership to a single association or geographic area. NCUA may impose a geographic limitation if it is determined that the applicant credit union does not have the ability to serve a larger group or there are other operational concerns. All single associational common bonds should include a definition of the group that may be served based on the association's charter, bylaws, and any other equivalent documentation.

Applicants for a single associational common bond federal credit union charter or a field of membership amendment to include an association must provide, at the request of NCUA, a copy of the association's charter, bylaws, or other equivalent documentation, including any legal documents required by the state or other governing authority.

The associational sponsor itself may also be included in the field of membership—*e.g.,* ''Sprocket Association''—and will be shown in the last clause of the field of membership.

III.A.1.a—Threshold Requirement Regarding the Purpose for Which an Associational Group Is Formed and the Totality of the Circumstances Criteria

As a threshold matter, when reviewing an application to include an association in a federal credit union's field of membership, NCUA will determine if the association has been formed primarily for the purpose of expanding credit union membership. If NCUA makes such a determination, then the analysis ends and the association is denied inclusion in the federal credit union's field of membership. If NCUA determines that the association was formed to serve some other separate function as an organization, then NCUA will apply the following totality of the circumstances test to determine if the association satisfies the associational common bond requirements. The totality of the circumstances test consists of the following factors:

1. Whether the association provides opportunities for members to participate in the furtherance of the goals of the association;
2. Whether the association maintains a membership list;
3. Whether the association sponsors other activities;
4. Whether the association's membership eligibility requirements are authoritative;
5. Whether members pay dues;
6. Whether the members have voting rights; To meet this requirement, members need not vote directly for an officer, but may vote for a delegate who in turn represents the members' interests;
7. The frequency of meetings; and
8. Separateness—NCUA reviews if there is corporate separateness between the group and the federal credit union. The group and the federal credit union must operate in a way that demonstrates the separate corporate existence of each entity. Specifically, this means the federal credit union's and the group's respective business transactions, accounts, and corporate records are not intermingled.

No one factor alone is determinative of membership eligibility as an association. The totality of the circumstances controls over any individual factor in the test. However, NCUA's primary focus will be on factors 1–4.

III.A.1.b—Pre-Approved Groups

NCUA automatically approves the below groups as satisfying the associational common bond provisions. NCUA only approves regular members of an approved group. Honorary, affiliate, or non-regular members do not qualify.

These groups are:

(1) Alumni associations;
(2) Religious organizations, including churches or groups of related churches;
(3) Electric cooperatives;
(4) Homeowner associations;
(5) Labor unions;
(6) Scouting groups;
(7) Parent teacher associations (PTAs) organized at the local level to serve a single school district;
(8) Chamber of commerce groups (members only and not employees of members);
(9) Athletic booster clubs whose members have voting rights;
(10) Fraternal organizations or civic groups with a mission of community service whose members have voting rights;
(11) Organizations having a mission based on preserving or furthering the culture of a particular national or ethnic origin; and
(12) Organizations promoting social interaction or educational initiatives among persons sharing a common occupational profession.

III.A.1.d—Additional Information

A support group whose members are continually changing or whose duration is temporary may not meet the single associational common bond criteria. Each class of member will be evaluated based on the totality of the circumstances. Individuals or honorary members who only make donations to the association are not eligible to join the credit union.

Student groups (*e.g.,* students enrolled at a public, private, or parochial school) may constitute either an associational or occupational common bond. For example, students enrolled at a church sponsored school could share a single associational common bond with the members of that church and may qualify for a federal credit union charter. Similarly, students enrolled at a university, as a group by itself, or in conjunction with the faculty and employees of the school, could share a single occupational common bond and may qualify for a federal credit union charter.

Tenant groups, consumer groups, and other groups of persons having an ''interest in'' a particular cause and certain consumer cooperatives may also qualify as an association.

Associations based primarily on a client-customer relationship do not meet associational common bond requirements. Health clubs are an example of a group not meeting associational common bond requirements, including YMCAs. However, having an incidental client-customer relationship does not preclude an associational charter as long as the associational common bond requirements are met. For example, a fraternal association that offers insurance, which is not a condition of membership, may qualify as a valid associational common bond.

* * * * *

[FR Doc. 2015–10548 Filed 5–5–15; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133–AE43

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its regulations governing corporate credit unions (Corporates) and the scope of their activities. The amendments clarify the mechanics of a number of regulatory provisions and make several non-substantive, technical corrections.

DATES: This final rule is effective June 5, 2015.

FOR FURTHER INFORMATION CONTACT: John Sozanski, Supervision Analyst, Office of National Examinations and Supervision, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone (703) 518–6640; or Justin M. Anderson, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

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I. Background
II. Summary of Comments and Final Amendments
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I. Background

In 2010, in response to the preceding financial crisis, the Board comprehensively revised NCUA's regulations governing Corporates and their activities.[1] The Board also amended those regulations twice more in 2011.[2] In November 2014, the Board issued a proposed rule (Proposal) to further amend the Corporate regulations by clarifying or modifying several provisions and making several non-substantive, technical corrections.[3] The Proposal not only clarified and streamlined the Corporate regulations, but it also enhanced their readability and provided a degree of regulatory relief to Corporates. This final rule adopts all of the amendments in the Proposal, with one change.

[1] 12 CFR part 704; 75 FR 64786 (Oct. 20, 2010).

[2] 76 FR 23861 (Apr. 29, 2011); 76 FR 79531 (Dec. 22, 2011). The Board also made technical changes to the regulations in 2011 and 2013. 76 FR 16235 (Mar. 23, 2011); 78 FR 77563 (Dec. 24, 2013).

[3] 79 FR 65353 (Nov. 4, 2014).

II. Summary of Comments and Final Amendments

In response to the Proposal, NCUA received 20 comments, nine from Corporates, 10 from trade associations and state credit union leagues, and one from a natural person credit union. All of the commenters generally supported the clarifications and technical changes. As discussed more fully below, however, most commenters suggested additional changes beyond the scope of the Proposal or commented on provisions of the current Corporate regulations that were not addressed in the Proposal. The Board adopts the Proposal as issued with only one modification.

1. Section 704.2—Definitions

In the definitions section, the Board deleted several terms it determined were duplicative and redefined a number of other terms to minimize confusion and enhance the effectiveness of the Corporate regulations. The Board removed the definitions of ''adjusted core capital'' and ''core capital'' and incorporated them into the definition of ''Tier 1 capital.'' The Board also deleted the term ''capital'' when that term was used as a specific measure, and replaced it with the term ''total capital.'' The Board removed the definition of ''supplementary capital'' and incorporated it into the definition of ''Tier 2 capital.'' The Board also eliminated the definitions of certain terms in Appendix C to part 704, which are no longer relevant to Corporates. Finally, the Board modified a number of additional definitions to provide greater clarity or to make them consistent with other NCUA regulations.

In response to these proposed changes, NCUA received one comment that supported the proposed definition of retained earnings, stating that the change would make it easier for the continuing credit union in a merger situation to count retained earnings carried on the books of the merging credit union. In addition, there were a number of comments on definitions in the Corporate regulations that were outside the scope of the Proposal. Specifically, 16 commenters objected to the requirement that perpetual contributed capital (PCC) be discounted over time from what may be counted as Tier 1 capital. This requirement, which is in the current rule, was not the subject of any proposed amendment. Commenters, however, stated that PCC is consistent with the definition of ''Tier 1 capital'' or ''core capital'' as used by banking regulators, the Securities and Exchange Commission, and the U.S. Treasury, and thus questioned the rationale of requiring certain amounts to be excluded from the calculation of Tier 1 Capital, as discussed below. Some commenters suggested that the mandatory phase-out of PCC would have the effect of altering a Corporate's Tier 1 Capital after the specified dates, even though nothing substantive had changed in the structure of the PCC account because of its nature as permanent capital. Another commenter suggested that the rule be changed to provide for a more explicit retained earnings requirement.

With respect to the comments on PCC and a more explicit retained earnings requirement, the Board notes that these are outside the scope of the Proposal. However, the Board notes that it was NCUA's intent, with the adoption of the final Corporate regulations in 2010, to ensure that the Corporates would never again present the sort of systemic risk to the entire credit union system that the Corporates did in that time period and which required NCUA to take extraordinary regulatory action.

An aspect of the 2010 Corporate regulations was to incent Corporates to build greater reserves of retained earnings to absorb potential losses. Retained earnings are considered to be the most superior form of capital carried by a Corporate, as retained earnings absorb losses without causing a corresponding loss to another party, such as a natural person credit union that purchased contributed capital from that Corporate. As referenced in the comment letters, part 704 contains provisions, effective in 2016, that limit the amount of contributed capital, including PCC, which may be counted toward a Corporate's regulatory capital. NCUA intended this provision to encourage a Corporate to build its retained earnings. By increasing retained earnings, a Corporate could count more contributed capital as regulatory capital.

As noted by commenters, PCC has elements that are consistent with Tier 1 capital. However, one distinguishing element of PCC is that it is almost entirely sourced from member credit unions. Accordingly, losses that deplete PCC would summarily impair investments made by credit union members and their corresponding capital. This downstream effect poses increased risk to the National Credit Union Share Insurance Fund that capital sourced from external sources would not. Should Corporates successfully raise meaningful amounts of capital from external sources, the Board may consider easing the

restrictions on contributed capital in a future rulemaking.

The Board is finalizing the proposed amendments to the definitions section and Appendix C to part 704 without change.

2. Section 704.3—Corporate credit union capital

The Proposal included amendments to § 704.3(b)(5) and (c)(3) regarding corporate capital. The proposed amendments clarified that upon redeeming or calling nonperpetual capital accounts or PCC instruments, a Corporate must continue to meet its minimum required capital and net economic value ratios. These clarifications made the provisions consistent with each other and with the terms and conditions of contributed capital included in the Model Forms in Appendix A to part 704. The Proposal also deleted § 704.3(f)(4), as that provision refers to a regulatory requirement that Corporates were to have complied with before December 20, 2011.

NCUA received only one comment on this section. That commenter requested that the rule be modified to provide enhanced guidance to Corporates on how to handle the redemption of PCC. The Board notes that this comment is outside the scope of the Proposal. Further, the Board does not believe it is appropriate to consider issuing a proposed rule to address this comment at this time. However, if Corporates continue to satisfactorily rebuild retained earnings that were depleted during the credit crisis of 2007, then NCUA may consider revisiting this issue in the future.

The Board is finalizing the proposed amendments to this section as proposed.

3. Section 704.5—Investments

The Proposal included an amendment to § 704.5(j) regarding grandfathering certain Corporate investments. This amendment clarified that, while a Corporate may continue to hold an investment that was permissible at the time of purchase but later became impermissible because of a regulatory change, the investment is still subject to all other sections of part 704 that apply to investments, including those pertaining to credit risk management, asset and liability management, liquidity management, and investment action plans.

NCUA received no comments on this section and is adopting the amendment as proposed.

4. Section 704.6—Credit risk management

The Proposal provided clarification on how to value investments when calculating whether a Corporate is in compliance with various sector and issuer limits. NCUA received one comment on this section, which suggested that the Board should amend the rule to provide an exception to the single issuer limit for auto and equipment dealer floor plan asset-backed securities so that such securities would receive treatment similar to credit card master trust asset-backed securities. This comment is outside the scope of the Proposal, and the Board does not believe such an exception is warranted as auto and equipment asset-backed security issuances are widely available. The Board is adopting the amendments to this section as proposed.

5. Section 704.7—Lending

Section 704.7(c) currently restricts a Corporate's unsecured member lending to 50 percent of capital and its secured member lending to 100 percent of capital. The Proposal provided greater flexibility to Corporates by permitting them to lend on a secured basis up to 150 percent of their total capital to any individual credit union borrower. No commenters opposed this change, but eight commenters recommended that NCUA include an additional exclusion from the lending limit for a bridge loan made to a natural person member credit union in connection with that credit union receiving approval for a loan from the Central Liquidity Facility (CLF). All of the commenters who commented on this aspect of the Proposal supported a ten-day maturity limit on these bridge loans.

The Board agrees with these commenters and intends to provide an exclusion from the lending limit for bridge loans related to CLF loans. As this issue was not included in the Proposal, the Board, in compliance with the Administrative Procedure Act, will issue a subsequent notice of proposed rulemaking to effect this change.

6. Section 704.8—Asset and liability management

Current § 704.8 establishes requirements to identify, measure, monitor, and control risk in the management of assets and liabilities. These requirements include interest rate sensitivity analyses, net interest income modeling, and limiting the weighted average life of assets. Current § 704.8(j) also imposes reporting and other requirements on Corporates that experience a decline in net economic value (NEV) or other NEV-related measures beyond certain thresholds. The Proposal included an amendment to clarify that if a Corporate experiences such NEV-related breaches, but is able to adjust its balance sheet to meet required regulatory limits within 10 days, then the Corporate will not be considered to be in violation of the regulation. The Proposal clarified that a regulatory violation would exist only if a Corporate could not timely resolve a breach.

NCUA received several comments on this section. One commenter suggested that Corporates should be given more than 10 days to complete an adjustment to its balance sheet to satisfy the requirements of § 704.8(d), (f), and (g). This commenter suggested a 60-day grace period and an opportunity to re-test at the expiration of the grace period.

The Board recognizes that, through the normal course of business, a Corporate may temporarily experience an NEV-related breach. Often, a Corporate can resolve the breach within a timely manner, which is why the current regulation permits a Corporate to resolve any breach within 10 days prior to further regulatory action being taken. The Board is concerned that lengthening the grace period could allow a Corporate to circumvent the purpose of the regulation, which is to address breaches that are not resolved in a timely manner. The Board, therefore, continues to believe the proposed 10-day grace period is appropriate.

In addition, four commenters suggested that the rule be expanded to provide for treatment of government securities, including agency securities, as cash equivalent for purposes of assigning weighted average life (WAL) values, resulting in such securities receiving a zero WAL valuation. The Board recognizes that government-guaranteed securities present a different risk profile than other investments that Corporates are permitted to purchase. However, these securities can pose risks to a Corporate. Specifically, government-issued or government-guaranteed securities may have longer-dated maturities that do not match a Corporate's funding structure. In addition, they are subject to prepayment, extension, and interest rate risks. Given those risks, the Board does not believe that government-issued or government-guaranteed securities merit a cash equivalent designation for purposes of assigning WAL values. It is also important to note that government-guaranteed securities (when compared to non-government-issued or non-government-guaranteed securities) are allowed a preferential factoring for

purposes of calculating WAL tests pursuant to § 704.8.

Four commenters also suggested that NCUA should anticipate that certain government-sponsored enterprises will increasingly require that investors in their mortgage-backed securities agree to certain credit-risk sharing features. These commenters suggested that NCUA should amend its regulations to specifically allow Corporates to acquire these types of investments. This issue is outside the scope of the Proposal, but the Board will continue to consider these comments for future rulemakings.

7. Section 704.9—Liquidity management

Section 704.9(b) currently restricts a Corporate's general borrowing limit to the lower of 10 times capital or 50 percent of capital and shares. The Proposal included several changes to this section. First, the Proposal changed the limit to 10 times *total* capital, consistent with the definitional changes discussed above. Second, the Proposal removed the restriction of 50 percent of capital and shares. Finally, the Proposal increased the secured borrowing maturity limit from 30 days to 120 days to accommodate seasonality in the borrowing patterns of member credit unions.

Fifteen commenters requested that the borrowing maturity limit be increased beyond 120 days. Most of the commenters addressing this topic advocated an extension of one to two years. In addition, one commenter advocated the elimination of any specific maturity limit. Another commenter sought to tie the maturity limit to the use of highly liquid collateral. Finally, several commenters argued for a system that would allow a Corporate to request a waiver from the borrowing limits.

The Board has considered all of these comments and has determined to extend the maturity limit to 180 days. The Board believes this additional extension will not materially increase risk, yet will provide the corporate greater flexibility in accommodating the fluctuation of its share base attributed to seasonal changes in member credit union liquidity demands. For example, credit unions incur routine deposit and withdrawal patterns associated with payrolls and consumer spending that can occur on an intra-month or multi-month basis. This seasonality of behavior has a direct impact on credit union funds held on deposit with the corporate. The Board believes the extension of the maturity limit will allow corporate credit unions to better serve the unique attributes of their members.

One commenter recommended that the Board remove the current limitation on the amount of secured borrowings permitted for non-liquidity purposes, and to simply allow such borrowings as long as all capital ratios continue to exceed the levels required to remain well capitalized. The Board believes that Corporates should be limited in their ability to borrow on a secured basis for other than liquidity purposes. The borrowing limitation is intended to preclude leveraging for investment purposes, which can introduce greater risk when markets encounter disruption. Secured lenders require collateral to be valued at market, and they impose an additional margin to ensure the borrowing is fully and continuously collateralized. Market shocks can create short-term market values that are significantly below long-term intrinsic values, which can magnify potential losses if the creditor seizes the collateral and sells it as permitted by the lending agreements. The Board is adopting the amendments as proposed, except as noted above.

8. Section 704.11—Corporate credit union service organizations (Corporate CUSOs)

The Proposal included several amendments to this section of the regulations. First, the Proposal eliminated dates included in § 704.11(e) that have since passed and are no longer relevant. Second, the Proposal added a requirement to § 704.11(g) that a Corporate CUSO provide to NCUA and, if applicable, the appropriate state supervisory authority (SSA), the kinds of reports required to be produced and submitted by natural person credit union service organizations pursuant to a recent revision to NCUA's natural person credit union service organization rule.[4]

Three commenters opposed this provision, all of whom challenged NCUA's authority to impose this requirement. Two of these commenters noted that the effect of this provision is likely to place CUSOs at a competitive disadvantage relative to other service providers. One commenter noted that this provision could expose a CUSO to the public release of confidential materials should its report become the subject of a Freedom of Information Act (FOIA) request. One commenter requested further clarification in the rule of the term ''level of activity of each credit union'' which the commenter mistakenly asserted appears in this section. One commenter, while not opposing the substance of this provision, opposed NCUA's use of incorporation by reference to the natural person credit union service organization rule.

The Board recognizes the concerns raised by commenters and notes that FOIA, as well as applicable FOIA exemptions, apply to any data or information submitted by natural person credit union service organizations and Corporate CUSOs to NCUA. The Board anticipates that natural person credit union service organization and Corporate CUSO submissions often will contain or consist of ''trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.'' [5] This type of information generally is subject to withholding under exemption 4 of FOIA. In addition, information that is ''contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions'' is generally subject to withholding under exemption 8 of FOIA. To the extent, however, that natural person credit union service organization or Corporate CUSO submissions may contain or consist of data or information not subject to an applicable FOIA exemption, for example, an entity's name, address, or other publicly available information, that data or information would be releasable under FOIA.

Further, pursuant to approved Corporate CUSO activities, as found on the agency Web site, all Corporate CUSOs engaged in a particular approved activity must currently provide NCUA with quarterly and annual reports. Most of the reporting required by the Proposal is currently required by NCUA via the agency Web site. The Board is adopting the proposed changes to this section.

9. Section 704.14—Representation

The Proposal clarified the provisions in the current regulation pertaining to the qualifications required of a Corporate's directors, and specified that any candidate for a position on the board of a Corporate must currently hold a senior management position at a member credit union and hold that position at the time he or she is seated on the board of a Corporate. The Board received no comments in opposition to this proposed changed and is adopting it as proposed.

[4] 12 CFR 712.3(d)(4) and (5); 78 FR 72537 (Dec. 3, 2013).

[5] 5 U.S.C. 552(b)(4).

10. Section 704.15—Audit and reporting requirements

The Proposal made technical changes to this section by eliminating dates that are no longer relevant and corrected a typographical error. The Board received no comment on these changes and is adopting them as proposed.

11. Section 704.18—Fidelity bond coverage

The Proposal changed the measure in this section from *core capital* to *Tier 1 capital,* consistent with the definitional changes discussed above. The Board received no comments on this change and is adopting it as proposed.

12. Section 704.21—Enterprise risk management (ERM)

The Proposal removed the minimum education and background requirements in this section applicable to an independent risk management expert. The Board received two comments, which advocated that this entire section be the subject of guidance, rather than included in the regulations. The Board disagrees with these comments and believes ERM should be addressed formally through regulation. Without emphasis placed on a strong ERM program, Corporates may be practicing good risk management on an exposure-by-exposure basis, but they may not be paying close enough attention to the aggregation of exposures across the entire institution. A Corporate must measure and understand all the individual risks associated with its various business components, and also understand how they interact dynamically. Accordingly, the Board is adopting the changes in this section as proposed.

13. Appendix A to Part 704—Capital Prioritization and Model Forms

The Proposal removed expired forms and redesignated the remaining forms as A–D. The Proposal also removed a sentence from the introductory note to current Model Form G, redesignated as Model Form C, to clarify that in some instances previously issued ''paid-in capital'' may not be considered PCC. The Board received no comments on these changes and is adopting them as proposed.

14. Appendix B to Part 704—Expanded Authorities and Requirements

Consistent with the earlier discussion regarding the simplification of terms relating to capital, the Proposal substituted ''leverage ratio'' for ''capital ratio'' and ''total capital'' for ''capital'' in this appendix. The Board received no comments on these changes and is adopting them as proposed.

15. Appendix C to Part 704—Risk-Based Capital Credit Risk-Weight Categories

The Proposal removed references to assets and activities that are not consistent with the regular business activities of Corporates. The Board received no comments on these changes and is adopting them as proposed.

III. Regulatory Procedures

1. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $50 million in assets).[6] This final rule only affects Corporates, all of which have more than $50 million in assets. Furthermore, the final rule consists primarily of technical and clarifying amendments. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

2. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden.[7] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. Under the final rule, a Corporate with an investment in or loan to a Corporate CUSO will need to revise the current agreement it has with the Corporate CUSO to provide that the Corporate CUSO will prepare and submit basic or expanded reports directly to NCUA and, if applicable, the appropriate SSA.

Currently, there are 13 Corporates and approximately 16 Corporate CUSOs, 13 of which provide the complex or high-risk services that require expanded reporting. The information collection burdens imposed, on an annual basis, are analyzed below.

Changing the written agreement relating to reports to NCUA.

Frequency of response: One-time.

Initial hour burden: 4.

4 hours × 13 = 52 hours.

Initial Corporate CUSO reporting to NCUA and SSA—basic information.

Frequency of response: One-time.

Initial hour burden: 0.5.

0.5 hours × 16 = 8 hours.

Initial Corporate CUSO reporting to NCUA and SSA—expanded information.

Frequency of response: One-time.

Initial hour burden: 3.

3 hours × 13 = 39 hours.

Annual Corporate CUSO reporting to NCUA and SSA—expanded information.

Frequency of response: Annual.

Annual hour burden: 3.

3 hours × 13 = 39 hours.

As required by the PRA, NCUA submitted a copy of this Proposal to OMB for its review and approval.

3. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

4. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

5. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996[8] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act.[9] NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA because it only clarifies the mechanics of a number of regulatory provisions and makes several non-substantive, technical corrections. NCUA has submitted the rule to the Office of Management and

[6] 5 U.S.C. 603(a); 12 U.S.C. 1787(c)(1).

[7] 44 U.S.C. 3507(d); 5 CFR part 1320.

[8] Public Law 104–121, 110 Stat. 857 (1996).

[9] 5 U.S.C. 551.

Budget for its determination in that regard.

List of Subjects in 12 CFR Part 704

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on April 30, 2015.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 704 as follows:

PART 704—CORPORATE CREDIT UNIONS

■ 1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, and 1789.

■ 2. Amend § 704.2 by:
■ a. Removing the definitions of ''*Adjusted core capital''* and ''*Asset-backed commercial paper program''*;
■ b. Revising the first two sentences of the definition of ''*Available to cover losses that exceed retained earnings''*;
■ c. Removing the definitions of ''*Capital'', ''Capital ratio'', ''Core capital'', ''Core capital ratio'',* and ''*Credit-enhancing interest-only strip''*;
■ d. Revising the definition of ''*Derivatives''*;
■ e. Removing the definition of ''*Eligible ABCP liquidity facility''*;
■ f. Revising the definitions of ''*Equity investment'', ''Equity security'', ''Fair value'',* and ''*Internal control''*;
■ g. Removing the two definitions of ''*Leverage ratio''*;
■ h. Adding a new definition, in alphabetical order, for ''*Leverage ratio''*;
■ i. Revising the definitions of ''*Net assets'', ''Net risk-weighted assets'',* and ''*Retained earnings''*;
■ j. Removing the definition of ''*Supplementary Capital''*;
■ k. Revising the definitions of ''*Tier 1 capital''*;
■ l. Adding a definition, in alphabetical order, for ''*Tier 1 risk-based capital ratio''*;
■ m. Revising the definition of ''*Tier 2 capital''*; and
■ n. Revising the definition of ''*Total capital''*.

The revisions and additions read as follows:

§ 704.2 Definitions.

* * * * *

Available to cover losses that exceed retained earnings means that the funds are available to cover operating losses realized, in accordance with generally accepted accounting principles (GAAP), by the corporate credit union that exceed retained earnings and equity acquired in a combination. Likewise, *available to cover losses that exceed retained earnings and perpetual contributed capital (PCC)* means that the funds are available to cover operating losses realized, in accordance with GAAP, by the corporate credit union that exceed retained earnings and equity acquired in a combination and PCC.

* * *

* * * * *

Derivatives means a financial contract which derives its value from the value and performance of some other underlying financial instrument or variable, such as an index or interest rate.

* * * * *

Equity investment means an investment in an equity security and other ownership interest, including, for example, an investment in a partnership or limited liability company.

Equity security means any security representing an ownership interest in an enterprise (for example, common, preferred, or other capital stock) or the right to acquire (for example, warrants and call options) or dispose of (for example, put options) an ownership interest in an enterprise at fixed or determinable prices. However, the term does not include Federal Home Loan Bank stock, convertible debt, or preferred stock that by its terms either must be redeemed by the issuing enterprise or is redeemable at the option of the investor.

* * * * *

Fair value means the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date, as defined by GAAP.

* * * * *

Internal control means the process, established by the corporate credit union's board of directors, officers and employees, designed to provide reasonable assurance of reliable financial reporting and safeguarding of assets against unauthorized acquisition, use, or disposition. A credit union's internal control structure generally consists of five components: Control environment; risk assessment; control activities; information and communication; and monitoring. Reliable financial reporting refers to preparation of Call Reports as well as financial data published and presented to members that meet management's financial reporting objectives. Internal control over safeguarding of assets against unauthorized acquisition, use, or disposition refers to prevention or timely detection of transactions involving such unauthorized access, use, or disposition of assets which could result in a loss that is material to the financial statements.

* * * * *

Leverage ratio means the ratio of Tier 1 capital to moving daily average net assets.

* * * * *

Net assets means total assets less Central Liquidity Facility (CLF) stock subscriptions, loans guaranteed by the National Credit Union Share Insurance Fund (NCUSIF), and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net assets.

* * * * *

Net risk-weighted assets means risk-weighted assets less CLF stock subscriptions, CLF loans guaranteed by the NCUSIF, and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net risk-weighted assets.

* * * * *

Retained earnings means undivided earnings, regular reserve, reserve for contingencies, supplemental reserves, reserve for losses, and other appropriations from undivided earnings as designated by management or NCUA.

* * * * *

Tier 1 capital means the sum of paragraphs (1) through (4) of this definition from which paragraphs (5) through (9) of this definition are deducted:

(1) Retained earnings;

(2) Perpetual contributed capital;

(3) The retained earnings of any acquired credit union, or of an integrated set of activities and assets, calculated at the point of acquisition, if the acquisition was a mutual combination;

(4) Minority interests in the equity accounts of CUSOs that are fully consolidated;

(5) Deduct the amount of the corporate credit union's intangible assets that exceed one half percent of its moving daily average net assets (however, NCUA may direct the

corporate credit union to add back some of these assets on NCUA's own initiative, by petition from the applicable state regulator, or upon application from the corporate credit union);

(6) Deduct investments, both equity and debt, in unconsolidated CUSOs;

(7) Deduct an amount equal to any PCC or NCA that the corporate credit union maintains at another corporate credit union;

(8) Beginning on October 20, 2016, and ending on October 20, 2020, deduct any amount of PCC that causes PCC minus retained earnings, all divided by moving daily net average assets, to exceed two percent; and

(9) Beginning after October 20, 2020, deduct any amount of PCC that causes PCC to exceed retained earnings.

Tier 1 risk-based capital ratio means the ratio of Tier 1 capital to the moving monthly average net risk-weighted assets.

Tier 2 capital means the sum of paragraphs (1) through (4) of this definition:

(1) Nonperpetual capital accounts, as amortized under § 704.3(b)(3);

(2) Allowance for loan and lease losses calculated under GAAP to a maximum of 1.25 percent of risk-weighted assets;

(3) Any PCC deducted from Tier 1 capital; and

(4) Forty-five percent of unrealized gains on available-for-sale equity securities with readily determinable fair values. Unrealized gains are unrealized holding gains, net of unrealized holding losses, calculated as the amount, if any, by which fair value exceeds historical cost. NCUA may disallow such inclusion in the calculation of Tier 2 capital if NCUA determines that the securities are not prudently valued.

* * * * *

Total capital means the sum of Tier 1 capital and Tier 2 capital, less the corporate credit union's equity investments not otherwise deducted when calculating Tier 1 capital.

* * * * *

■ 3. Amend § 704.3 by revising paragraphs (b)(5), (c)(3), and (e)(3)(i) and removing paragraph (f)(4) to read as follows:

§ 704.3 Corporate credit union capital.

* * * * *

(b) * * *

(5) Redemption. A corporate credit union may redeem NCAs prior to maturity or prior to the end of the notice period only if it meets its minimum required capital and net economic value ratios after the funds are redeemed and only with the prior approval of NCUA and, for state chartered corporate credit unions, the applicable state regulator.

* * * * *

(c) * * *

(3) *Callability.* A corporate credit union may call PCC instruments only if it meets its minimum required capital and net economic value ratios after the funds are called and only with the prior approval of the NCUA and, for state chartered corporate credit unions, the applicable state regulator. PCC accounts are callable on a pro-rata basis across an issuance class.

* * * * *

(e) * * *

(3) * * * (i) Notwithstanding the definitions of Tier 1 capital and Tier 2 capital in paragraph (d) of this section, NCUA may find that a particular asset or Tier 1 capital or Tier 2 capital component has characteristics or terms that diminish its contribution to a corporate credit union's ability to absorb losses, and NCUA may require the discounting or deduction of such asset or component from the computation of Tier 1 capital, Tier 2 capital, or total capital.

* * * * *

■ 4. Amend § 704.5 by revising paragraph (j) to read as follows:

§ 704.5 Investments.

* * * * *

(j) *Grandfathering.* A corporate credit union's authority to hold an investment is governed by the regulation in effect at the time of purchase. However, all grandfathered investments are subject to the other requirements of this part.

■ 5. Amend § 704.6 by revising paragraphs (c), (d), and (e) to read as follows:

§ 704.6 Credit risk management.

* * * * *

(c) *Issuer concentration limits*—(1) *General rule.* The aggregate value recorded on the books of the corporate credit union of all investments in any single obligor is limited to 25 percent of total capital or $5 million, whichever is greater.

(2) *Exceptions.* (i) Investments in one obligor where the remaining maturity of all obligations is less than 30 days are limited to 50 percent of total capital;

(ii) Investments in credit card master trust asset-backed securities are limited to 50 percent of total capital in any single obligor;

(iii) Aggregate investments in repurchase and securities lending agreements with any one counterparty are limited to 200 percent of total capital;

(iv) Investments in non-money market registered investment companies are limited to 50 percent of total capital in any single obligor;

(v) Investments in money market registered investment companies are limited to 100 percent of total capital in any single obligor; and

(vi) Investments in corporate CUSOs are subject to the limitations of section 11 of this part.

(d) *Sector concentration limits.* (1) A corporate credit union must establish sector limits based on the value recorded on the books of the corporate credit union that do not exceed the following maximums:

(i) Mortgage-backed securities (inclusive of commercial mortgage-backed securities)—the lower of 1000 percent of total capital or 50 percent of assets;

(ii) Commercial mortgage-backed securities—the lower of 300 percent of total capital or 15 percent of assets;

(iii) Federal Family Education Loan Program student loan asset-backed securities—the lower of 1000 percent of total capital or 50 percent of assets;

(iv) Private student loan asset-backed securities—the lower of 500 percent of total capital or 25 percent of assets;

(v) Auto loan/lease asset-backed securities—the lower of 500 percent of total capital or 25 percent of assets;

(vi) Credit card asset-backed securities—the lower of 500 percent of total capital or 25 percent of assets;

(vii) Other asset-backed securities not listed in paragraphs (d)(1)(ii) through (vi) of this section—the lower of 500 percent of total capital or 25 percent of assets;

(viii) Corporate debt obligations—the lower of 1000 percent of total capital or 50 percent of assets; and

(ix) Municipal securities—the lower of 1000 percent of total capital or 50 percent of assets.

(2) Registered investment companies—A corporate credit union must limit its investment in registered investment companies to the lower of 1000 percent of total capital or 50 percent of assets. In addition to applying the limit in this paragraph, a corporate credit union must also include the underlying assets in each registered investment company in the relevant sectors described in paragraph (d)(1) of this section when calculating those sector limits.

(3) A corporate credit union must limit its aggregate holdings in any investments not described in paragraphs (d)(1) or (2) of this section to the lower of 100 percent of total capital or 5 percent of assets. The NCUA may

approve a higher percentage in appropriate cases.

(4) Investments in other federally insured credit unions, deposits and federal funds investments in other federally insured depository institutions, and investment repurchase agreements are excluded from the concentration limits in paragraphs (d)(1), (2), and (3) of this section.

(e) *Corporate debt obligation subsector limits.* In addition to the limitations in paragraph (d)(1)(viii) of this section, a corporate credit union must not exceed the lower of 200 percent of total capital or 10 percent of assets in any single North American Industry Classification System (NAICS) industry sector based on the value recorded on the books of the corporate credit union. If a corporation in which a corporate credit union is interested in investing does not have a readily ascertainable NAICS classification, a corporate credit union will use its reasonable judgment in assigning such a classification. NCUA may direct, however, that the corporate credit union change the classification.

* * * * *

■ 6. Amend § 704.7 by revising paragraph (c) to read as follows:

§ 704.7 Lending.

* * * * *

(c) *Loans to members*—(1) *Credit unions.* (i) The maximum aggregate amount in unsecured loans and lines of credit from a corporate credit union to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of the corporate credit union's total capital.

(ii) The maximum aggregate amount in secured loans (excluding those secured by shares or marketable securities and member reverse repurchase transactions) and unsecured loans (excluding pass-through and guaranteed loans from the CLF and the NCUSIF) and lines of credit from a corporate credit union to any one member credit union must not exceed 150 percent of the corporate credit union's total capital.

(2) *Corporate CUSOs.* Any loan or line of credit from a corporate credit union to a corporate CUSO must comply with § 704.11.

(3) *Other members.* The maximum aggregate amount of loans and lines of credit from a corporate credit union to any other one member must not exceed 15 percent of the corporate credit union's total capital plus pledged shares.

* * * * *

■ 7. Amend § 704.8 by revising paragraph (j) to read as follows:

§ 704.8 Asset and liability management.

* * * * *

(j) *Limit breaches.* (1)(i) If a corporate credit union's decline in NEV, base case NEV ratio, or any NEV ratio calculated under paragraph (d) of this section exceeds established or permitted limits, or the corporate is unable to satisfy the tests in paragraphs (f) or (g) of this section, the operating management of the corporate must immediately report this information to its board of directors and ALCO; and

(ii) If the corporate credit union cannot adjust its balance sheet to meet the requirements of paragraphs (d), (f), or (g) of this section within 10 calendar days after detection by the corporate, the corporate must notify in writing the Director of the Office of National Examinations and Supervision.

(2) If any breach described in paragraph (j)(1) of this section persists for 30 or more calendar days, the corporate credit union:

(i) Must immediately submit a detailed, written action plan to the NCUA that sets forth the time needed and means by which it intends to come into compliance and, if the NCUA determines that the plan is unacceptable, the corporate credit union must immediately restructure its balance sheet to bring the exposure back within compliance or adhere to an alternative course of action determined by the NCUA; and

(ii) If presently categorized as adequately capitalized or well capitalized for prompt corrective action purposes, and the breach was of paragraph (d) of this section, the corporate credit union will immediately be recategorized as undercapitalized until coming into compliance, and

(iii) If presently categorized as less than adequately capitalized for prompt corrective action purposes, and the breach was of paragraph (d) of this section, the corporate credit union will immediately be downgraded one additional capital category.

* * * * *

■ 8. Amend § 704.9 by revising paragraph (b) to read as follows:

§ 704.9 Liquidity management.

* * * * *

(b) *Borrowing limits.* A corporate credit union may borrow up to 10 times its total capital.

(1) *Secured borrowings.* A corporate credit union may borrow on a secured basis for liquidity purposes, but the maturity of the borrowing may not exceed 180 days. Only a corporate credit union with Tier 1 capital in excess of five percent of its moving daily average net assets (DANA) may borrow on a secured basis for nonliquidity purposes, and the outstanding amount of secured borrowing for nonliquidity purposes may not exceed an amount equal to the difference between the corporate credit union's Tier 1 capital and five percent of its moving DANA.

(2) *Exclusions.* CLF borrowings and borrowed funds created by the use of member reverse repurchase agreements are excluded from the limit in paragraph (b)(1) of this section.

■ 9. Amend § 704.11 by:

■ a. Revising paragraphs (b)(1) and (2) and (e)(1) introductory text;

■ b. Removing paragraph (e)(2);

■ c. Redesignating paragraph (e)(3) as paragraph (e)(2);

■ d. Redesignating paragraphs (g)(4) through (7) as paragraphs (g)(5) through (8), respectively; and

■ e. Adding new paragraph (g)(4).

The revisions and addition read as follows:

§ 704.11 Corporate Credit Union Service Organizations (Corporate CUSOs).

* * * * *

(b) *Investment and loan limitations.* (1) The aggregate of all investments in member and non-member corporate CUSOs that a corporate credit union may make must not exceed 15 percent of a corporate credit union's total capital.

(2) The aggregate of all investments in and loans to member and nonmember corporate CUSOs a corporate credit union may make must not exceed 30 percent of a corporate credit union's total capital. A corporate credit union may lend to member and nonmember corporate CUSOs an additional 15 percent of total capital if the loan is collateralized by assets in which the corporate has a perfected security interest under state law.

* * * * *

(e) *Permissible activities.* (1) A corporate CUSO must agree to limit its activities to:

* * * * *

(g) * * *

(4) Will provide the reports as required by § 712.3(d)(4) and (5) of this chapter;

* * * * *

■ 10. Amend § 704.14 by revising paragraphs (a)(2), (a)(9), and (e)(2) to read as follows:

§ 704.14 Representation.

(a)* * *

(2) Only an individual who currently holds the position of chief executive officer, chief financial officer, chief

operating officer, or treasurer/manager at a member credit union, and will hold that position at the time he or she is seated on the corporate credit union board if elected, may seek election or re-election to the corporate credit union board;

* * * * *

(9) At least a majority of directors of every corporate credit union, including the chair of the board, must serve on the corporate board as representatives of natural person credit union members.

* * * * *

(e)* * *

(2) The provisions of § 701.14 of this chapter apply to corporate credit unions, except that where ''Regional Director'' is used, read ''Director of the Office of National Examinations and Supervision.''

■ 11. Amend § 704.15 by revising paragraph (a)(2)(iii) introductory text, the first sentence of paragraph (b)(2), and the first sentence of paragraph (d)(1) to read as follows:

§ 704.15 Audit and reporting requirements.

(a) * * *

(2) * * *

(iii) An assessment by management of the effectiveness of the corporate credit union's internal control structure and procedures as of the end of the past calendar year that must include the following:

* * * * *

(b) * * *

(2) * * *The independent public accountant who audits the corporate credit union's financial statements must examine, attest to, and report separately on the assertion of management concerning the effectiveness of the corporate credit union's internal control structure and procedures for financial reporting.* * *

* * * * *

(d) * * *

(1)* * * Each corporate credit union must establish a supervisory committee, all of whose members must be independent.* * *

* * * * *

§ 704.18 [Amended]

■ 12. Amend § 704.18 by:

■ a. Removing the words ''core capital ratio'' from the introductory text of paragraph (e)(1) and adding in their place ''leverage ratio'';

■ b. Removing the words ''Core capital ratio'' from the table heading of paragraph (e)(1) and adding in their place ''Leverage ratio''; and

■ c. Removing the words ''of core capital'' wherever they appear in the table in paragraph (e)(1) and adding in their place ''of Tier 1 capital''.

■ 13. Amend § 704.21 by revising paragraph (c) to read as follows:

§ 704.21 Enterprise risk management.

* * * * *

(c) The ERMC must include at least one independent risk management expert. The risk management expert must have at least five years of experience in identifying, assessing, and managing risk exposures. This experience must be commensurate with the size of the corporate credit union and the complexity of its operations. The board of directors may hire the independent risk management expert to work full-time or part-time for the ERMC or as a consultant for the ERMC.

* * * * *

Appendix A to Part 704—[Amended]

■ 14. Amend Appendix A to part 704 by:

■ a. Removing Model Forms A, B, E, and F and redesignating Model Forms C, D, G, and H as Model Forms A, B, C, and D, respectively; and

■ b. Removing the second sentence of the note in newly redesignated Model Form C.

Appendix B to Part 704—[Amended]

■ 15. Amend Appendix B to part 704 by:

■ a. Removing the words ''capital ratio'' wherever they appear and adding in their place ''leverage ratio'';

■ b. Removing the words ''corporate credit union's capital'' wherever they appear and adding in their place ''corporate credit union's total capital'';

■ c. Removing the words ''25 percent of capital'' from paragraph (b)(3) of Part II and adding in their place ''25 percent of total capital''; and

■ d. Removing paragraph (e) from part 1.

■ 16. Amend Appendix C to part 704 by:

■ a. In part I(b):

■ (i) Revising paragraph (8) of the definition of ''*Direct credit substitute*''; ■ (ii) Revising paragraph (8) of the definition of ''*Recourse*''; and

■ (iii) Revising paragraph (2) of the definition of ''*Residual interest*''; ■ b. In part II(a), revising paragraph (4)(xiii);

■ c. In part II(b):

■ (i) Removing paragraphs (1)(iv) and (4);

■ (ii) Redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

■ (iii) Revising newly redesignated paragraph (4)(i); and

■ (iv) Removing newly redesignated paragraph (5)(v)(C).

■ d. In part II(c):

■ (i) Removing paragraph (2)(i);

■ (ii) Redesignating paragraphs (2)(ii) and (iii) as paragraphs (2)(i) and (ii), respectively; and

■ (iii) Revising newly redesignated paragraph (2)(i) and the introductory text of newly redesignated paragraph (2)(ii).

The revisions read as follows:

Appendix C to Part 704—Risk-Based Capital Credit Risk-Weight Categories

* * * * *

Part I: Introduction

* * * * *

(b) Definitions

* * * * *

*Direct credit substitute** * *

(8) Liquidity facilities that provide support to asset-backed commercial paper.

* * * * *

Recourse * * *

(8) Liquidity facilities that provide support to asset-backed commercial paper.

* * * * *

*Residual interest** * *

(2) Residual interests generally include spread accounts, cash collateral accounts, retained subordinated interests (and other forms of overcollateralization), and similar assets that function as a credit enhancement. Residual interests further include those exposures that, in substance, cause the corporate credit union to retain the credit risk of an asset or exposure that had qualified as a residual interest before it was sold.

* * * * *

Part II: Risk-Weightings

(a) On-Balance Sheet Assets

* * * * *

(4)* * *

(xiii) Interest-only strips receivable;

* * * * *

(b) Off-Balance Sheet Activities

* * * * *

(4) * * * (i) Unused portions of commitments with an original maturity of one year or less;

* * * * *

(c) Recourse Obligations, Direct Credit Substitutes, and Certain Other Positions

* * * * *

(2)(i) Other residual interests. A corporate credit union must maintain risk-based capital for a residual interest equal to the face amount of the residual interest, even if the amount of risk-based capital that must be maintained exceeds the full risk-based capital requirement for the assets transferred.

(ii) Residual interests and other recourse obligations. Where a corporate credit union holds a residual interest and another recourse obligation in connection with the same transfer of assets, the corporate credit union must maintain risk-based capital equal to the greater of:

* * * * *

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FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Revisions to Rules of Practice

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Commission is revising certain of its rules of practice to accommodate changes to the Commission's electronic filing system, to eliminate outdated requirements, and to improve clarity.

DATES: *Effective date:* These rule revisions are effective on May 12, 2015 and will govern all Commission adjudicatory proceedings that are commenced after that date. They will also govern all Commission adjudicatory proceedings that are pending on May 12, 2015, unless otherwise ordered by the Commission.

FOR FURTHER INFORMATION CONTACT: Josephine Liu, Attorney, (202) 326–2170, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission is revising certain rules in parts 3 and 4 of its rules of practice to reflect new features in the Commission's electronic filing system, eliminate outdated requirements for the filing and service of documents, and clarify the applicability of the rules.

Because these rule revisions relate solely to agency procedure and practice, publication for notice and comment is not required under the Administrative Procedure Act. 5 U.S.C. 553(b).[1] These rule revisions are effective on May 12, 2015 and will govern all Commission adjudicatory proceedings that are commenced after that date. They will also govern all Commission adjudicatory proceedings that are pending on May 12, 2015, unless otherwise ordered by the Commission.

I. Revisions to Miscellaneous Rules (Part 4)

Rule 4.2: Requirements as to Form, and Filing of Documents Other Than Correspondence

The Commission is amending Rule 4.2(c) to specify that documents filed before the Commission or an Administrative Law Judge in an adjudicative proceeding under part 3 of the Commission's rules may be filed in either of two ways: In hard copy, or through the Commission's electronic filing system.

Part 3 documents filed in hard copy must include a paper original, one paper copy, and one electronic copy in Adobe portable document format or other format specified by the Secretary. The Commission is eliminating the requirement to provide 12 paper copies for filings before the Commission.

Part 3 documents filed through the electronic filing system must comply with the Secretary's directions for using that system. Additional information about the electronic filing system is available at *https://ftcefile.gov/HomePage.aspx.* Documents labeled ''*In Camera*'' or ''Confidential'' may be filed through the electronic filing system, although—as discussed further below—they may not be served through that system. Because the electronic filing system is now configured to accept ''*In Camera*'' or ''Confidential'' documents, the Commission is deleting the existing requirement that ''*In Camera*'' or ''Confidential'' documents be filed only in hard copy and be accompanied by an electronic copy on a CD or DVD.

For other documents filed with the Commission that are governed by Rule 4.2(d)—including petitions to quash or limit compulsory process, reports of compliance, and requests to reopen—the Commission is eliminating the existing requirement to provide 12 paper copies and a CD or DVD containing an electronic copy of the document. Instead, such documents must include a paper original, one paper copy, and one electronic copy in Adobe portable document format, unless otherwise directed by the Secretary.

In Rule 4.2(e), the Commission is deleting an outdated exception for briefs filed in support of appeals from initial decisions and an outdated cross-reference to formatting requirements for such briefs under Rule 3.52(e).

In Rule 4.2(f), the Commission is adding an explanation of the acceptable signature methods for documents that are filed electronically.

The Commission is also making other edits throughout Rule 4.2 so that the Rule's requirements are format-neutral.

Rule 4.3: Time

The Commission is amending Rule 4.3(c) so that, if a document is served electronically, there will be a 1-day extension for any parties required or permitted to respond within a prescribed period after service of the document. As discussed in more detail below, documents can now be filed through the electronically filing system until 11:59 p.m. For documents that are electronically filed and served late at night, it is unrealistic to expect opposing parties to read the service notification until the next morning. Rule 4.3(c) therefore provides a 1-day extension for responding to electronically served documents. Although the federal courts provide a 3-day extension for responding to electronically served documents, *see* Fed. R. Civ. P. 6(d), the Commission has decided—due to the way that time is computed under the Commission's rules—that a 1-day extension in Rule 4.3(c) would be more appropriate.

The Commission is amending Rule 4.3(d)'s deadline for timely filing of documents. Although paper documents still must be received in the Office of the Secretary by 5:00 p.m. Eastern Time to be deemed filed that day, documents filed using the electronic filing system will be deemed timely filed as long as they are received by 11:59 p.m. Eastern Time. This change is consistent with Federal Rule of Civil Procedure 6(a)(4), which similarly provides a later deadline for electronic filing as compared to filing by other means.

Rule 4.4: Service

The Commission is amending Rule 4.4(a) to clarify which paragraphs govern which types of documents and to allow the Commission to use electronic delivery to serve certain types of documents in part 3 proceedings. The provision that permits service upon counsel to be deemed service upon the party represented by that counsel—former Rule 4.4(a)(4)—has been moved into a new paragraph so that it is applicable to all documents in Commission proceedings, not just documents served by the Commission. *See* new Rule 4.4(c).

The Commission is amending Rule 4.4(b) to clarify that Rule 4.4(b) is the provision that governs service by complaint counsel, respondents, or third parties in adjudicative proceedings under part 3. The Commission is also clarifying, in new Rule 4.4(b)(1)(i), that service upon complaint counsel must be effected by serving lead complaint counsel; the Commission is eliminating the existing language that allowed service to be effected by instead serving the Assistant Director in the Bureau of Competition, the Associate Director in the Bureau of Consumer Protection, or the Director of the Regional Office of complaint counsel. In addition, Rule 4.4(b) is being revised to permit service by electronic delivery in accordance with new Rule 4.4(e).

New Rule 4.4(e) governs service by electronic delivery in part 3 proceedings. Specifically, Rule 4.4(e)(1)

[1] For this reason, the requirements of the Regulatory Flexibility Act are also inapplicable. 5 U.S.C. 601(2), 604(a). Likewise, the amendments do not modify any FTC collections of information within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

governs parties who have elected to be served via the Commission's electronic filing system. For such parties, the electronic filing system may be used to serve them with documents labeled ''Public,'' and transmission of the notice of electronic filing provided by the electronic filing system will satisfy the service obligations of the serving party. A document will be deemed served on the date that the notice of electronic filing is transmitted, unless the serving party learns that the notice of electronic filing did not reach the person to be served.

''*In Camera*'' or ''Confidential'' documents may not be served through the electronic filing system. In addition, for confidentiality reasons, the electronic filing system cannot be used to serve third parties. Third parties can use the electronic filing system to file and serve documents, but third parties cannot be served through the system.

Rule 4.4(e)(2) therefore authorizes the Administrative Law Judge and the Secretary to allow other methods of service by electronic delivery, including service by email, in the following circumstances: For service of ''*In Camera*'' or ''Confidential'' documents, if the party to be served has not opted into service via the Commission's electronic filing system, if the document is to be served upon a third party, or if service through the electronic filing system is unavailable for technical reasons. If ''*In Camera*'' and ''Confidential'' documents are served by electronic delivery under Rule 4.4(e)(2), they must be encrypted prior to transit or transferred through a secure file transfer protocol.

New Rule 4.4(f) contains language that was previously found in Rule 4.4(b) and that has been moved into a new paragraph for clarity.

II. Revisions to Rules of Practice for Adjudicative Proceedings (Part 3)

Rule 3.14: Intervention

The Commission is amending Rule 3.14(a) to clarify that motions to intervene in Part 3 proceedings, as well as answers to such motions, must be served in accordance with Rule 4.4(b).

Rule 3.83: Procedures for Considering Applicants

The Commission is deleting Rule 3.83(a)'s discussion of the date of filing for an application for an award of fees and expenses under the Equal Access to Justice Act, because Rule 4.3(d) governs the date of filing for documents filed with the Commission.

List of Subjects

16 CFR Part 3

Administrative practice and procedure.

16 CFR Part 4

Administrative practice and procedure, Freedom of information, Public record.

For the reasons set forth in the preamble, the Federal Trade Commission amends title 16, chapter I, subchapter A of the Code of Federal Regulations as follows:

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

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

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 2. Amend § 3.14 by revising paragraph (a) to read as follows:

§ 3.14 Intervention.

(a) Any individual, partnership, unincorporated association, or corporation desiring to intervene in an adjudicative proceeding shall make written application in the form of a motion setting forth the basis therefor. Such application shall be served upon each party to the proceeding in accordance with the provisions of § 4.4(b) of this chapter. The answer filed by any party shall be served upon the applicant in accordance with the provisions of § 4.4(b). The Administrative Law Judge or the Commission may by order permit the intervention to such extent and upon such terms as are provided by law or as otherwise may be deemed proper.

* * * * *

■ 3. Amend § 3.83 by revising paragraph (a) to read as follows:

§ 3.83 Procedures for considering applicants.

(a) *Filing and service of documents.* Any application for an award or other pleading or document related to an application shall be filed and served on all parties as specified in §§ 4.2 and 4.4(b) of this chapter, except as provided in § 3.82(b)(2) for confidential financial information.

* * * * *

PART 4—MISCELLANEOUS RULES

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

Authority: 15 U.S.C. 46, unless otherwise noted.

■ 5. Amend § 4.2 by revising paragraphs (c), (d), (e), and (f) to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

* * * * *

(c) *Paper and electronic copies of filings before the Commission or an Administrative Law Judge in adjudicative proceedings under part 3 of this chapter.* (1) Each document filed in an adjudicative proceeding under part 3, except documents covered by § 4.2(a)(1)(i), shall be filed with the Secretary of the Commission, shall be in 12-point font with 1-inch margins, and shall comply with the requirements of §§ 4.2(b) and (f) and 4.3(d). Documents may be filed with the Office of the Secretary either electronically or in hard copy.

(i) Documents may be filed electronically by using the Office of the Secretary's electronic filing system and complying with the Secretary's directions for using that system. Documents filed electronically shall be in Adobe portable document format or such other format as the Secretary may direct.

(ii) Documents filed in hard copy shall include a paper original, one paper copy, and an electronic copy in Adobe portable document format or such other format as the Secretary shall direct.

(2) If the document is labeled ''*In Camera*'' or ''Confidential'', it must include as an attachment either a motion requesting *in camera* or other confidential treatment, in the form prescribed by § 3.45 of this chapter, or a copy of a Commission, Administrative Law Judge, or federal court order granting such treatment. The document must also include as a separate attachment a set of only those pages of the document on which the *in camera* or otherwise confidential material appears and comply with all other requirements of § 3.45 and any other applicable rules governing *in camera* treatment. A document labeled ''*In Camera''* or ''Confidential'' may be filed electronically using the electronic filing system.

(3) Sensitive personal information, as defined in § 3.45(b) of this chapter, shall not be included in, and must be redacted or omitted from, filings where the filing party determines that such information is not relevant or otherwise necessary for the conduct of the proceeding.

(4) A copy of each document filed in accordance with this section in an adjudicative proceeding under part 3 of this chapter shall be served by the party filing the document or person acting for that party on all other parties pursuant

to § 4.4, at or before the time the original is filed.

(d) *Other documents filed with the Commission.* (1) Each document filed with the Commission, and not covered by § 4.2(a)(1)(i) or (ii) or § 4.2(c), shall be filed with the Secretary of the Commission, and shall be clearly and accurately labeled as required by § 4.2(b).

(2) Each such document shall be signed and shall comply with the requirements of § 4.2(f). Documents filed under this paragraph (d) shall include a paper original, one paper copy, and an electronic copy in Adobe portable document format, unless the Secretary shall otherwise direct.

(3) Each such document labeled ''Public'' may be placed on the public record of the Commission at the time it is filed.

(4) If such a document is labeled ''Confidential'', and it is filed pursuant to § 2.10(a), § 2.41(f), or § 2.51 of this chapter, it will be rejected for filing pursuant to § 4.2(g), and will not stay compliance with any applicable obligation imposed by the Commission or the Commission staff, unless the filer simultaneously files:

(i) An explicit request for confidential treatment that includes the factual and legal basis for the request, identifies the specific portions of the document to be withheld from the public record, provides the name and address of the person(s) who should be notified in the event the Commission determines to disclose some or all of the material labeled ''Confidential'', and otherwise conforms to the requirements of § 4.9(c); and

(ii) A redacted public version of the document that is clearly labeled ''Public''.

(e) *Form.* Paper documents filed with the Secretary of the Commission shall be printed, typewritten, or otherwise processed in permanent form and on good unglazed paper. A motion or other document filed in an adjudicative proceeding under part 3 of this chapter shall contain a caption setting forth the title of the case, the docket number, and a brief descriptive title indicating the purpose of the document.

(f) *Signature.* (1) The original of each document filed shall be signed by an attorney of record for the filing party, or in the case of parties not represented by counsel, by the party itself, or by a partner if a partnership, or by an officer of the party if it is a corporation or an unincorporated association. For documents filed electronically using the Office of the Secretary's electronic filing system, documents must be signed using a scanned signature image, an ''s/'' followed by the name of the filer using the electronic filing system, or another signature method as the Secretary may direct.

(2) Signing a document constitutes a representation by the signer that he or she has read it; that to the best of his or her knowledge, information, and belief, the statements made in it are true; that it is not interposed for delay; and that to the best of his or her knowledge, information, and belief, it complies with the rules in this part. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may go forward as though the document had not been filed.

* * * * *

■ 6. Amend § 4.3 by revising paragraphs (c) and (d) to read as follows:

§ 4.3 Time.

* * * * *

(c) *Additional time after certain kinds of service.* Whenever a party in an adjudicative proceeding under part 3 of this chapter is required or permitted to do an act within a prescribed period after service of a document upon it and the document is served by first-class mail pursuant to § 4.4(a)(2) or (b), 3 days shall be added to the prescribed period. Whenever a party in an adjudicative proceeding under part 3 is required or permitted to do an act within a prescribed period after service of a document upon it and the document is served by electronic delivery pursuant to § 4.4(e), 1 day shall be added to the prescribed period.

(d) *Date of filing.* Documents permitted to be filed using the electronic filing system must be received by 11:59 p.m. Eastern Time to be deemed timely filed that day. All other documents must be received in the Office of the Secretary by 5:00 p.m. Eastern Time to be deemed filed that day, and any such document received after 5:00 p.m. Eastern Time will be deemed filed the following business day.

■ 7. Revise § 4.4 to read as follows:

§ 4.4 Service.

(a) *By the Commission.* (1) Service of complaints, initial decisions, final orders and other processes of the Commission under 15 U.S.C. 45 may be effected as follows:

(i) *By registered or certified mail.* A copy of the document shall be addressed to the person, partnership, corporation or unincorporated association to be served at his, her or its residence or principal office or place of business, registered or certified, and mailed; service under this provision is complete upon delivery of the document by the Post Office; or

(ii) *By delivery to an individual.* A copy thereof may be delivered to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation or unincorporated association to be served; service under this provision is complete upon delivery as specified herein; or

(iii) *By delivery to an address.* A copy thereof may be left at the principal office or place of business of the person, partnership, corporation, or unincorporated association, or it may be left at the residence of the person or of a member of the partnership or of an executive officer or director of the corporation, or unincorporated association to be served; service under this provision is complete upon delivery as specified herein.

(2) All documents served by the Commission or Administrative Law Judge in adjudicative proceedings under part 3 of this chapter, other than documents governed by paragraph (a)(1) of this section, may be served by personal delivery (including delivery by courier), by electronic delivery in accordance with § 4.4(e), or by first-class mail. Unless otherwise specified in § 4.4(e), documents shall be deemed served on the day of personal or electronic delivery or the day of mailing.

(3) All other orders and notices, including subpoenas, orders requiring access, orders to file annual and special reports, and notices of default, may be served by any method reasonably certain to inform the affected person, partnership, corporation or unincorporated association, including any method specified in paragraph (a)(1) of this section, except that civil investigative demands may only be served in the manner provided by section 20(c)(7) of the FTC Act (in the case of service on a partnership, corporation, association, or other legal entity) or section 20(c)(8) of the FTC Act (in the case of a natural person). Service under this provision is complete upon delivery by the Post Office or upon personal delivery (including delivery by courier).

(b) *By parties or third parties in adjudicative proceedings under part 3 of this chapter.* (1) Service of documents by complaint counsel, respondents, or third parties in adjudicative proceedings under part 3 shall be by delivering copies using the following methods.

(i) *Upon complaint counsel.* A copy may be served by personal delivery

(including delivery by courier), by electronic delivery in accordance with § 4.4(e), or by first-class mail to the lead complaint counsel, with a copy to the Administrative Law Judge.

(ii) *Upon a party other than complaint counsel or upon a third party.* A copy may be served by personal delivery (including delivery by courier), by electronic delivery in accordance with § 4.4(e), or by first-class mail, with a copy to the Administrative Law Judge. If the party is an individual or partnership, delivery shall be to such individual or a member of the partnership; if a corporation or unincorporated association, to an officer or agent authorized to accept service of process therefor. Personal delivery includes handing the document to be served to the individual, partner, officer, or agent; leaving it at his or her office with a person in charge thereof; or, if there is no one in charge or if the office is closed or if the party has no office, leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(2) Unless otherwise specified in § 4.4(e), documents served in adjudicative proceedings under part 3 shall be deemed served on the day of personal delivery (including delivery by courier), the day of electronic delivery, or the day of mailing.

(c) *Service upon counsel.* When counsel has appeared in a proceeding on behalf of a party, service upon such counsel of any document, other than a complaint, shall be deemed service upon the party. However, service of those documents specified in paragraph (a)(1) of this section shall be in accordance with paragraphs (a)(1)(i), (ii), and (iii) of this section.

(d) *Proof of service.* In an adjudicative proceeding under part 3, documents presented for filing shall contain proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service must appear on or be affixed to the documents filed.

(e) *Service by electronic delivery in an adjudicative proceeding under part 3 of this chapter*—(1) *Service through the electronic filing system.* A party may elect, for documents labeled ''Public'' pursuant to § 4.2(b), to be served via the electronic filing system provided by the Office of the Secretary. The electronic filing system cannot be used to serve third parties. For parties that have elected to be served via the electronic filing system:

(i) Service of documents labeled ''Public'' pursuant to § 4.2(b) may be effected through the electronic filing system;

(ii) Each such party thereby agrees that, for any document served through the electronic filing system, transmission of the notice of electronic filing provided by the electronic filing system shall satisfy the service obligations of the serving party; and

(iii) A document served via the electronic filing system shall be deemed served on the date the notice of electronic filing is transmitted, unless the serving party learns that the notice of electronic filing did not reach the person to be served.

(2) *Service by other methods of electronic delivery.* (i) In the following circumstances, service by other methods of electronic delivery (including service by email) may be effected as the Administrative Law Judge and the Secretary may direct:

(A) The document to be served is labeled ''*In Camera''* or ''Confidential'' pursuant to § 4.2(b);

(B) The party to be served has not elected to be served via the electronic filing system;

(C) The document is to be served upon a third party; or

(D) Service under paragraph (e)(1) of this section is unavailable for technical reasons.

(ii) If documents labeled ''*In Camera''* or ''Confidential'' are being served under this paragraph (e)(2), the documents must be encrypted prior to transit or must be transferred through a secure file transfer protocol. Service of a document under this paragraph (e)(2) shall be complete upon transmission by the serving party, unless the serving party learns that the document did not reach the person to be served.

(f) *Service of process upon the Commission.* Documents served upon the Commission may be served by personal delivery (including delivery by courier) or by first-class mail to the Office of the Secretary of the Commission.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–10517 Filed 5–5–15; 8:45 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2014–0834; FRL–9926–99]

Defensin Proteins (SoD2 and SoD7) Derived From Spinach (Spinacia oleracea L.) in Citrus Plants; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of SoD2 and SoD7, two defensin proteins derived from spinach (*Spinacia oleracea L.*), in or on citrus when used as plant-incorporated protectants (PIPs) in accordance with the terms of Experimental Use Permit (EUP) No. 88232–EUP–1. Southern Gardens Citrus submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of SoD2 and SoD7 in or on citrus. The temporary tolerance exemption expires on April 18, 2018.

DATES: This regulation is effective May 6, 2015. Objections and requests for hearings must be received on or before July 6, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0834, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0834 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 6, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0834, by one of the following methods:

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

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

II. Background and Statutory Framework

In the **Federal Register** of January 28, 2015 (80 FR 4525) (FRL–9921–55), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 4F8289) by Southern Gardens Citrus, 1820 Country Road 833, Clewiston, FL 33440. The petition requested that 40 CFR part 174 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of spinach defensin (SoD2 and SoD7) proteins in or on citrus. That document referenced a summary of the petition prepared by the petitioner Southern Gardens Citrus, which is available in the docket, *http://www.regulations.gov.* A comment was received on the notice of filing. EPA's response to this comment is discussed in Unit VII.C.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Diverse defensin proteins are expressed by most eukaryotic species to combat various bacterial and fungal organisms. Homologous proteins have also diverged in evolution to provide functions related to plant stresses such as heat and drought.

There is a long history of mammalian consumption of the entire spinach plant (both raw and cooked) as food, without causing any known deleterious human health effects or any evidence of toxicity. Spinach plant leaves have long been part of the human diet and there have been no findings that indicate toxicity or allergenicity of spinach proteins. Spinach is commonly regarded as a ''super food'' that serves as an excellent source of vitamins, minerals, and antioxidants. Recent U.S. consumption statistics indicate that, on average, 2 lbs. of spinach are consumed per person per year in the United States. ''Spinach Profile,'' Agricultural Marketing Resource Center (June 2013) (*http://www.agmrc.org/commodities_products/vegetables/spinach-profile/*). Similarly, citrus whole fruits and juices have been an important part of the

American and international diets for centuries. ''History of Citrus,'' All Foods Natural (2013) (available online at: *http://www.allfoodnatural.com/article/history-of-citrus.html*). Available studies demonstrate that spinach defensin 2 (SoD2) and spinach defensin 7 (SoD7) proteins have very low oral toxicity. In an acute oral toxicity study conducted with a single dose of 5,000 milligram/kilogram (mg/kg) of microbial-produced SoD2 protein, no evidence of toxic or adverse effects was observed. Due to the high similarity between SoD2 and SoD7, the toxicity assessment is applicable to both proteins.

In an *in vitro* study, microbial-produced SoD2 and SoD7 proteins were rapidly and extensively hydrolyzed in stimulated gastric and intestinal conditions in the presence of pepsin (at pH 1.2) and pancreatin, respectively. Both microbial-produced SoD2 and SoD7 proteins demonstrated half-lives of approximately five minutes when subjected to pepsin digest, and both proteins were completely proteolyzed to amino acids and small peptide fragments in less than one minute in the presence of 0.15 milligram/liter (mg/ml) pancreatin. These results indicate that both the SoD2 and SoD7 proteins are highly susceptible to degradation in conditions similar to the human digestive tract.

A literature search was performed to identify any published studies that might implicate these spinach proteins as allergens. No scientific references were found to suggest possible allergenicity associated with these spinach proteins. Sequence comparisons were made between the novel proteins from spinach, SoD2 and SoD7, against those of known and putative allergens using FASTA3 to search the *AllergenOnline.org* database using full-length matches, sliding window of 80 amino acids and finally 8-mer identity searches. In addition, the sequences were searched against the National Center for Biotechnology Information (NCBI) Protein database without keyword limits to identify highly related proteins and with the keyword limit of allergen, to find any high scoring identity matches to proteins annotated as allergens, as a check on the *AllergenOnline.org* data. No significant sequence matches were found between either SoD2 or SoD7 and any allergens. Thus there are no potential safety concerns related to allergenicity that would require further testing.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the plant-incorporated protectant chemical residue, and exposure from non-occupational sources. The Agency anticipates that there may be dietary exposure to the pesticide from the consumption of citrus products. In addition, people have a long history of consumption of spinach and will continue to be exposed to defensin proteins through consumption of spinach. Since the PIP is integrated into the plants genome, the Agency has concluded, based upon previous science reviews, that residues in drinking water will be extremely low or non-existent. Non-occupational exposure via the skin or inhalation is not likely since the plant-incorporated protectant is contained within plant cells, which essentially eliminates these exposure routes or reduces these exposure routes to negligible. In any event, there are no non-dietary non-occupational uses of SoD2 and SoD7 as it is only used in agricultural settings.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

Since SoD2 and SoD7 proteins do not act through a toxic mode of action nor do the SoD2 and SoD7 proteins appear to produce a toxic metabolite produced by other substances, the proteins do not have a common mechanism of toxicity with other substances; therefore, the requirements of section 408(b)(2)(D)(v) do not apply.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. This additional margin of exposure (safety) is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on the information discussed in Unit III., EPA concludes that there are no threshold effects of concern to infants, children, or adults from exposure to the spinach defensin proteins SoD2 and SoD7. As a result, EPA concludes that no additional margin of exposure (safety) is necessary to protect infants and children and that not adding any additional margin of exposure (safety) will be safe for infants and children.

Therefore, based on the discussion in Units III and IV, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of spinach defensin proteins SoD2 and SoD7 in citrus, when it is used as a plant-incorporated protectant. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion based on a lack of toxicity and allergenicity of the SoD2 and SoD7 proteins.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredient is a protein, derived from a source that is not known to exert an influence on the endocrine system. Therefore, the Agency is not requiring information on the endocrine effects of the plant-incorporated protectant at this time.

B. Analytical Enforcement Methodology

A standard operating procedure for an enzyme-linked immunosorbent assay for the detection and quantification of spinach defensin proteins SoD2 and SoD7 in citrus plant tissue has been judged useful for its intended purpose.

C. Response to Comments

EPA received one comment relevant to this petition. The comment supports this tolerance exemption and therefore warrants no response.

VIII. Conclusion

The Agency concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure residues of spinach defensin SoD2 and SoD7 proteins in or on citrus. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed previously no toxicity to mammals has been observed, nor is there any indication of allergenicity potential for the plant-incorporated protectant.

Therefore, an exemption is established for residues of spinach defensin SoD2 and SoD7 proteins in or on citrus when the protein is used as a PIP in citrus plants.

IX. Statutory and Executive Order Reviews

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

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

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

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

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 174

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

Dated: April 28, 2015.

Robert McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

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

■ 2. Add § 174.535 to subpart W to read as follows:

§ 174.535 Spinach Defensin proteins; temporary exemption from the requirement of a tolerance.

(a) Residues of the defensin protein SoD2 derived from spinach (*Spinacia oleracea* L.) in or on citrus food commodities are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in citrus plants in accordance with the terms of Experimental Use Permit No. 88232–EUP–1. This temporary exemption from the requirement of a tolerance expires on April 18, 2018.

(b) Residues of the defensin protein SoD7 derived from spinach (*Spinacia oleracea* L.) in or on citrus food commodities are temporarily exempt from the requirement of a tolerance when used as a plant-incorporated protectant in citrus plants in accordance with the terms of Experimental Use Permit No. 88232–EUP–1. This temporary exemption from the requirement of a tolerance expires on April 18, 2018.

[FR Doc. 2015–10486 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2014–0454; FRL–9926–23]

Bacillus thuringiensis Cry1A.105 Protein in Soybean; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the *Bacillus thuringiensis* (*B.t.*) Cry1A.105 protein in or on soybean when the protein is used as a plant-incorporated protectant (PIP) in soybean. Monsanto Company submitted a petition to EPA under the

Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *B.t.* Cry1A.105 protein in or on soybean.

DATES: This regulation is effective May 6, 2015. Objections and requests for hearings must be received on or before July 6, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0454, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of 40 CFR part 174 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0454 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 6, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0454, by one of the following methods:

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

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

II. Background and Statutory Findings

In the **Federal Register** initially on October 24, 2014 (79 FR 63596) (FRL–9916–03) and then again on December 17, 2014 (79 FR 75111) (FRL–9918–90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 4F8275) by Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. The petition requested that 40 CFR part 174 be amended by establishing an exemption from the requirement of a tolerance for residues of the *B.t.* Cry1A.105 protein in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner Monsanto Company, which is available in the docket, *http://www.regulations.gov.* A comment was received on the October 24, 2014, notice of filing. EPA's response to this comment is discussed in Unit VII.C.

Based on available data, EPA is amending the existing exemption for residues of *B.t.* Cry1A.105 protein to include residues in soybean rather than all food commodities as requested. The reasons for this change are discussed in Unit VII.D.

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

Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and

''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The acute oral toxicity data demonstrates the lack of mammalian toxicity at high levels of exposure to the pure *B.t.* Cry1A.105 protein. Further, amino acid sequence comparisons showed no similarities between the *B.t.* Cry1A.105 protein and known toxic proteins in protein databases. In addition, the *B.t.* Cry1A.105 protein was shown to be substantially degraded by heat when examined by immunoassay. This instability to heat would also lessen the potential dietary exposure to intact *B.t.* Cry1A.105 protein in cooked or processed foods. These biochemical features along with the lack of adverse results in the acute oral toxicity test support the conclusion that there is a reasonable certainty no harm from toxicity will result from dietary exposure to residues of the *B.t.* Cry1A.105 protein in the identified soybean commodities.

Since the PIP is a protein, allergenic potential was also considered. Currently, no definitive tests for determining the allergenic potential of novel proteins exist. Therefore, EPA uses a weight-of-evidence approach where the following factors are considered: Source of the trait; amino acid sequence comparison with known allergens; and biochemical properties of the protein, including *in-vitro* digestibility in simulated gastric fluid (SGF) and glycosylation. This approach is consistent with the approach outlined in the Annex to the Codex Alimentarius, ''Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants.'' The allergenicity assessment for the *B.t.* Cry1A.105 protein follows:

1. *Source of the trait. Bacillus thuringiensis* is not considered to be a source of allergenic proteins.

2. *Amino acid sequence.* A comparison of the amino acid sequence of the *B.t.* Cry1A.105 protein with known allergens showed no significant overall sequence similarity or identity at the level of eight contiguous amino acid residues.

3. *Digestibility.* The *B.t.* Cry1A.105 protein was rapidly digested in less than 30 seconds in simulated mammalian gastric fluid containing pepsin.

4. *Glycosylation.* The *B.t.* Cry1A.105 protein expressed in soybean was shown not to be glycosylated.

5. *Conclusion.* Considering all of the available information, EPA has concluded that the potential for the *B.t.* Cry1A.105 protein to be a food allergen is minimal.

The information on the safety of the pure *B.t.* Cry1A.105 protein provides adequate justification to address possible exposures in all soybean crops.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

The Agency considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other exemptions in effect for the *B.t.* Cry1A.105 protein residue, and exposure from non-occupational sources. Oral exposure may occur at very low levels from ingestion of corn and soybean products. With respect to drinking water, since the PIP is integrated into the plant genome and based upon EPA's human health and environmental assessments for *B.t.* Cry1A.105 protein (Refs. 1 and 2), the Agency expects residues in drinking water to be extremely low or non-existent.

Exposure via the skin or inhalation is not likely since the plant-incorporated protectant is contained within plant cells, which essentially eliminates these exposure routes or reduces exposure by these routes to negligible. Exposure to infants and children via residential or lawn use is also not expected because the use sites for the *B.t.* Cry1A.105 protein is agricultural.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

Since the *B.t.* Cry1A.105 protein does not act through a toxic mode of action, nor does the *B.t.* Cry1A.105 protein appear to produce a toxic metabolite produced by other substances, the protein does not have a common mechanism of toxicity with other substances; therefore, the requirements of section 408(b)(2)(D)(v) do not apply.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. This additional margin of exposure (safety) is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on the information discussed in Unit III., EPA concludes that there are no threshold effects of concern to infants, children, or adults from exposure to the *B.t.* Cry1A.105 protein. As a result, EPA concludes that no additional margin of exposure (safety) is necessary to protect infants and children and that not adding any additional margin of exposure (safety) will be safe for infants and children.

Therefore, based on the discussion in Unit III. and the supporting documentation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of the *B.t.* Cry1A.105 protein in soybean, when it is used as a plant-incorporated protectant. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredient is a protein, derived from a source that is not known to exert an influence on the endocrine system. Therefore, the Agency is not requiring information on the endocrine effects of the plant-incorporated protectant at this time.

B. Analytical Enforcement Methodology

A standard operating procedure for an enzyme-linked Immunosorbent assay for the detection and quantification of the *B.t.* Cry1A.105 protein in soybean tissue has been submitted.

C. Response to Comments

EPA received one comment that is potentially relevant to this petition. The commenter generally opposed approval of the use of a Monsanto ''*B.t.* pip,'' but did not specify any particular PIP or any particular safety concern. As no specific basis for denying the petition was provided, the comment is not being further considered.

D. Revisions to Petition for Tolerance

Monsanto's petition requested an exemption for residues of the *B.t.* Cry1A.105 protein in or on all food and feed commodities. However, based on the data provided, the Agency can only support a safety finding for residues in or on soybean at this time. Currently, the Agency does not have adequate information for a full range of crops for an exemption for the *B.t.* Cry1A.105 protein in or on all food and feed commodities.

VIII. Conclusions

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of the *B.t.* Cry1A.105 protein in all food and feed commodities of soybean. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed in this unit, no toxicity to mammals has been observed, nor is there any indication of allergenicity potential for the plant-incorporated protectant.

Therefore, an exemption is established for residues of the *B.t.* Cry1A.105 protein in or on soybean when the protein is used as a PIP in soybean. In addition, the Agency is removing the existing paragraph (b) contained in section 174.502 because that tolerance has expired.

IX. References

1. U.S. EPA. 2014a. Review of Product Characterization and Human Health Data for Plant-Incorporated Protectant *Bacillus thuringiensis* (*Bt*) Cry2Ab2 and Cry1A.105 Insect Control Protein and the Genetic Material Necessary for Its Production in MON 87751 and the Combined-Trait Insect Protected Soybeans in Support for an Experimental Use Permit, Sec. 3 Registration and Exemptions from the Requirement of a Tolerance. Memorandum from J. Facey, Ph.D. through J. Kough, Ph.D. to K. Haymes, Ph.D., dated December 23, 2014.
2. U.S. EPA. 2014b. Environmental Risk Assessment for the FIFRA Section 3 Seed Increase Registration of the Plant-Incorporated Protectant (PIP), *Bacillus thuringiensis* (Bt) Cry1A.105 and Cry2Ab2 Insect Control Proteins and the Genetic Material (PV–GMIR13196) Necessary for Their Production in Event MON 87751 Soybean. Memorandum from I. You, Ph.D. through S. Borges to K. Haymes, Ph.D., dated December 16, 2014.

X. Statutory and Executive Order Reviews

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

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

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

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

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 174

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

Dated: April 22, 2015.

Jack Housenger,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 346a and 371.

■ 2. In § 174.502, revise paragraph (b) to read as follows:

§ 174.502 *Bacillus thuringiensis* Cry1A.105 protein; exemption from the requirement of a tolerance.

* * * * *

(b) Residues of *Bacillus thuringiensis* Cry1A.105 protein in or on soybean are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in the food and feed commodities of soybean.

[FR Doc. 2015–10624 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0353; FRL–9924–81]

1-Octanol; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical pesticide 1-octanol in or on root and tuber vegetables. D–I–1–4, Inc., a division of 1,4-Group, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment to the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 1-octanol in or on root and tuber vegetables.

DATES: This regulation is effective May 6, 2015. Objections and requests for hearings must be received on or before July 6, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0353, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0353 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 6, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0353, by one of the following methods:

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

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

II. Background and Statutory Findings

In the **Federal Register** of August 1, 2014 (79 FR 44729) (FRL–9911–67), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 3F8195) by D–I–1–4, Inc., a division of 1,4-Group, Inc. (the Petitioner), P.O. Box 860, Meridian, ID 83360. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of 1-octanol, applied post-harvest to stored potatoes and other sprouting root and tuber crops. That document referenced a summary of the

petition prepared by the Petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A. Overview of 1-Octanol

1-Octanol, or octyl alcohol, is a linear saturated aliphatic alcohol containing eight carbons. It is classified as a biochemical pesticide and functions as a plant growth regulator (PGR) by inhibiting sprout growth on stored potatoes and other sprouting root and tuber crops when applied after harvesting.

There is a significant history of human dietary exposure to 1-octanol. 1-Octanol occurs naturally in the essential oils of green tea, grapefruit, California orange, bitter orange, Turkish rose and Bulgarian rose. 1-Octanol has also been identified as a component of fried bacon, roasted filberts, raw and roasted earth almonds, mutton, chicken, pork, raw beef, frankfurters, nectarines, apple juice, common guava, Gruyere cheese and in foods processed from cassava root. The amount of 1-octanol has been quantified in some foods: Fermented soybean curds were found to contain 164.8 to 337.1 micrograms per kilogram (ug/kg) of 1-octanol, and duck meat and duck fat were found to contain 1-octanol as a volatile component at 8.88 parts per billion (ppb) and 12.69 ppb, respectively. 1-Octanol is approved by the FDA for use as a direct food additive under 21 CFR 172.230 in microcapsules for flavoring substances and under 21 CFR 172.515 as a synthetic flavoring substance and adjuvant.

EPA has already determined under the FFDCA that there is a reasonable certainty that no harm will result from aggregate exposures to 1-octanol, when 1-octanol is used as an inert ingredient (specifically as a solvent or co-solvent) in pesticide products applied to food. In addition, 1-octanol has been registered for use as an active ingredient to control tobacco sucker and as an inert ingredient for nonfood and fragrance uses.

For a summary of the data upon which EPA relied, and its human health risk assessment based on that data, please refer to the March 13, 2015 document entitled: ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for 1-Octanol'' available in the docket for this action.

B. Biochemical Pesticide Toxicology Data Requirements

All applicable mammalian toxicology data requirements supporting the petition to establish an exemption from the requirement of a tolerance for the use of 1-octanol as an active ingredient, post-harvest, on root and tuber vegetables have been fulfilled. No significant toxicological effects were observed in any of the acute toxicity studies and no toxic endpoints were established as a result of these studies. In addition, data and information submitted indicate that 1-octanol is not genotoxic. A developmental toxicity study (subchronic) revealed increased salivation (maternal) at 1,000 milligrams 1-octanol per kilogram body weight (mg/kg); however, the Agency does not consider this to be an adverse effect because the effect occurs at a very high dose, much higher dose than the level at which humans are likely to be exposed, given the half-life of this substance and the classification of the pesticide: A plant growth regulator intended for use before long-term storage. EPA concludes that 1-octanol has no subchronic toxic effects and is not a developmental toxicant. There are no known effects of 1-octanol on endocrine systems via oral, dermal, or inhalation routes of exposure.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

The proposed use patterns may result in dietary exposure to 1-octanol, however, dietary exposure as a result of the application of 1-octanol to post-harvest potatoes and other root tubers is expected to be insignificant. 1-Octanol is volatile and is expected to degrade in the atmosphere by reaction with photochemically-produced hydroxyl radicals; its half-life is estimated to be from 3.5 minutes to 1.3 days. The typical length of time between application of the pesticide and consumption of the potatoes will exceed this half-life. Therefore, residues of 1-octanol are unlikely to occur at the time of consumption. No significant exposure via drinking water is expected from its use as an active ingredient in this pesticide as 1-octanol is applied indoors only. Some dietary exposure is expected from the use of 1-octanol as an inert ingredient in pesticide formulations.

Some dietary exposure to 1-octanol might occur through other nonpesticidal sources as a result of its natural presence in other foods or from its use as a food additive and flavoring substance. Should exposure occur, however, minimal to no risk is expected for the general population, including infants and children, due to the low toxicity of 1-octanol.

B. Other Non-Occupational Exposure

Other non-occupational exposure to 1-octanol from pesticidal use may occur in tobacco products from its use on

tobacco or in or on other food and non-food commodities, as a result of its use as a pesticide inert ingredient. However, minimal to no risk is expected for the general population, including infants and children, due to the low toxicity of this chemical as demonstrated in the data submitted and evaluated by the Agency, as fully explained in the March 13, 2015 document entitled: ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for 1-Octanol'' available in the docket for this action.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

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

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA)(SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional or no safety factor when reliable data are available to support a different additional or no safety factor.

As part of its qualitative assessment, EPA evaluated the available toxicity and exposure data on 1-octanol and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. EPA considers the toxicity database to be complete and has identified no residual uncertainty with regard to prenatal and postnatal toxicity or exposure. No hazard was identified based on the available studies; therefore, EPA concludes that there are no threshold effects of concern to infants, children, or adults from 1-octanol. As a result, EPA concludes that no additional margin of exposure (safety) is necessary.

VII. Analytical Enforcement Methodology

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

VIII. Conclusion

Based on its assessment of 1-octanol, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to 1-octanol. Therefore, an amendment to the exemption of a tolerance is established for residues of 1-octanol in or on root and tuber vegetables.

The Agency is issuing the exemption for residues on root and tuber vegetables instead of limiting this exemption to post-harvest indoor applications to root and tuber vegetables because these restrictions are not relevant to the FFDCA safety finding for 1-octanol. Those limitations are related to the use of the pesticide and regulated under FIFRA.

IX. Statutory and Executive Order Reviews

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

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

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

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

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and

other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: April 10, 2015.

Robert McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1330 to subpart D to read as follows:

§ 180.1330 1-Octanol; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of 1-octanol in or on root and tuber vegetables when applied as a plant growth regulator in accordance with label directions and good agricultural practices.

[FR Doc. 2015–10364 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0075; FRL–9925–97]

Fenazaquin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fenazaquin in or on almonds and cherries. Gowan Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 6, 2015. Objections and requests for hearings must be received on or before July 6, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2006–0075, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0075 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 6, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2006–0075, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of April 20, 2011 (76 FR 22067) (FRL–8869–7), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F7825) by Gowan Company, P.O. Box 5569, Yuma, AZ 85366. The petition requested that 40 CFR 180.632 be amended by establishing tolerances for residues of the insecticide fenazaquin, 4-[2-[4-(1,1-dimethylethyl)phenyl] ethoxy]quinazoline, in or on fruit, pome group at 0.35 parts per million (ppm); cucurbit group at 0.25 ppm; almond, hulls at 4.5 ppm; apple, wet pomace at 0.6 ppm; berry fruit group at 0.6 ppm;

vegetable, fruiting group at 0.25 ppm; grape at 0.9 ppm; hop at 2.0 ppm; mint at 6.0 ppm; stone fruit group at 1.5 ppm; strawberry at 1.5 ppm; tree nut group at 0.02 ppm; alfalfa, forage at 4.5 ppm; alfalfa, hay at 8.0 ppm; avocado at 0.15 ppm; citrus fruit group at 0.3 ppm; citrus, oil at 2.5 ppm; cotton, seed (undelinted) at 0.5 ppm; cotton, gin byproducts at 12.0 ppm; bean, shelled dry subgroup at 0.2 ppm; bean, edible podded subgroup at 0.3 ppm; beans and pea, succulent subgroup at 0.02 ppm; corn, field, grain at 0.15 ppm; corn, field, forage at 9.0 ppm; corn, field, stover at 30 ppm; corn, field, aspirated grain fractions at 9.0 ppm; corn, field, refined oil at 0.6 ppm; corn, sweet at 0.04 ppm; and corn, sweet, forage at 9.0 ppm. That document referenced a summary of the petition prepared by Gowan Company, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon EPA review of the data supporting the petition, Gowan Company, the registrant, revised their petition by limiting their request for tolerances to almond and cherry. The reason for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fenazaquin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with fenazaquin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The most consistently observed effects of fenazaquin exposure across species, genders, and treatment durations were decreases in body weight, food consumption, and food efficiency. Other effects noted were mild dehydration and certain clinical signs seen at relatively high dose levels in the acute neurotoxicity study. These clinical signs, which included increased foot splay, decreased motor activity, sluggish arousal, unusual posture, abnormal gait, and altered response to auditory stimuli were seen in the absence of any neuropathological changes and were not considered to be related to neurotoxicity. In a 90-day study in hamsters, treated animals had an increased incidence of testicular hypospermatogenesis and reduced testicular and prostate weight; however, these findings were not replicated in the hamster carcinogenicity study which suggest the effects were transient or reversible.

Fenazaquin did not cause any developmental or reproductive toxicity at the doses tested in rats and rabbits. In the rat study, developmental toxicity was not observed in the presence of maternal toxicity (*i.e.* decreases in body weight gain, food consumption, and food efficiency). In the rabbit study, no developmental or maternal toxicity was seen. In the reproduction study, systemic toxicity manifested in parental animals as excessive salivation and decreased body weight and food intake; in offspring as decreased body weight gain; and there was no observed reproductive toxicity. Therefore, there is no developmental toxicity or reproductive susceptibility with respect to fetal and developing young animals with in utero and postnatal exposures.

Carcinogenicity was evaluated in the hamster instead of the mouse because the hamster was found to be more sensitive to the effects of fenazaquin than mice due to slower elimination kinetics for hamster. In a three-month feeding study in the mouse, it was found that 6–22x higher dose levels were required to elicit a comparable effect in mice than in the hamster. The results of the rat and hamster carcinogenicity studies demonstrated no increase in treatment-related tumor incidence. Therefore, fenazaquin was classified as ''Not likely to be Carcinogenic to Humans.''

The database for fenazaquin shows no evidence of mutagenicity, genotoxicity, neurotoxicity, or immunotoxicity. Fenazaquin did not demonstrate any systemic toxicity in a 21-day dermal toxicity study in rabbits up to the limit dose (1,000 milligram/kilogram/day (mg/kg/day)).

Fenazaquin has high acute oral toxicity, low acute toxicity by dermal and inhalation routes of exposure, is not a skin irritant, is minimally irritating to the eye, and is considered to be a dermal sensitizer.

Specific information on the studies received and the nature of the adverse effects caused by fenazaquin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Fenazaquin: Human Health Risk Assessment for Proposed New Uses on Almonds and Cherries* on page 30 in docket ID number EPA–HQ–OPP–2006–0075.

B. Toxicological Points of Departure/Levels of Concern

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

EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

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

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

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children and females 13–50 years of age).	NOAEL = 15 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 0.15 mg/kg/day. aPAD = 0.15 mg/kg/day	[Immunotoxicity—Rat]. LOAEL = 30 mg/kg/day based on clinical signs (general ataxia/hypoactivity) observed in 1 animal on Day 02 and 3 animals on Day 03 of dosing.
Chronic dietary (All populations)	NOAEL = 5 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.05 mg/kg/day. cPAD = 0.05 mg/kg/day	Co-Critical: Subchronic Toxicity—Dog. LOAEL = 15 mg/kg/day based on decreased body weight and food consumption/efficiency. Chronic Toxicity—Dog. LOAEL = 12 mg/kg/day based on decreased body weight and food consumption/efficiency.
Incidental oral short-term (1 to 30 days).	NOAEL = 5 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Co-Critical: Subchronic and Chronic Toxicity—Dog. Same as Chronic Dietary.
Inhalation short-term (1 to 30 days) and Intermediate Term (1 to 6 months).	Inhalation (or oral) study NOAEL = 5 mg/kg/day (inhalation absorption rate = 100%). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Co-Critical: Subchronic and Chronic Toxicity—Dog. Same as Chronic Dietary.
Cancer (Oral, dermal, inhalation).	Classification: ''Not likely to be Carcinogenic to Humans'' based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_{DB} = to account for the absence of data or other data deficiency. UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to fenazaquin, EPA considered exposure under the petitioned-for tolerances as well as all existing fenazaquin tolerances in 40 CFR 180.632. EPA assessed dietary exposures from fenazaquin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for fenazaquin. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANS/WWEIA). As to residue levels in food, EPA included tolerance level residues for all registered and proposed crops and 100 percent crop treated (PCT). Default processing factors were used for all processed commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA included tolerance level residues for all registered and proposed crops and 100 PCT. Default processing factors were used for all processed commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that fenazaquin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

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

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

Based on the Tier II Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) for surface water, the estimated drinking water concentrations (EDWCs) of fenazaquin for acute and chronic exposures were estimated to be 5.74 parts per billion (ppb) and 2.09 ppb,

respectively, and were entered directly into the dietary exposure model. The groundwater EDWC from the screening concentration in ground water (SCI–GROW) model was estimated to be 0.704 ppb. The modeled estimates were corrected for the default percent cropped area of 0.87. The drinking water assessment was conducted using the total toxic residue (TTR) approach. The residues considered in the assessment include fenazaquin (parent), Metabolite 1, and Metabolite 29.

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

Fenazaquin is currently registered for the following uses that could result in residential exposures: Ornamental uses. EPA assessed residential exposure using the following assumptions: EPA assessed potential exposures for residential handlers using several application methods including handwand and backpack sprayers to treat ornamental plants. MOEs were calculated for the inhalation route of exposure only since no systemic toxicity associated with dermal exposure to fenazaquin was observed. Adult post-applications exposures were not quantitatively assessed since no dermal hazard was identified for fenazaquin and inhalation exposures are typically negligible in outdoor settings. Furthermore, the inhalation exposure assessment performed for residential handlers is representative of worst case inhalation exposures and is considered protective for post-application inhalation scenarios. Since there is no residential incidental oral exposure expected for children 1<2 years old on ornamental plants, a post-application exposure assessment was not conducted and the aggregate assessment for children will only include exposure from food and water.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* Susceptibility/sensitivity in the developing animals was evaluated in developmental toxicity studies in rats and rabbits as well as a reproduction and fertility study in rats. The data showed no evidence of sensitivity/susceptibility in the developing or young animal. Clear NOAELs and LOAELs are available for all the parental and offspring effects. Therefore, there are no residual prenatal or postnatal concerns.

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

i. The toxicity database for fenazaquin is considered complete and sufficient for assessing susceptibility to infants and children.

ii. There is no indication that fenazaquin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

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

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to fenazaquin in drinking water. EPA also made conservative assumptions in the non-dietary residential exposures estimates including maximum application rates and standard values for unit exposures, amount handled. These assessments will not underestimate the exposure and risks posed by fenazaquin.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to fenazaquin will occupy 10% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to fenazaquin from food and water will utilize 10% of the cPAD for children 1–2 years old the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of fenazaquin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Fenazaquin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to fenazaquin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 5,200 for adults. Because EPA's level of concern for fenazaquin is a MOE of 100 or below, the MOE is not of concern. Since there is no residential exposure expected for children, there is no potential that a short-term aggregate risk for children could be higher than the dietary (food and drinking water) risk.

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

An intermediate-term adverse effect was identified; however, fenazaquin is not registered for any use patterns that would result in intermediate-term residential exposure.

Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for fenazaquin.

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

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography and tandem mass spectrometry (HPLC–MS/MS)) is available to enforce the tolerance expression.

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

B. International Residue Limits

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

The Codex has not established a MRL for fenazaquin.

C. Revisions to Petitioned-For Tolerances

EPA's review of the data supporting the petition, showed that there was not sufficient data to support some of the tolerances originally proposed by the registrant. Gowan Company, the registrant, revised their petition by limiting their request for tolerances to almond and cherry, which are supported by the available data. The Organization of Economic Cooperation and Development (OECD) tolerance derivation procedures indicates the need for the following changes in the proposed tolerances: Cherries from 1.5 ppm to 2.0 ppm and almond hull from 0.6 ppm to 4.0 ppm. The Agency is also revising the tolerance expression to clarify that (1) as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of fenazaquin not specifically mentioned and (2) compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of fenazaquin, 4-[2-[4-(1,1-dimethylethyl) phenyl]ethoxy]quinazoline, in or on almond at 0.02 ppm, almond hulls at 4.0 ppm, and cherry at 2.0 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section

12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 27, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.632, the section heading and paragraph (a) are revised to read as follows:

§ 180.632 Fenazaquin; Tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide fenazaquin, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only fenazaquin, or 4-[2-[4-(1,1-dimethylethyl)phenyl] ethoxy]quinazoline.

Commodity	Parts per million
Almond	0.02
Almond, hulls	4.0
Apple	0.2
Cherry	2.0
Citrus Oil	10
Fruit, Citrus, Group 10 except Grape fruit	0.5
Pear	0.2

* * * * *

[FR Doc. 2015–10375 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 423

[CMS–6107–IFC]

RIN 0938–AS60

Medicare Program; Changes to the Requirements for Part D Prescribers

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period revises requirements related to beneficiary access to covered Part D drugs. Under these revised requirements, pharmacy claims and beneficiary requests for reimbursement for Medicare Part D prescriptions, written by prescribers other than physicians and eligible professionals who are permitted by state or other applicable law to prescribe medications, will not be rejected at the point of sale or denied by the plan if all other requirements are met. In addition, a plan sponsor will not reject a claim or deny a beneficiary request for reimbursement for a drug when prescribed by a prescriber who does not meet the applicable enrollment or opt-out requirement without first providing provisional coverage of the drug and individualized written notice to the beneficiary. This interim final rule with comment period also revises certain terminology to be consistent with existing policy and to improve clarity.

DATES:

Effective date: These regulations are effective on June 1, 2015.

Applicability date: The provisions at § 423.120(c)(6) are applicable January 1, 2016.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 6, 2015.

ADDRESSES: In commenting, please refer to file code CMS–6107–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed)

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–6107–IFC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–6107–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period: a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Frank Whelan, (410) 786–1302 for enrollment issues.

Lisa Thorpe, (410) 786–3048, for provisional coverage, notice, and all other issues.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in

a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will be also available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

A. Purpose

Under this interim final rule with comment period (IFC), pharmacy claims and beneficiary requests for reimbursement for Medicare Part D prescriptions, written by prescribers other than physicians and eligible professionals who are permitted by state or other applicable law to prescribe medications, will not be rejected at the point of sale or denied by the plan if all other requirements are met. In addition, a plan sponsor will not reject a claim or deny a beneficiary request for reimbursement for a drug on the grounds that the prescriber has not enrolled in or opted out of Medicare without first providing provisional coverage of the drug and individualized written notice to the beneficiary. These changes are necessary to help make certain that Medicare beneficiaries continue to have access to needed Part D medications. As explained in section III. of this IFC, we believe that we have good cause to make these changes in an IFC because the ordinary notice-and-comment process would be contrary to the public interest; furthermore, we believe that notice-and-comment rulemaking for the technical changes we are making in this IFC (as described in sections II.D., II.E., and II.F. of this IFC) is unnecessary because these changes are not substantive and do not alter current policy.

B. Legal Authority

There are four principal statutory authorities for the provisions in this IFC.

First, sections 1102 and 1871 of the Social Security Act (the Act) provide general authority for the Secretary to prescribe regulations for the efficient administration of the Medicare program.

Second, section 1866(j) of the Act provides specific authority with respect to the Medicare enrollment process for providers and suppliers.

Third, section 6405(c) of the Affordable Care Act gives the Secretary the authority to require that pharmacy claims and beneficiary reimbursement requests for covered Part D drugs prescribed by a physician (as defined in section 1861(r) of the Act) or eligible professional (as defined in section 1848(k)(3)(B) of the Act) are not payable unless the prescribing physician or eligible professional is enrolled in Medicare under section 1866(j) of the Act.

Fourth, section 1860D–12(b)(3)(D) of the Act authorizes the Secretary to include in a contract with a Part D sponsor such other terms and conditions that are not inconsistent with Part D as the Secretary may find necessary and appropriate.

C. Provider Enrollment Process

The Medicare CMS–855 enrollment application collects information from providers and suppliers to confirm that they meet all Medicare requirements. Such data includes, but are not limited to, the provider's or supplier's licensure, tax identification number, National Provider Identifier (NPI), practice locations, final adverse action history, and owning and managing individuals and organizations. Upon receiving a CMS–855 application from a physician or eligible professional, the CMS contractor validates the information and performs various screening activities, such as reviewing the System for Award Management (SAM) to confirm that the individual is not debarred from receiving payments under any federal health program. As explained in section II. of this IFC, we have taken measures to improve the provider enrollment process to determine whether enrolling physicians and eligible professionals meet all Medicare requirements.

D. Section 6405 of the Affordable Care Act and the May 23, 2014 Final Rule

As noted previously, section 6405(c) of the Affordable Care Act gives the Secretary the authority to extend the requirements of sections 6405(a) and (b) of the Affordable Care Act to all other categories of items or services under title XVIII of the Act that are ordered, prescribed, or referred by a physician or eligible professional, including covered Part D drugs. Sections 6405(a) and (b) of the Affordable Care Act require physicians and eligible professionals who order or certify durable medical equipment, prosthetics, orthotics, supplies, or home health services to be enrolled in Medicare.

In accordance with section 6405(c) of the Affordable Care Act, we established new § 423.120(c)(6) as part of a May 23, 2014 final rule titled, ''Medicare Program; Contract Year 2015 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs'' (79 FR 29843). Our objective was to help confirm that Part D drugs are prescribed only by physicians and eligible professionals who are qualified to do so under state law and under the requirements of the Medicare program. Section 423.120(c)(6) currently contains the following provisions:

- A Part D sponsor must deny, or must require its pharmaceutical benefit manager (PBM) to deny, a pharmacy claim for a Part D drug if an active and valid physician or eligible professional National Provider Identifier (NPI) is not contained on the claim.
- A Part D sponsor must deny, or must require its PBM to deny, a pharmacy claim for a Part D drug if the physician or eligible professional—is not enrolled in the Medicare program in an approved status; and does not have a valid opt-out affidavit on file with a Part A/B Medicare Administrative Contractor (MAC).
- A Part D sponsor must deny, or must require its PBM to deny, a request for reimbursement from a Medicare beneficiary for a drug if the request is not for a Part D drug that was dispensed in accordance with a prescription written by a physician or eligible professional who is identified by his or her legal name in the request; and

++ Is enrolled in Medicare in an approved status; or

++ Has a valid opt-out affidavit on file with a Part A/B MAC.

- In order for a Part D sponsor to submit to CMS a prescription drug event record (PDE), the PDE must contain an active and valid individual prescriber NPI and must pertain to a claim for a Part D drug that was dispensed in accordance with a prescription written by a physician or eligible professional who—is enrolled in Medicare in an approved status; or has a valid opt-out affidavit on file with a Part A/B MAC.

These requirements apply as of June 1, 2015. However, on December 3, 2014, through the Health Plan Management System (HPMS), we announced an enforcement delay until December 1, 2015. We are now in this IFC making another change to make these requirements applicable on January 1, 2016. Accordingly, and as explained in section II.C. of this IFC, we are making

conforming changes to the regulation text.

II. Provisions of the Interim Final Rule With Comment Period

A. Enrollment

There are prescribers other than physicians and eligible professionals, such as pharmacists, who are legally authorized under state or other law to prescribe covered Part D drugs. For example, under a Pharmacist Collaborative Practice Agreement, pharmacists may be legally authorized to prescribe covered Part D under state or other law. However, pharmacists are not physicians under section 1861(r) of the Act or eligible professionals under section 1848(k)(3)(B) of the Act, and are therefore not eligible to enroll in or opt-out of Medicare. Under § 423.120(c)(6), as described previously in section I.D. of this IFC, beneficiaries who have been receiving necessary prescriptions from prescribers who are not Medicare-enrolled or opted-out physicians or eligible professionals will no longer be able to obtain Part D coverage for these prescriptions once the requirements of § 423.120(c)(6) are enforced. Changes to previously finalized policies regarding § 423.120(c)(6) are necessary to preserve beneficiaries' ability to obtain prescriptions for covered Part D drugs prescribed by certain practitioners ineligible to enroll in Medicare. We note that the definition of ''physician'' includes dentists, hence dentists are eligible to enroll in or opt-out of Medicare. Accordingly, this IFC revises § 423.120(c)(6)(ii), (iii), and (iv) such that prescriptions provided by ''other authorized prescribers'' (as defined in § 423.100) may be covered under Part D. In other words, Part D sponsors will not be required to reject pharmacy claims or deny beneficiary requests for reimbursement for prescriptions written by ''other authorized prescribers'' on the basis that the prescriber is not enrolled in or opted-out of Medicare. Therefore, Part D sponsors will continue to be able to cover pharmacy claims at the point of sale (POS) for prescriptions written by ''other authorized prescribers,'' provided all other existing Part D coverage requirements are met. We note, for example, that under § 423.120(c)(6)(i), an ''other authorized prescriber'' must have an active and valid NPI which is contained in the pharmacy claim. This change will help beneficiaries to continue to receive needed prescriptions.

In § 423.100, we are defining ''other authorized prescriber'' as a person other than a physician (as defined in section 1861(r) of the Act) or eligible professional (as defined in section 1848(k)(3)(B) of the Act) who is authorized under state or other applicable law to write prescriptions. This definition, which applies to § 423.120(c)(6) only, will sufficiently protect the Medicare program because ''other authorized prescribers'' must have prescribing authority under state or other applicable law.

B. Provisional Coverage and Notice

We conclude that, in order to further minimize interruptions to Part D beneficiaries' access to needed medications, other changes are also needed to the May 23, 2014 final rule. This conclusion is based on our analysis of Medicare prescriber enrollment levels and trends since promulgation of the final rule and discussions with various stakeholders about their concerns regarding beneficiary access once the provisions of § 423.120(c)(6) are enforced. Thus, we are modifying the provisions of § 423.120(c)(6) to prohibit sponsors from rejecting claims or denying beneficiary requests for reimbursement for a drug on the basis of the prescriber's enrollment status, unless the sponsor has first covered a 3-month provisional supply of the drug and provided individualized written notice to the beneficiary that the drug is being covered on a provisional basis. Such provisional supply and notice will allow sufficient time for an eligible prescriber to enroll in Medicare (or submit an opt-out affidavit), so that a beneficiary can continue to receive Part D coverage for the drug if prescribed by the same prescriber, or for the beneficiary to find a prescriber who meets the Medicare requirements to write Part D prescriptions. Enrolling in Medicare to prescribe or filing an opt-out affidavit is a process that can typically be completed within 3 months. In presumably rare cases when the prescriber will not enroll in Medicare or submit an opt-out affidavit, we believe the beneficiary should have sufficient time to find a prescriber whose prescriptions are coverable by the Part D program, if the beneficiary wishes to continue to receive Part D coverage for the drug. Once the Part D sponsor has provided the written notice to the beneficiary that a drug is being covered on a provisional basis because of the prescriber's current Medicare status, and the sponsor has covered the required provisional supply of the drug, the sponsor will be required to reject future claims and deny future requests for reimbursement for the beneficiary for the same drug if the prescription is from the same prescriber (unless the prescriber has enrolled or opted out in the meantime). We will issue future guidance as necessary on how sponsors and their PBMs should operationalize the term ''drug'' in their adjudication systems in addition to other guidance, as needed.

The following discussion provides the rationale for adopting a same drug/same prescriber policy. First, beneficiaries may not readily know which prescribers are enrolled in or opted-out of Medicare and which are not. Therefore, our policy means that beneficiaries will receive a provisional supply and written notice about each unenrolled prescriber they see. Second, beneficiaries may need to fill multiple prescriptions from the same unenrolled prescriber, and we are particularly concerned about instances when beneficiaries need to do so in a short time period before their prescriber has been able to enroll or they have been able to find an enrolled prescriber. Therefore, our policy allows beneficiaries to receive more than one provisional supply from the same unenrolled prescriber for a different drug.

The pertinent regulation text in this IFC states that the Part D sponsor must do the following: ''provide the beneficiary with . . . a 3-month provisional supply (as prescribed by the prescriber . . .).'' This means that the Part D sponsor will be required to cover a full 3-month supply, if prescribed by the unenrolled practitioner, regardless of how the supply is dispensed. For example, a beneficiary may receive a provisional supply in accordance with a prescription written for a month's supply with two subsequent refills; a prescription written for a one-time 3-month's supply; or three prescriptions written for a 1-month's supply each. Conversely, an unenrolled prescriber might not prescribe a full 3-month's supply, and in such a case, the sponsor would of course not be required to provide a 3-month's provisional supply.

In addition, certain prescriptions cannot be refilled, such as Schedule II controlled substances, and continuing supplies of such drugs are dispensed only upon a new prescription. For this reason, the regulation text also states that the provisional supply must be ''allowed by applicable law.''

We believe that a sponsor tracking dispensed provisional drug supplies is easier than tracking a timeframe after a dispensing event. Otherwise, in order to ensure a beneficiary receives a provisional supply of each drug prescribed by an unenrolled prescriber, Part D sponsors would have to keep track of rolling timeframes associated with the first dispensing event of each drug.

We note that providing beneficiaries with a provisional supply of a drug is consistent with other CMS requirements and Part D policies designed to provide reasonable access to needed medications. Under the Part D transition policy, for example, sponsors are generally required to cover off-formulary drugs (including drugs that are on-formulary but require prior authorization or step therapy) when a beneficiary changes prescription drug benefit plans and in other circumstances, in order to give the beneficiary and his or her prescriber time to find a suitable on-formulary drug or pursue an exception to continue taking the same drug.

The existing Part D transition policy is an example of an instance in which a beneficiary might not receive a full 3-months' supply under the provisions of this IFC, even when prescribed the full 3 months' supply, due to other existing Part D transition requirements which take precedence. If an unenrolled physician prescribes an off-formulary drug for a beneficiary that is subject to the transition requirements set forth in § 423.120(b)(3), and thus the provisional supply and notice requirements are simultaneously triggered, the beneficiary would not be able to receive more than a 30-day supply of the drug from a retail pharmacy, unless a formulary exception is approved, consistent with existing transition requirements. Conversely, if a formulary exception is approved, the beneficiary could receive the remaining provisional supply. We will issue guidance as to how sponsors should provide written notices to the beneficiary when the sponsor is required to issue a both a transition notice under § 423.120(b)(3)(iv) and a provisional supply notice under the revised requirements of § 423.120(c)(6).

Other examples when a beneficiary might not receive a full 3-month's provisional supply, or any provisional supply at all, is when the prescriber does not have an active and valid NPI. Under § 423.120(c)(6)(i), the Part D sponsor or its PBM must reject a pharmacy claim unless it contains an active and valid prescriber NPI. Thus, a sponsor or its PBM cannot cover a provisional supply when the applicable pharmacy claim does not contain an active and valid prescriber NPI. Without a prescriber NPI, the sponsor or PBM would not be able to determine whether a drug should be covered on a provisional or regular basis, because the sponsor cannot determine the prescriber's Medicare enrollment or opt out status. An additional example is when the drug prescribed is subject to approved prior authorization or step therapy requirements by the plan. Such utilization management edits will still apply to provisional supplies. For these reasons, the regulation text in this IFC states that the Part D sponsor or its PBM must provide the beneficiary with a provisional supply and written notice ''subject to all other Part D rules and plan coverage requirements.''

In light of our previous discussion for provisional coverage, we have made the following changes to § 423.120(c)(6):

- Revised paragraphs (c)(6)(ii)(A) and (c)(6)(iii) to add the clause ''Except as provided in paragraph (c)(6)(v) of this section.'' The revised paragraphs would otherwise require Part D sponsors and their PBMs to reject pharmacy claims and deny beneficiary requests for reimbursement based on the Medicare status of the prescriber.
- Added new paragraph (c)(6)(v) to require that a Part D sponsor or its PBM not reject a pharmacy claim for a Part D drug under paragraphs (c)(6)(ii) or (c)(6)(iii) of this section unless the sponsor has provided the provisional coverage of the drug and written notice to the beneficiary required by paragraph (c)(6)(v)(B).
- Added new paragraph (c)(6)(v)(B) to require that upon receipt of a pharmacy claim or beneficiary request for reimbursement for a Part D drug that a Part D sponsor would otherwise be required to reject or deny in accordance with paragraphs (c)(6)(ii) and (iii) of this section, a Part D sponsor or its PBM must provide the beneficiary with the following two things, subject to all other Part D rules and plan coverage requirements.
- Added new paragraph (c)(6)(v)(B)(*1*)(*i*) to require a Part D sponsor to provide a 3-month provisional supply of the drug (as prescribed by the prescriber and if allowed by applicable law).
- Added new paragraph (c)(6)(v)(B)(*1*)(*ii*) to require a Part D sponsor to provide written notice within 3 business days after adjudication of the claim or request in a form and manner specified by CMS.
- Added new paragraph (c)(6)(v)(B)(*2*) to require that a Part D sponsor or its PBM must ensure that reasonable efforts are made to notify the prescriber of a beneficiary who was sent a notice.

C. Revision to Dates in § 423.120(c)(5) and (c)(6)

The requirements of § 423.120(c)(5), which address certain NPI submission and verification activities related to pharmacy claims for Part D drugs, apply before June 1, 2015. As mentioned in section I.C. of this IFC, the requirements of § 423.120(c)(6) apply beginning June 1, 2015. On December 3, 2014, we announced an enforcement delay of § 423.120(c)(6) until December 1, 2015. We are now in this IFC making another change to make these requirements applicable on January 1, 2016. This is to help make certain that stakeholders, such as beneficiaries and plan sponsors, have sufficient time to prepare for the requirements of § 423.120(c)(6).

To prevent potential confusion over the applicability of § 423.120(c)(5) and (c)(6), we are revising the dates identified therein. The beginning of § 423.120(c)(5) will be changed from ''Before June 1, 2015, the following are applicable'' to ''Before January 1, 2016, the following are applicable''. The beginning of § 423.120(c)(6) will be changed from ''Beginning June 1, 2015, the following are applicable'' to ''Beginning January 1, 2016, the following are applicable''. We believe these revisions are necessary so that stakeholders will understand precisely when the requirements of § 423.120(c)(5) and (c)(6) apply to them.

D. Rejection of Pharmacy Claims

This IFC also makes a technical change to § 423.120(c)(6)(i) and (ii) by replacing language that requires plan sponsors to ''deny'' pharmacy claims that do not meet the requirements of § 423.120(c)(6) with language requiring plan sponsors to ''reject'' such claims. POS claim transactions are not considered coverage determinations under Part D program rules unless the plan chooses to treat the presentation of the prescription as a request for a coverage determination. Therefore, a Part D plan sponsor is not subject to the requirements for coverage determinations in part 423, subpart M, such as the timeframe and notification rules, nor to the requirements to conduct clinical review or to provide notice of appeal rights when a prescription cannot be filled under the Part D benefit at the POS. With the requirements finalized in the May 23, 2014 final rule (79 FR 29843), we did not intend to redefine the nature of POS transactions in the Part D program specifically for claims that are not paid at the POS because the prescriber does not meet the enrollment or opt-out requirements. We believe the word ''deny'' in the regulation text may incorrectly be interpreted to require plans to issue a standardized denial notice with appeal rights (OMB approval 0938–0976, ''Notice of Denial of Medicare Prescription Drug Coverage'', CMS–10146) for rejected claims at POS, rather than follow our existing requirements at

§§ 423.128(b)(7)(iii) and 423.562(a)(3). These provisions require plans to arrange with their network pharmacies to distribute a copy of the standardized pharmacy notice (OMB approval 0938–0975, ''Medicare Prescription Drug Coverage and Your Rights'', CMS–10147) to the enrollee. We believe that this technical change will make the requirements at § 423.120(c)(6)(i) and (ii) consistent with our other requirements for POS claim transactions and existing National Council for Prescription Drug Programs guidance. We are retaining use of the term ''deny'' at § 423.120(c)(6)(iii), because plan sponsors are required to treat an enrollee request for reimbursement as a coverage determination under subpart M.

E. Name on Beneficiary Reimbursement Requests

We also made a technical change at § 423.120(c)(6)(iii) by replacing ''legal name'' with ''name'' for beneficiary reimbursement requests. Requiring that beneficiary requests for coverage include the prescriber's legal name is inconsistent with the existing standard required for coverage determination requests at § 423.568(a) and related subregulatory guidance and is overly burdensome for beneficiaries. Throughout Chapter 18 of the Medicare Prescription Drug Manual (particularly section 30.3), CMS guidance to plan sponsors includes an expectation that plan sponsors will make reasonable and diligent efforts to obtain any missing information required to process beneficiary requests when the request does not include all information needed to make a decision, such as the prescriber's legal name, if necessary to determine coverage under the prescriber enrollment requirements. Additionally, Chapter 5, section 90.2.2 contains language stating that plans can require beneficiary requests for reimbursement to include prescriber name (not ''legal name'') and address or phone number or pharmacy name and phone number to assist the plan in locating the prescriber NPI necessary to submit the PDE to CMS. We recognize that the ''legal name'' standard was included in § 423.120(c)(6) because it was adopted for Part A/B ordering and referring claims at § 424.507(a)(2). However, given the regulations and manual guidance previously discussed, we do not believe this standard is appropriate for Part D beneficiary reimbursement requests.

F. Other Technical Changes

In addition to the previously described revisions, we are making the following minor technical changes to § 423.120(a)(6)(i) through (iv). (These changes will not affect the requirements or substance of these paragraphs.)

- In paragraphs (c)(6)(i), (ii), and (iii), we replaced the word ''if'' with ''unless,'' and deleted the word ''not.'' The current versions of these paragraphs are written in the negative, which has caused confusion for some readers. We believe these changes will clarify these paragraphs.
- In paragraphs (c)(6)(i) and (iv), we replaced references to ''physicians'' and ''eligible professionals'' with the term ''prescriber.'' The latter word is necessary to reflect that these paragraphs also apply to prescribing individuals other than physicians and eligible professionals.
- In paragraph (c)(6)(ii), the current opening paragraph is incorporated into revised paragraph (c)(6)(ii)(A). Current paragraphs (c)(6)(ii)(A) and (B) are redesignated as new paragraphs (c)(6)(ii)(A)(*1*) and (*2*). The requirements pertaining to other authorized prescribers are addressed in revised paragraph (c)(6)(ii)(B). These organizational revisions of (c)(6)(ii) are necessary in order to incorporate the substantive and technical changes discussed in this IFC.
- In the opening paragraph of (c)(6)(iii), we changed the language ''for a drug if the request is not for a Part D drug that was dispensed in accordance with a prescription written by'' to ''unless the request pertains to a Part D drug that was prescribed by''. This is to make the paragraph clearer and more readable. We also—

++ Changed paragraph (c)(6)(iii)(A) from ''Is identified by his or her legal name in the request'' to ''A physician or, when permitted by applicable State law, other eligible professional (as defined in section 1848(k)(3)(B) of the Act) who is identified by name in the request; and who''.

++ Redesignated current paragraphs (c)(6)(iii)(B)(*1*) and (*2*) as new paragraphs (A)(1) and (2). The requirements pertaining to other authorized prescribers are addressed in revised paragraph (c)(6)(iii)(B).

These technical revisions to (c)(6)(iii) are needed to accommodate the substantive and technical revisions heretofore discussed in this IFC.

- In paragraph (c)(6)(iv) we are making the following changes:

++ The opening paragraph is changed from ''In order for a Part D sponsor to submit to CMS a prescription drug event record (PDE), the PDE must contain an active and valid individual prescriber NPI and must pertain to a claim for a Part D drug that was dispensed in accordance with a prescription written by a physician or, when permitted by applicable State law, an eligible professional (as defined in section 1848(k)(3)(B) of the Act) who'' to''A Part D plan sponsor submitting a prescription drug event (PDE) to CMS must include on the PDE the active and valid individual NPI of the prescriber of the drug, who must''. We believe the new language is more concise and straightforward.

++ We have redesignated current paragraphs (c)(6)(iv)(A) and (B) as new paragraphs (c)(6)(iv)(A)(*1*) and (*2*). The requirements pertaining to other authorized prescribers are addressed in revised paragraph (c)(6)(iv)(B).

These technical revisions to paragraph (c)(6)(iv) are needed to accommodate the substantive and technical revisions discussed in this IFC.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed and the terms and substance of the proposed rule or a description of the subjects and issues involved. However, this procedure can be waived if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We believe we have good cause to make our previously discussed changes in this IFC. Concerning the substantive changes, we believe that notice-and-comment rulemaking is contrary to the public interest for the reasons that follow.

Several months after publication of the May 23, 2014 final rule that imposed the enrollment or opt-out requirement as of June 1, 2015, it was brought to our attention during implementation that there are prescribers who can and do prescribe Part D medications but who are also unable to enroll in Medicare to prescribe because they do not technically meet even the broad definition of ''eligible health professional.'' The May 23, 2014 final rule was not only complex and controversial, but with respect to the prescriber enrollment provisions themselves, we were focused on the fact that dentists can enroll and represent the largest group of unenrolled current Part D prescribers. Additionally, we did

not receive any explicit comments on the pharmacist issue.

Once we became aware of the issue, we promptly considered alternatives to address it, such as directing pharmacists to opt-out, but concluded that this is not permissible under the applicable statutory language. Ultimately, we came to the conclusion that the May 23, 2014 rule must be updated. The existing rule could cause an unintended disruption in beneficiaries' access to Part D drugs because under the current regulations, as of June 1, 2015, pharmacists' (and potentially certain other prescribers') prescriptions could not be filled.

Additionally, we concluded that changes to the May 23, 2014 rule needed to include a provisional supply to prevent disruptions to beneficiaries' access to Part D drugs. This is based on our monitoring of prescriber enrollment levels and trends and meetings with stakeholders during implementation. Prescriber enrollment is a voluntary act, and while we remain confident that the Part D prescribers who need to enroll or opt-out will ultimately do so in large numbers, it will take some time. The non-dentist and non-pharmacist prescribers who need to enroll are ones who did not enroll to be able to order and certify under § 424.507. In addition, dentists are a group of providers that has not yet had a robust direct relationship with Medicare due to the fact that dentists generally do not bill Medicare for their services. Since it is in the public's interest that we make certain that beneficiary access to needed drugs will not be impaired when these important program integrity protections become applicable, we have also added the provisional supply provisions in this IFC. Without such swift action, we would be forced to either enforce the rule as written, which could cause beneficiary harm by disrupting access, or further delay enforcement, which also could cause beneficiary harm by continuing to permit unqualified individuals to prescribe Part D drugs. Both outcomes are contrary to the public interest. In addition, the provisional supply provisions include a written notice to the beneficiary. We believe that the written notices will result in beneficiaries' discussing the enrollment status issue with their prescribers, which will assist in our prescriber enrollment efforts. In addition, to resolve these problems, it is necessary to implement the provisions of this IFC prior to the Medicare Part D bid deadline for the 2016 contract year, which begins on January 1, 2016. The statutory bid deadline this year is June 1, 2015. Any changes to Part D requirements for contract year 2016 must be implemented prior to the bid deadline so that Part D sponsors may account for them in their bids; we cannot impose costly new requirements on the plans for a contract year that are not accounted for in their bids for that contract year under section 1860D–12(f)(2) of the Act. Thus, an IFC is the only means for ensuring that our requirements do not cause unintended disruption to beneficiary access to Part D drugs, while ensuring that the changes that will minimize such disruptions are incorporated into Part D sponsors' 2016 bids; the length of time involved with notice-and rulemaking would prevent us from accomplishing these objectives without further delaying enforcement of the existing regulations, which for the reasons discussed later in this section, could cause beneficiary harm. Moreover, a prompt publication is necessary to give Part D plan sponsors time to implement the operational changes needed for them to be prepared for these requirements in the 2016 contract year.

If Part D sponsors were unable to account for these new requirements in their 2016 bids, we would have to delay the applicability date of the enrollment/opt-out requirements to no sooner than January 1, 2017. We believe that such an outcome similarly is contrary to the public interest because it would unduly delay the extremely important program integrity and basic quality assurance protection for Medicare beneficiaries that we implemented in our May 23, 2014 final rule, and beneficiaries could be harmed as a result. As we explained in the May 23, 2014 final rule, we have been concerned about instances where unqualified individuals are prescribing Part D drugs. In fact, in a June 2013 report the OIG found that the Part D program inappropriately paid for drugs ordered by individuals who did not appear to have the authority to prescribe. (See ''Medicare Inappropriately Paid for Drugs Ordered by Individuals Without Prescribing Authority'' (OEI–02–09–00608).) There have also been reports that the prescriptions of physicians with suspended licenses have been covered by the Part D program.

The Centers for Disease Control and Prevention (CDC) has characterized prescription drug abuse as an epidemic, and found that an increase in painkiller prescribing is the key driver of the increase in prescription overdoses.[1] The CDC reports that the drug overdose death rate has more than doubled from 1999 through 2013, and more than half of those deaths were related to pharmaceuticals.[2] The Department of Health and Human Services has several initiatives to address prescription drug abuse; for instance, the National Institute on Drug Abuse, the National Institutes of Health, and the Substance Abuse and Mental Health Services Administration are working with public and private stakeholders to reduce opioid overdoses. CMS has also adopted an approach to reduce opioid overutilization in Medicare Part D.

The new enrollment requirements addressed in the May 23, 2014 final rule represent an important component of this effort and are a crucial program integrity and basic quality assurance protection for Medicare beneficiaries, for the requirements help us to confirm that prescribers are qualified to prescribe Part D drugs. It is important that these protections are in place as soon as possible. We have identified 68,000 prescribers that have been removed from Medicare for reasons such as licensure issues, operational status, or exclusion by the OIG, and we have a responsibility to enforce these protections to beneficiaries as soon as possible without compromising continuity of care or beneficiary access to needed medications. The CDC has recommended swift regulatory action against health care providers acting outside the limits of accepted medical practice to decrease provider behaviors that contribute to prescription painkiller abuse, diversion, and overdose.[3]

Thus, for all of these reasons, we find good cause to waive prior notice and comment with respect to the substantive changes being made in this IFC.

With respect to the technical changes being made in this IFC, we believe notice-and-comment rulemaking is unnecessary because these changes are not substantive and do not alter current policy.

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork

[1] *http://www.cdc.gov/vitalsigns/pdf/2014-07-vitalsigns.pdf.*

[2] *http://www.cdc.gov/homeandrecreationalsafety/overdose/facts.html.*

[3] *http://www.cdc.gov/drugoverdose/pdf/policyimpact-prescriptionpainkillerod-a.pdf.*

Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on the following section of this document that contains information collection requirements (ICRs).

We believe the principal information collection requirement associated with this IFC is that some Part D sponsors and PBMs will need to collect information about which NPIs are for ''other authorized prescribers'' in order to properly adjudicate pharmacy claims containing such prescriber NPIs in light of the revised provisions of § 423.120(c)(6) in this IFC. However, we estimate that half of the 30 Part D sponsors and PBMs with Part D adjudications systems already collect information about the prescriptive authority of prescriber NPIs in order to mitigate current potential audit risks associated with submitting PDEs to CMS for Part D drugs that were not dispensed upon a valid prescription.

In a CMS analysis of PDE data, there were just over 1.3 million prescribers writing Part D prescriptions in 2013. Approximately 17,000 of these prescribers have NPIs a taxonomy in the National Provider & Plan Enumeration System (NPPES) that would fall under the definition of ''other authorized prescribers'' (largely pharmacist taxonomies).

NPIs and the addresses and taxonomy codes that pertain to them are publicly available information through the CMS Web site for NPPES. We estimated that collecting information about which NPIs are for ''other authorized prescribers'' would take an average of 30 minutes (0.5 hours) per NPI associated with a pharmacist or 8,500 hours, and the estimated total burden for 15 sponsors/PBMs to be 17,500 hours for 2016. The estimated total annual cost for this burden is $3,343,050. This is based upon the national median hourly rate of $26.22 for insurance claim and policy processing clerk multiplied by the number of burden hours in 2016. We did not estimate any burden in 2017 and 2018 for the collection of information about ''other authorized prescriber'' NPIs, as the number of new pharmacist NPIs and existing pharmacist NPIs becoming inactive will be negligible in light of the fact that there are only approximately 17,000 total ''other authorized prescribers'' writing Part D prescriptions in 2013.

We note that since NPPES is not a provider credentialing system, but rather an enumeration system that contains self-reported credentials, Part D sponsors might not rely upon a taxonomy in NPPES as documentation that an NPI in fact belongs to a pharmacist with an active license who is permitted to prescribe. We have used data from NPPES to provide an estimate as to how many ''other authorized prescribers'' NPIs about which Part D sponsors and PBMs will need to collect information.

In the alternative, we understand that Part D sponsors/PBMs may purchase prescriber ID validation services from a private company that can provide them with a list of ''other authorized providers.'' However, we do not provide a collection estimate for all options that sponsors/PBMs may have in implementing the provisions of this IFC.

We also revised the provisions of § 423.120(c)(6) to require Part D sponsors to cover a provisional supply of a drug before they reject a claim based on a prescriber's Medicare status. These modifications will also require Part D sponsors to provide written notice to the beneficiary and take reasonable efforts to provide written notice to the prescriber. The burden associated with these modifications is the time and effort necessary for Part D adjudications systems to be programmed, model notices to be created, and such notices to be generated and disseminated to perform these tasks. We estimated that this will take 30 sponsors and PBMs with Part D adjudications systems 156,000 hours for software developers and programmers to program their systems in 2016 to comply with the modifications to § 423.120(c)(6) in this IFC. In 2017 and 2018, we estimated the total burden to be 83,000 hours for each year.

We estimated the total hours by estimating a 6-month preparation and testing period. Six months includes approximately 1,040 full-time working hours. We estimated 5 full time staff (or 10 staff working half their hours on this project). Five staff × 1,040 hours × 30 sponsors/PBMs = 156,000 total hours. We estimated an hourly rate of $64.32 for such developers and programmers, which is $10,033,920 in total burden cost.

We also estimated 212 parent organizations will create two template notices to notify beneficiaries and prescribers under the modifications of § 423.120(c)(6). We estimated this will take 3 hours per entity for a total of 636 hours. We estimated an hourly rate of $45.54 for a business operation specialist to create such notices. Thus, the total estimated burden cost for parent organizations to create two model notices is $28,963.44.

Once the templates have been developed, we estimated that these notices would take an average of 5 minutes (0.083 hours) to prepare. Thus, we estimated the annual burden hours for 2016 to be 1,743,000 hours. This is based upon the national median hourly rate of $26.22 for an insurance claim and policy processing clerk multiplied by the number of burden hours. The estimated annual burden cost for 2016 is $45,701,460.

Therefore, we estimated the total regulatory impact for these provisions in 2016 to be $55,764,343.44 ($10,033,920 + $28,963.44 + $45,701,460).

Approximately 2 million beneficiaries enter the Part D program every year. If we assume that 25 percent of these new beneficiaries will see 1 prescriber who is not enrolled or opted out, and that prescriber prescribes 2 drugs, we anticipate that parent organizations will have to send 1 million notices in 2017 and 2018 each (250,000 beneficiaries × 2 prescriptions × 2 notices each = 1,000,000). We estimate these notices would take an average of 5 minutes (0.083 hours) to prepare. Thus, we estimate the total burden to be 83,000 hours for each year, and the annual cost to be $2,176,260. This is based upon the national median hourly rate of $26.22 for insurance claim and policy processing clerk multiplied by the number of burden hours.

Table 1 outlines the projected costs of this IFC commencing 2016 through 2018:

TABLE 1—PROJECTED BURDEN COSTS

	Programming	Create notices	Send notices	Annual impact
2016	$10,033,920	$28,963.44	$45,701,460	$55,764,343.44
2017	N/A	N/A	2,176,260	2,176,260

TABLE 1—PROJECTED BURDEN COSTS—Continued

	Programming	Create notices	Send notices	Annual impact
2018	N/A	N/A	2,176,260	2,176,260

If you comment on these information collection and recordkeeping requirements, please do either of the following:

1. Submit your comments electronically as specified in the **ADDRESSES** section of this interim final rule with comment period; or

2. Submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: CMS Desk Officer, [CMS–6107–IFC]; Fax: (202) 395–6974; or Email: *OIRA_submission@omb.eop.gov.*

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Regulatory Impact Statement

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4) and Executive Order 13132 on Federalism (August 4, 1999).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). The impact of this IFC is directly associated with the information collection requirements discussed in section IV. of this IFC and will not exceed $100 million in any one year. Therefore, this is IFC is not a major rule.

The average Part D beneficiary takes 9 drugs prescribed by three prescribers annually. Based on 2013 PDE data, approximately 380,000 (28 percent) Part D prescribers were not found in the Provider Enrollment, Chain, and Ownership System (PECOS) and are associated with just under 8,000,000 unique beneficiaries. Generally, PECOS is the CMS record database of all physicians and eligible professionals who are or were enrolled in or opted out of Medicare. Thus, these prescribers write prescriptions on average for 21 beneficiaries (8,000,000/380,000 = 21). For purposes of this analysis, we assumed that on January 1, 2016, 250,000 prescribers will still need to enroll in or opt-out of Medicare to prescribe coverable Part D drugs. We also assume that these 250,000 prescribers will write prescriptions for 5.25 million beneficiaries (250,000 × 21). We further assume that no beneficiaries will switch prescribers until they receive a notice that a drug is being covered on a provisional basis. Additionally, we assumed that these prescribers will write on average two prescriptions for each of these beneficiaries. We assumed that Part D parent organizations will be able to send each prescriber a notice. Finally, we did not offset our estimation in light of our expectation that, in some cases, transition and provisional supply notices will be combined into one notice. We estimated that parent organizations will send 21 million beneficiary and prescriber notices in accordance with the modifications to § 423.120(c)(6) in 2016 (5,250,000 beneficiaries × 2 prescriptions × 2 notices each = 21,000,000), which we expect to occur as a downward trend that we do not reflect in this analysis.

Prescribers are expected to enroll on a steady basis throughout 2016 as a result of the prescriber enrollment requirements. By 2017, we expect that the majority of Part D prescribers will have enrolled in or opted out of Medicare in order for their prescriptions to be coverable by the Part D program. When a prescriber does not enroll or opt out, the beneficiary will either change to a prescriber who is enrolled or opted out, or the beneficiary will pay out of pocket for the prescriptions written by that prescriber. Nevertheless, parent organizations will have to send notices on an ongoing basis to beneficiaries who are new to the Part D program and receive a prescription from a prescriber who is not enrolled in or opted out of Medicare.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most entities and most other providers and suppliers are small entities, either by nonprofit status or by having revenues between $7.5 million and $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We do not believe that this IFC would have a significant economic impact on a substantial number of small businesses, as Part D sponsors and parent organizations do not generally meet the definition of a small business.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined and the Secretary certified that this IFC would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2015, this is approximately $144 million. We believe that this IFC will have no consequential effect on state, local or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirements or costs on state and local governments, preempts state law, or

otherwise has federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable. In accordance with the provisions of Executive Order 12866, this IFC was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 423

Administrative practice and procedure, Emergency medical services, Health facilities, Health maintenance organizations (HMO), Health professionals, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons stated in the preamble of this interim final rule with comment period, the Centers for Medicare & Medicaid Services amends 42 CFR part 423 as follows:

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG PROGRAM

■ 1. The authority citation for part 423 continues to read as follows:

Authority: Secs. 1102, 1106, 1860D–1 through 1860D–42, and 1871 of the Social Security Act (42 U.S.C. 1302, 1306, 1395w–101 through 1395w–152, and 1395hh).

■ 2. Amend § 423.100 by adding a definition of ''Other authorized prescriber'' in alphabetical order to read as follows:

§ 423.100 Definitions.

* * * * *

Other authorized prescriber means, for purposes of § 423.120(c)(6) only, an individual other than a physician (as defined in section 1861(r) of the Act) or eligible professional (as defined in section 1848(k)(3)(B) of the Act) who is authorized under State or other applicable law to write prescriptions.

* * * * *

■ 3. Amend § 423.120 by revising paragraphs (c)(5) introductory text and (c)(6) to read as follows:

§ 423.120 Access to covered Part D drugs.

* * * * *

(c) * * *

* * * * *

(5) Before January 1, 2016, the following are applicable:

* * * * *

(6) Beginning January 1, 2016, the following are applicable:

(i) A Part D plan sponsor must reject, or must require its pharmaceutical benefit manager (PBM) to reject, a pharmacy claim for a Part D drug unless the claim contains the active and valid National Provider Identifier (NPI) of the prescriber who prescribed the drug.

(ii)(A) Except as provided in paragraph (c)(6)(v) of this section, a Part D plan sponsor must reject, or must require its PBM to reject, a pharmacy claim for a Part D drug unless the physician or, when permitted by applicable State law, the eligible professional (as defined in section 1848(k)(3)(B) of the Act) who prescribed the drug—

(*1*) Is enrolled in the Medicare program in an approved status; or

(*2*) Has a valid opt-out affidavit on file with a Part A/B Medicare Administrative Contractor (MAC).

(B) Pharmacy claims for Part D drugs prescribed by an other authorized prescriber (as defined in § 423.100) are not subject to the requirements specified in paragraph (c)(6)(ii)(A) of this section.

(iii) Except as provided in paragraph (c)(6)(v) of this section, a Part D plan sponsor must deny, or must require its PBM to deny, a request for reimbursement from a Medicare beneficiary unless the request pertains to a Part D drug that was prescribed by—

(A) A physician or, when permitted by applicable State law, other eligible professional (as defined in section 1848(k)(3)(B) of the Act) who is identified by name in the request and who—

(*1*) Is enrolled in Medicare in an approved status; or

(*2*) Has a valid opt-out affidavit on file with a Part A/B MAC; or

(B) An other authorized prescriber (as defined in § 423.100) who is identified by name in the request.

(iv) A Part D plan sponsor submitting a prescription drug event (PDE) to CMS must include on the PDE the active and valid individual NPI of the prescriber of the drug, who must—

(A)(*1*) Be enrolled in Medicare in an approved status, or

(*2*) Have a valid opt out affidavit on file with a Part A/B MAC; or

(B) Be an other authorized prescriber (as defined in § 423.100).

(v)(A) A Part D sponsor or its PBM must not reject a pharmacy claim for a Part D drug under paragraph (c)(6)(ii) of the section or deny a request for reimbursement under paragraph (c)(6)(iii) of this section unless the sponsor has provided the provisional coverage of the drug and written notice to the beneficiary required by paragraph (c)(6)(v)(B) of this section.

(B) Upon receipt of a pharmacy claim or beneficiary request for reimbursement for a Part D drug that a Part D sponsor would otherwise be required to reject or deny in accordance with paragraphs (c)(6)(ii) or (iii) of this section, a Part D sponsor or its PBM must do the following:

(*1*) Provide the beneficiary with the following, subject to all other Part D rules and plan coverage requirements:

(*i*) A 3-month provisional supply of the drug (as prescribed by the prescriber and if allowed by applicable law).

(*ii*) Written notice within 3 business days after adjudication of the claim or request in a form and manner specified by CMS.

(*2*) Ensure that reasonable efforts are made to notify the prescriber of a beneficiary who was sent a notice under paragraph (c)(6)(v)(B)(*1*)(*ii*) of this section.

* * * * *

Dated: April 17, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: April 29, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2015–10545 Filed 5–1–15; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XD901

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for South Atlantic Gray Triggerfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for gray triggerfish, will reach the commercial annual catch limit (ACL) on May 8, 2015. Therefore, NMFS is closing the commercial sector for gray triggerfish in the South Atlantic EEZ on May 8, 2015, and it will remain closed until NMFS announces the start of the next fishing season. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, May 8, 2015, until NMFS

announces the start of the next fishing season by publishing a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *catherine.hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes gray triggerfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for gray triggerfish in the South Atlantic is 272,880 lb (123,776 kg), round weight, for the current fishing year, January 1 through December 31, 2015, as specified in 50 CFR 622.193(q)(1)(i).

Under 50 CFR 622.193(q)(1)(i), NMFS is required to close the commercial sector for gray triggerfish when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for South Atlantic gray triggerfish will be reached on May 8, 2015. Accordingly, the commercial sector for South Atlantic gray triggerfish is closed effective 12:01 a.m., local time, May 8, 2015, until NMFS announces the start of the next fishing season.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having gray triggerfish on board must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, May 8, 2015. During the closure, the bag limit specified in 50 CFR 622.187(b)(8), applies to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the sale or purchase of gray triggerfish taken from the South Atlantic EEZ is prohibited.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and sale and purchase provisions of the commercial closure for gray triggerfish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.193(q)(1)(i).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of gray triggerfish and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(q)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 1, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–10595 Filed 5–1–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140918791–4999–02]

RIN 0648–XD929

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2015 Chinook salmon prohibited species catch limit established for non-Rockfish Program catcher vessels using trawl gear and directed fishing for groundfish, other than pollock, in the Western and Central Regulatory Areas of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), May 3, 2015, through 2400 hours, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2015 Chinook salmon prohibited species catch (PSC) limit for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA is 2,700 Chinook salmon (§ 679.21(i)(3)(i)(C)).

In accordance with § 679.21(i)(7), the Regional Administrator has determined that the 2015 Chinook salmon PSC limit established for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central

Regulatory Areas of the GOA has been reached. Therefore, NMFS is prohibiting directed fishing for groundfish (except for pollock) by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay closing directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 30, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 1, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–10601 Filed 5–1–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 87
Wednesday, May 6, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 900

[Docket No. AMS–FV–14–0072; FV14–900–2 PR]

Clarification of United States Antitrust Laws, Immunity, and Liability Under Marketing Order Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on an amendment to the general regulations for federal fruit, vegetable, and specialty crop marketing agreements and marketing orders that would accentuate the applicability of U.S. antitrust laws to marketing order programs' domestic and foreign activities. This action would also advise marketing order board and committee members and personnel of the restrictions, limitations, and liabilities imposed by those laws.

DATES: Comments must be received by June 5, 2015.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Michelle P. Sharrow, Rulemaking Branch Chief, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Michelle.Sharrow@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under the general regulations for federal marketing agreements and orders (7 CFR part 900), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' This action would add a new § 900.202 (Restrictions applicable to Committee personnel) under ''Subpart—Miscellaneous Regulations'' to accentuate the applicability of U.S. antitrust laws to marketing order program activities.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Federal marketing order boards and committees have always been subject to U.S. antitrust laws. These boards and committees work with USDA in administering marketing order programs which, among other things, authorizes them, with approval of the Secretary, to establish and promote a program's domestic and foreign marketing activities. The Act immunizes board and committee members and employees from prosecution under U.S. antitrust laws so long as their conduct is authorized by the Act or provisions of a marketing order. This proposal is intended to accentuate the applicability of U.S. antitrust laws to marketing order board and committee members and personnel in light of changing global marketing and production trends as well as to advise boards and committees of the restrictions, limitations, and liabilities of those laws. Under these laws, Committee members and employees may not engage in any unauthorized agreement or concerted action that unreasonably restrains United States domestic or foreign commerce. Failing to adhere to antitrust laws may lead to prosecution under the antitrust laws by the United States Department of Justice and/or suit by injured private persons seeking treble damages, and may also result in expulsion of members from the Committee or termination of employment with the Committee.

Initial Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf.

There are approximately 1,090 handlers who are subject to regulation under the 28 federal marketing order programs and approximately 33,100 producers in the regulated areas. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201). USDA estimates that many of these handlers and producers may be classified as small entities. This rule would accentuate the applicability of U.S. antitrust laws to marketing order programs' domestic and foreign activities. This action would also advise marketing order board and committee members and personnel of the restrictions, limitations, and liabilities imposed by those laws.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS has discussed the changes to the regulations with all marketing order board and committee staff that it oversees. Moreover, AMS conducted refresher training on antitrust laws for marketing order board and committee staff and officers at the Marketing Order Management Conference on September 23–24, 2014. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because federal marketing order boards and committees have always been subject to U.S. antitrust laws. AMS is simply updating the regulations to reemphasize the applicability of U.S. antitrust laws in light of global marketing and production trends. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 900

Administrative practice and procedure, Freedom of information, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR part 900 is proposed to be amended as follows:

PART 900—GENERAL REGULATIONS

■ 1. The authority citation for 7 CFR part 900 continues to read as follows:

Authority: 7 U.S.C. 601–674 and 7 U.S.C. 7401.

Subpart—Miscellaneous Regulations

■ 2. The authority citation for Subpart—Miscellaneous Regulations continues to read as follows:

Authority: Sec. 10, 48 Stat. 37, as amended; 7 U.S.C. 610.

■ 3. Add new section 900.202 to read as follows:

§ 900.202 Restrictions applicable to Committee personnel.

Members and employees of Federal marketing order boards and committees are immune from prosecution under the United States antitrust laws only insofar as their conduct in administering the respective marketing order is authorized by the Agricultural Marketing Agreement Act of 1937, 7 U.S.C. 601–674, or the provisions of the respective order. Under the antitrust laws, Committee members and employees may not engage in any unauthorized agreement or concerted action that unreasonably restrains United States domestic or foreign commerce. For example, Committee members and employees have no authority to participate, either directly or indirectly, whether on an informal or formal, written or oral basis, in any bilateral or international undertaking or agreement with any competing foreign producer or seller or with any foreign government, agency, or instrumentality acting on behalf of competing foreign producers or sellers to (a) raise, fix, stabilize, or set a floor for commodity prices, or (b) limit the quantity or quality of commodity imported into or exported from the United States. Participation in any such unauthorized agreement or joint undertaking could result in prosecution under the antitrust laws by the United States Department of Justice and/or suit by injured private persons seeking treble damages, and could also result in expulsion of members from the Committee or termination of employment with the Committee.

Dated: April 30, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–10447 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–132634–14]

RIN 1545–BM43

Qualifying Income From Activities of Publicly Traded Partnerships With Respect to Minerals or Natural Resources

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 7704(d)(1)(E) of the Internal Revenue Code (Code) relating to qualifying income from exploration, development, mining or production, processing, refining, transportation, and marketing of minerals or natural resources. The proposed regulations affect publicly traded partnerships and their partners.

DATES: Comments and requests for a public hearing must be received by August 4, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–132634–14), 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–132634–14), 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–132634–14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Caroline E. Hay at (202) 317–5279; concerning the submissions of comments and requests for a public

hearing, Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 7704(d)(1)(E) regarding qualifying income from certain activities with respect to minerals or natural resources.

Congress enacted section 7704 in the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203 (101 Stat. 1330 (1987)), due to concerns that the rapid growth of certain publicly traded partnerships was eroding the corporate tax base. See H.R. Rep. No. 100–391, at 1065 (1987). Section 7704(a) provides that, as a general rule, publicly traded partnerships will be treated as corporations. In section 7704(c), Congress provided an exception from this rule if 90 percent or more of the partnership's gross income is ''qualifying income.'' Qualifying income is generally passive-type income, such as interest, dividends, and rent. Section 7704(d)(1)(E) provides, however, that qualifying income also includes income and gains derived from the exploration, development, mining or production, processing, refining, transportation, or marketing of minerals or natural resources. Section 7704(d)(1) defines the term ''mineral or natural resource'' as any product for which a deduction for depletion is allowed under section 611, except soil, sod, dirt, turf, water, mosses, or minerals from sea water, the air, or other similar inexhaustible sources.

Regulations have been published providing guidance on (1) when a partnership is publicly traded (§ 1.7704–1), (2) transition rules for partnerships in existence prior to the effective date of section 7704 (§ 1.7704–2), and (3) qualifying income from certain financial products (§ 1.7704–3). No regulations have been issued under section 7704(d)(1)(E). Instead, questions about the specific application of section 7704(d)(1)(E) generally have been resolved by private letter ruling. However, the number of private letter ruling requests received has increased steadily from five or fewer requests per year for most years before 2008 to more than 30 requests received in 2013. Many of these requests seek rulings that income from support services provided to businesses engaged in the section 7704(d)(1)(E) activities is qualifying income for purposes of section 7704. The Treasury Department and the IRS are issuing these proposed regulations in response to this increased interest in the application of section 7704(d)(1)(E).

These proposed regulations provide guidance on whether income from activities with respect to minerals or natural resources as defined in section 7704(d)(1) is qualifying income. These regulations do not address the transportation or storage of any fuel described in section 6426(b), (c), (d), or (e), or activities with respect to industrial source carbon dioxide, any alcohol fuel defined in section 6426(b)(4)(A), or any biodiesel fuel as defined in section 40A(d)(1). The Treasury Department and the IRS request comments concerning whether guidance is also needed with respect to those activities and, if so, the specific issues such guidance should address.

Explanation of Provisions

These proposed regulations use the term ''qualifying activities'' to describe activities relating to minerals or natural resources that generate qualifying income. Qualifying activities include: (1) The exploration, development, mining or production, processing, refining, transportation, or marketing of minerals or natural resources (section 7704(d)(1)(E) activities), and (2) certain limited support activities that are intrinsic to section 7704(d)(1)(E) activities (an ''intrinsic activity''). These proposed regulations set forth the requirements under which an activity is a qualifying activity.

1. Section 7704(d)(1)(E) Activities

Section 7704(d)(1)(E) activities represent different stages in the extraction of minerals or natural resources and the eventual offering of products for sale. These stages include exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), and marketing of any mineral or natural resource (including fertilizer, geothermal energy, and timber). Each of these stages involves various types of operations. Based in part on discussions with IRS engineers specializing in the various oil and natural resource fields, the proposed regulations provide an exclusive list of operations that comprise the section 7704(d)(1)(E) activities for purposes of section 7704. This list may be expanded by published guidance. The Treasury Department and the IRS intend that this list represents only those activities that would be undertaken by an exploration and development company, a mining or production company, a refiner or processor, or a transporter or marketer of a mineral or natural resource. Services provided to those businesses are not section 7704(d)(1)(E) activities, although they may qualify as intrinsic activities. The Treasury Department and the IRS request comments concerning whether additional activities should be included in the list of section 7704(d)(1)(E) activities.

A. Exploration

These proposed regulations define exploration as an activity performed to ascertain the existence, location, extent, or quality of any deposit of mineral or natural resource before the beginning of the development stage of the natural deposit. A partnership is engaged in exploration if the partnership: (i) Drills an exploratory or stratigraphic type test well; (ii) conducts drill stem and production flow tests to verify commerciality of the deposit; (iii) conducts geological or geophysical surveys; or (iv) interprets data obtained from geological or geophysical surveys. For minerals, exploration also includes testpitting, trenching, drilling, driving of exploration tunnels and adits, and similar types of activities described in Rev. Rul. 70–287 (1970–1 CB 146) if conducted prior to development activities with respect to the minerals.

B. Development

These proposed regulations define development as an activity performed to make minerals or natural resources accessible. A partnership is engaged in development if the partnership: (i) Drills wells to access deposits of mineral or natural resources; (ii) constructs and installs drilling, production, or dual purpose platforms in marine locations (or constructs and installs any similar supporting structures necessary for extraordinary non-marine terrain such as swamps or tundra); (iii) completes wells including by installing lease and well equipment (such as pumps, flow lines, separators, and storage tanks) so that wells are capable of producing oil and gas, and the production can be removed from the premises; (iv) performs a development technique (for example, fracturing for oil and natural gas, or, with respect to minerals, stripping, benching and terracing, dredging by dragline, stoping, and caving or room-and-pillar excavation); or (v) constructs and installs gathering systems and custody transfer stations.

C. Mining or Production

These proposed regulations define mining or production as an activity performed to extract minerals or other natural resources from the ground. A partnership is engaged in mining or production if the partnership: (i)

Operates equipment to extract natural resources from mines or wells, or (ii) operates equipment to convert raw mined products or raw well effluent to substances that can be readily transported or stored (including by passing crude oil through mechanical separators to remove gas, placing crude oil in settling tanks to recover basic sediment and water, dehydrating crude oil, and operating heater-treaters that separate raw oil well effluent into crude oil, natural gas, and salt water).

D. Processing or Refining

Because processing and refining activities vary with respect to different minerals or natural resources, these proposed regulations provide industry-specific rules (described herein) for when an activity qualifies as processing or refining. In general, however, these proposed regulations provide that an activity is processing or refining if it is done to purify, separate, or eliminate impurities. These proposed regulations further require that, for an activity to be treated as processing or refining, the partnership's position that an activity is processing or refining for purposes of section 7704 must be consistent with the partnership's designation of an appropriate Modified Accelerated Cost Recovery System (MACRS) class life for assets used in the activity in accordance with Rev. Rul. 87–56 (1987–2 CB 27) (for example, MACRS asset class 13.3 for petroleum refining facilities). In addition, except as specifically provided otherwise, processing or refining does not include activities that cause a substantial physical or chemical change in a mineral or natural resource, or that transform the extracted mineral or natural resource into new or different mineral products, including manufactured products. The Treasury Department and the IRS believe that this rule is consistent with definitions found elsewhere in the Code and regulations. See, for example, § 1.613–4(g)(5).

With respect to natural gas, an activity is processing or refining only if the activity purifies natural gas, including by removal of oil or condensate, water, and non-hydrocarbon gases (including carbon dioxide, hydrogen sulfide, nitrogen, and helium), or separates natural gas into its constituents which are normally recovered in a gaseous phase (for example, methane and ethane) and those which are normally recovered in a liquid phase (for example, propane and butane, pentane and gas condensate). It is generally anticipated that activities that create the products listed in the 2012 version (the most recent version as of the date of publication of these proposed regulations) of North American Industry Classification System (NAICS) code 211112 concerning natural gas liquid extraction will be qualifying activities. Processing will also include converting methane in one integrated conversion into liquid fuels that are otherwise produced from the processing of crude oil, as described in the following paragraph.

With respect to crude oil, an activity is processing or refining if the activity is performed to physically separate crude oil into its component parts, including, but not limited to, naphtha, gasoline, kerosene, fuel oil, lubricating base oils, waxes, and similar products. An activity that chemically converts the physically separated components is processing or refining of crude oil only if one or more of the products of the conversion are recombined with other physically separated components of crude oil in a manner that is necessary to the cost-effective production of gasoline or other fuels (for example, gas oil converted to naphtha through a cracking process that is hydrotreated and combined into gasoline). It is generally anticipated that activities within a refinery that create the products that are listed in the 2012 version (the most recent version as of the date of publication of these proposed regulations) of NAICS code 324110 concerning petroleum refineries will be qualifying activities, if those products are refinery grade products that are obtained in the steps required to make fuels, lubricating base oils, waxes, and similar products. Additionally, physically separating any product that is itself generated by the processing or refining of crude oil is a qualifying activity for purposes of section 7704(d)(1)(E).

The production of plastics and similar petroleum derivatives does not give rise to qualifying income derived from processing or refining. See H.R. Rep. No. 100–495, at 947 (1987) (Conf. Rep.). The following products are also not qualifying products under this standard: (1) Heat, steam, or electricity produced by the refining processes; (2) products that are obtained from third parties or produced onsite for use in the refinery, such as hydrogen, if excess amounts are sold; and (3) any product that results from further chemical change of the product produced from the separation of the crude oil if it is not combined with other products separated from the crude oil (for example, production of petroleum coke from heavy (refinery) residuum qualifies, but any upgrading of petroleum coke (such as to anode-grade coke) does not qualify because it is further chemically changed).

With respect to ores and minerals, an activity is processing or refining if the activity is listed in Treasury Regulation § 1.613–4(f)(1)(ii) or (g)(6)(iii). Generally, refining of ores and minerals is any activity that eliminates impurities or foreign matter from smelted or partially processed metallic and nonmetallic ores and minerals, as for example, the refining of blister copper.

With respect to timber, an activity is processing if it merely modifies the physical form of timber. Processing includes the application of heat or pressure to timber without adding any foreign substances. Processing of timber does not include activities that use chemicals or other foreign substances to manipulate timber's physical or chemical properties, such as using a digester to produce pulp. Products that result from timber processing include wood chips, sawdust, untreated lumber, veneers (unless a foreign substance is added), wood pellets, wood bark, and rough poles. Products that are not the result of timber processing include pulp, paper, paper products, treated lumber, oriented strand board, plywood, and treated poles.

These proposed regulations reserve the provisions relating to fertilizer. The Treasury Department and the IRS request comments on what activities should be included.

E. Transportation

These proposed regulations define transportation as the movement of minerals or natural resources and products produced from processing and refining, including by pipeline, barge, rail, or truck. Transportation also includes terminalling, providing storage services, and operating custody transfer stations and gathering systems. Transportation includes the construction of a pipeline only to the extent that a pipe is run to connect a client to a preexisting interstate or intrastate line owned by the publicly traded partnership (interconnect agreement). Transportation (except for pipeline transportation) does not include transportation of oil or gas (or oil or gas products) to a place that sells or dispenses to retail customers. See H.R. Rep. No. 100–795, at 401 (1988). The legislative history accompanying section 7704 clarifies that ''a retail customer does not include a person who acquires the oil or gas for refining or processing, or partially refined or processed products thereof for further refining or processing, . . . [or a] utility providing power to customers.'' See H. R. Rep. No. 100–1104, vol. 2, at 18 (1988) (Conf. Rep.). By contrast, ''transporting refined petroleum

products by truck to retail customers is not a qualifying activity.'' Id. However, transportation includes bulk transportation, so long as the transportation is not to a place that sells or dispenses oil and gas (or oil and gas products) to retail customers. See S. Rep. No. 100–445, at 424 (1988).

F. Marketing

These proposed regulations define marketing as the activities undertaken to facilitate sale of minerals or natural resources, or products produced from processing and refining. Marketing may also include some additive blending into fuels provided to a customer's specification. The legislative history of section 7704 provides that marketing does not include activities and assets involved primarily in sales ''to end users at the retail level.'' S. Rep. No. 100–445, at 424 (1988). Therefore, marketing does not include retail sales (sales made in small quantities directly to end users). For example, gas station operations are not included in marketing for purposes of section 7704(d)(1)(E). Id. However, marketing includes bulk and wholesale sales made to end users. See, for example, H.R. Rep. 100–1104, at 18 (1988) (Conf. Rep.) (with respect to fertilizer) and incorporating in footnote 1, 133 Cong. Rec. 37957 (December 22, 1987) (statement of Sen. Bentsen with respect to propane).

2. Intrinsic Activities

The Treasury Department and the IRS believe that certain limited support activities intrinsic to section 7704(d)(1)(E) activities also give rise to qualifying income because the income is ''derived from'' the section 7704(d)(1)(E) activities. The proposed regulations set forth three requirements for a support activity to be intrinsic to section 7704(d)(1)(E) activities. An activity will qualify as an intrinsic activity only if the activity is specialized to support the section 7704(d)(1)(E) activity, is essential to the completion of the section 7704(d)(1)(E) activity, and requires the provision of significant services to support the section 7704(d)(1)(E) activity. If each of these requirements is met, the activity is an intrinsic activity, and any income received from the activity is qualifying income. The Treasury Department and IRS intend that intrinsic activities constitute active support of section 7704(d)(1)(E) activities, and not merely the supply of goods.

A. Specialized

An activity meets the first requirement of the intrinsic test if both the personnel performing the activity and any property used in the activity or sold to the customer performing the section 7704(d)(1)(E) activity are specialized. Personnel are specialized if they have received training unique to the mineral or natural resource industries that is of limited utility other than to perform or support a section 7704(d)(1)(E) activity. An activity cannot be an intrinsic activity without specialized service personnel because all intrinsic activities require the provision of significant services (as described in part 3.C of the Explanation of Provisions section of this Preamble). For example, catering services provided to employees at a drilling site would not give rise to qualifying income because catering services do not require skills (or equipment as explained below) limited to supporting a section 7704(d)(1)(E) activity. As such, catering services are not intrinsic activities and any income from those services is not qualifying income for purposes of section 7704(c).

If an activity also involves the sale, provision, or use of property, then the property must qualify as specialized for the activity to be an intrinsic activity. The proposed regulations provide two alternative tests under which that property can qualify as specialized. Under the first test, property is specialized if it is used only in connection with section 7704(d)(1)(E) activities and has limited use outside of those activities. That property must also not be easily converted to a use other than performing or supporting a section 7704(d)(1)(E) activity. Whether property is easily converted is determined based on all facts and circumstances, including the cost to convert the property.

Under the second test, property that can be used for purposes other than to perform or support a section 7704(d)(1)(E) activity will qualify as specialized to the extent that the property is used as an injectant to perform a section 7704(d)(1)(E) activity, and, as part of the activity, the partnership also collects and cleans, recycles, or otherwise disposes of the injectant after use in accordance with federal, state, or local regulations concerning waste products from mining or production activities. Injectants under this definition include, for example, water, lubricants, and sand used in connection with section 7704(d)(1)(E) activities.

B. Essential

An activity meets the second requirement of the intrinsic test if the activity is essential to a section 7704(d)(1)(E) activity. An activity is essential if it is necessary to (a) physically complete the section 7704(d)(1)(E) activity (including in a cost effective manner in order to make the activity economically viable), or (b) comply with federal, state or local law regulating the section 7704(d)(1)(E) activity. For example, water delivery and disposal services are essential when provided for use in fracturing because the water must be used to complete the drilling operations (a development activity under section 7704(d)(1)(E)) and because the water disposal services must be performed to comply with federal, state, or local law regulating drilling and fracturing. Legal, financial, consulting, accounting, insurance, and other similar services are not essential to a section 7704(d)(1)(E) activity because the connection to completion of the section 7704(d)(1)(E) activity is too attenuated.

C. Significant Services

An activity meets the third requirement of the intrinsic test if the activity includes the provision of significant services. A partnership provides significant services if its personnel have an ongoing or frequent presence at the site of the section 7704(d)(1)(E) activity and the activities of those personnel are necessary for the partnership to provide its services or to support the section 7704(d)(1)(E) activity. A partnership that provides the same services to multiple clients may satisfy this test by performing the activity through a rotating presence at multiple sites. For this purpose, determining whether services are ongoing or frequent is determined under all facts and circumstances, including recognized best practices in the relevant industry. The Treasury Department and the IRS request comments on whether and how this requirement could be set forth as an objective standard.

In addition, the proposed regulations acknowledge that a qualifying activity in which the partnership engages could require extensive offsite services. Therefore, these proposed regulations provide that the services may be conducted offsite if the services are performed on an ongoing or frequent basis and offered exclusively for those engaged in one or more section 7704(d)(1)(E) activities. For example, monitoring services will satisfy the significant services requirement if the monitoring is done on an ongoing or frequent basis only to support persons engaged in one or more section 7704(d)(1)(E) activities.

The proposed regulations also identify certain activities that do not qualify as significant services because

they involve the manufacture and sale or temporary provision of a good. Thus, the design, construction, manufacturing, repair, maintenance, lease, rent, or temporary provision of assets is not taken into account when determining whether a partnership has provided significant services.

Proposed Effective/Applicability Date and Transition Rules

Except for rules concerning the Transition Period, these regulations are proposed to apply to income earned by a partnership in a taxable year beginning on or after the date these regulations are published as final regulations in the **Federal Register**. These regulations also provide for a Transition Period, which ends on the last day of the partnership's taxable year that includes the date that is ten years after the date that these regulations are published as final regulations in the **Federal Register**.

The proposed regulations provide that a partnership may treat income from an activity as qualifying income during the Transition Period if the partnership received a private letter ruling from the IRS holding that income from the activity is qualifying income. In addition, a partnership may treat income from an activity as qualifying income during the Transition Period if, prior to May 6, 2015, the partnership was publicly traded, engaged in the activity, and treated the activity as giving rise to qualifying income under section 7704(d)(1)(E), and that income was qualifying income under the statute as reasonably interpreted prior to the issuance of these proposed regulations. In determining whether an interpretation was reasonable, the legislative history and interpretations applied by the IRS prior to the issuance of these proposed regulations are taken into account. An interpretation was not reasonable merely because a partnership had a reasonable basis for that position. With respect to an activity undertaken prior to May 6, 2015, no inference is intended that an activity that is not described in these proposed regulations as a qualifying activity did or did not produce qualifying income under the statute and legislative history.

A partnership that is publicly traded and engages in an activity after May 6, 2015, but before the date these regulations are published as final regulations in the **Federal Register** may treat income from that activity as qualifying income during the Transition Period if the income from that activity is qualifying income under these proposed regulations.

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 proposed regulations. Because these proposed regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, 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 business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request. A public hearing will 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 the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Caroline E. Hay, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and 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 continues to read in part as follows:

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

■ **Par. 2.** Section 1.7704–4 is added to read as follows:

§ 1.7704–4 Qualifying income—mineral and natural resources.

(a) *In general.* For purposes of section 7704(d)(1)(E), qualifying income includes only income and gains from qualifying activities with respect to minerals or natural resources as defined in paragraph (b) of this section. For purposes of section 7704(d)(1)(E), qualifying activities include section 7704(d)(1)(E) activities (as described in paragraph (c) of this section) and intrinsic activities (as described in paragraph (d) of this section).

(b) *Mineral or natural resource.* The term mineral or natural resource (including fertilizer, geothermal energy, and timber) means any product of a character with respect to which a deduction for depletion is allowable under section 611, except that such term does not include any product described in section 613(b)(7)(A) or (B) (soil, sod, dirt, turf, water, mosses, minerals from sea water, the air, or other similar inexhaustible sources). For purposes of this section, the term mineral or natural resource does not include industrial source carbon dioxide, fuels described in section 6426(b) through (e), any alcohol fuel defined in section 6426(b)(4)(A), or any biodiesel fuel as defined in section 40A(d)(1).

(c) *Section 7704(d)(1)(E) activities*—(1) *Definition.* Section 7704(d)(1)(E) activities include the exploration, development, mining or production, processing, refining, transportation, or marketing of any mineral or natural resource as limited to those activities described in this paragraph (c) or as provided by the Commissioner by notice or in other forms of published guidance. No other activities qualify as section 7704(d)(1)(E) activities.

(2) *Exploration.* An activity constitutes exploration if it is performed to ascertain the existence, location, extent, or quality of any deposit of mineral or natural resource before the beginning of the development stage of the natural deposit by:

(i) Drilling an exploratory or stratigraphic type test well;

(ii) Conducting drill stem and production flow tests to verify commerciality of the deposit;

(iii) Conducting geological or geophysical surveys;

(iv) Interpreting data obtained from geological or geophysical surveys; or

(v) For minerals, testpitting, trenching, drilling, driving of exploration tunnels and adits, and similar types of activities described in Rev. Rul. 70–287 (1970–1 CB 146), (see

§ 601.601(d)(2)(ii)(*b*) of this chapter) if conducted prior to development activities with respect to the minerals.

(3) *Development.* An activity constitutes development if it is performed to make accessible minerals or natural resources by:

(i) Drilling wells to access deposits of mineral or natural resources;

(ii) Constructing and installing drilling, production, or dual purpose platforms in marine locations, or any similar supporting structures necessary for extraordinary non-marine terrain (such as swamps or tundra);

(iii) Completing wells, including by installing lease and well equipment, such as pumps, flow lines, separators, and storage tanks, so that wells are capable of producing oil and gas, and the production can be removed from the premises;

(iv) Performing a development technique such as, for minerals, stripping, benching and terracing, dredging by dragline, stoping, and caving or room-and-pillar excavation, and for oil and natural gas, fracturing; or

(vi) Constructing and installing gathering systems and custody transfer stations.

(4) *Mining or production.* An activity constitutes mining or production if it is performed to extract minerals or other natural resources from the ground by:

(i) Operating equipment to extract natural resources from mines and wells; or

(ii) Operating equipment to convert raw mined products or raw well effluent to substances that can be readily transported or stored (for example, passing crude oil through mechanical separators to remove gas, placing crude oil in settling tanks to recover basic sediment and water, dehydrating crude oil, and operating heater-treaters that separate raw oil well effluent into crude oil, natural gas, and salt water).

(5) *Processing or refining*—(i) *In general.* Except as otherwise provided in paragraph (c)(5) of this section, an activity is processing or refining if it is done to purify, separate, or eliminate impurities. For an activity to be treated as processing or refining for purposes of this section, the partnership's position that an activity is processing or refining for purposes of this section must be consistent with the partnership's designation of an appropriate Modified Accelerated Cost Recovery System (MACRS) class life for assets used in the activity in accordance with Rev. Rul. 87–56, 1987–2 CB 27 (see § 601.601(d)(2)(ii)(*b*) of this chapter). For example, for an activity to be processing or refining of crude oil under paragraph (c)(5)(iii) of this section, the assets used in that process must also have a MACRS class life of 13.3, Petroleum Refining. Unless otherwise provided in this paragraph (c)(5), an activity will not qualify as processing or refining if the activity causes a substantial physical or chemical change in a mineral or natural resource, or transforms the extracted mineral or natural resource into new or different mineral products or into manufactured products.

(ii) *Natural Gas.* An activity constitutes processing of natural gas if it is performed to:

(A) Purify natural gas, including by removal of oil or condensate, water, or non-hydrocarbon gases (including carbon dioxide, hydrogen sulfide, nitrogen, and helium);

(B) Separate natural gas into its constituents which are normally recovered in a gaseous phase (methane and ethane) and those which are normally recovered in a liquid phase (propane, butane, pentane, and gas condensate); or

(C) Convert methane in one integrated conversion into liquid fuels that are otherwise produced from petroleum.

(iii) *Petroleum*—(A) *Qualifying activities.* An activity constitutes processing or refining of petroleum if the end products of these processes are not plastics or similar petroleum derivatives and the activity is performed to:

(*1*) Physically separate crude oil into its component parts, including, but not limited to, naphtha, gasoline, kerosene, fuel oil, lubricating base oils, waxes and similar products;

(*2*) Chemically convert the physically separated components if one or more of the products of the conversion are recombined with other physically separated components of crude oil in a manner that is necessary to the cost effective production of gasoline or other fuels (for example, gas oil converted to naphtha through a cracking process that is hydrotreated and combined into gasoline); or

(3) Physically separate products created through activities described in paragraph (c)(5)(iii)(A)(*1*) or (*2*) of this section.

(B) *Non-qualifying activities.* For purposes of this section, the following products are not obtained through processing of petroleum:

(1) Heat, steam, or electricity produced by the refining processes;

(2) Products that are obtained from third parties or produced onsite for use in the refinery, such as hydrogen, if excess amounts are sold; and

(3) Any product that results from further chemical change of the product produced from the separation of the crude oil if it is not combined with other products separated from the crude oil (for example, production of petroleum coke from heavy (refinery) residuum qualifies, but any upgrading of petroleum coke (such as to anode-grade coke) does not qualify because it is further chemically changed).

(iv) *Ores and minerals.* An activity constitutes processing or refining of ores and minerals if it meets the definition of mining processes under § 1.613–4(f)(1)(ii) or refining under § 1.613–4(g)(6)(iii). Generally, refining of ores and minerals is any activity that eliminates impurities or foreign matter from smelted or partially processed metallic and nonmetallic ores and minerals, as for example the refining of blister copper.

(v) *Timber.* An activity constitutes processing of timber if it is performed to modify the physical form of timber, including by the application of heat or pressure to timber, without adding any foreign substances. Processing of timber does not include activities that add chemicals or other foreign substances to timber to manipulate its physical or chemical properties, such as using a digester to produce pulp. Products that result from timber processing include wood chips, sawdust, rough lumber, kiln-dried lumber, veneers, wood pellets, wood bark, and rough poles. Products that are not the result of timber processing include pulp, paper, paper products, treated lumber, oriented strand board/plywood, and treated poles.

(vi) *Fertilizer.* [Reserved]

(6) *Transportation.* Transportation is the movement of minerals or natural resources and products produced under paragraph (c)(4) or (5) of this section, including by pipeline, barge, rail, or truck, except for transportation (not including pipeline transportation) to a place that sells or dispenses to retail customers. Retail customers do not include a person who acquires oil or gas for refining or processing, or a utility. The following activities qualify as transportation—

(i) Providing storage services;

(ii) Terminalling;

(iii) Operating gathering systems and custody transfer stations;

(iv) Operating pipelines, barges, rail, or trucks; and

(v) Construction of a pipeline only to the extent that a pipe is run to connect a producer or refiner to a preexisting interstate or intrastate line owned by the publicly traded partnership (interconnect agreements).

(7) *Marketing.* An activity constitutes marketing if it is performed to facilitate sale of minerals or natural resources and products produced under paragraph (c)(4) or (5) of this section, including blending additives into fuels. Marketing does not include activities and assets involved primarily in retail sales (sales made in small quantities directly to end users), which includes, but is not limited to, operation of gasoline service stations, home heating oil delivery services, and local gas delivery services.

(d) *Intrinsic activities*—(1) *General requirements.* An activity is an intrinsic activity only if the activity is specialized to support a section 7704(d)(1)(E) activity, is essential to the completion of the section 7704(d)(1)(E) activity, and requires the provision of significant services to support the section 7704(d)(1)(E) activity. Whether an activity is an intrinsic activity is determined on an activity-by-activity basis.

(2) *Specialization.* An activity is a specialized activity if:

(i) The partnership provides personnel to perform or support a section 7704(d)(1)(E) activity and those personnel have received training unique to the mineral or natural resource industry that is of limited utility other than to perform or support a section 7704(d)(1)(E) activity; and

(ii) To the extent that the activity includes the sale, provision, or use of property, either:

(A) The property is primarily tangible property that is dedicated to, and has limited utility outside of, section 7704(d)(1)(E) activities and is not easily converted (based on all the facts and circumstances, including the cost to convert the property) to another use other than supporting or performing the section 7704(d)(1)(E) activities; or

(B) The property is used as an injectant to perform a section 7704(d)(1)(E) activity that is also commonly used outside of section 7704(d)(1)(E) activities (such as water, lubricants, and sand) and, as part of the activity, the partnership also collects and cleans, recycles, or otherwise disposes of the injectant after use in accordance with federal, state, or local regulations concerning waste products from mining or production activities.

(3) *Essential*—(i) An activity is essential to the section 7704(d)(1)(E) activity if it is required to—

(A) Physically complete a section 7704(d)(1)(E) activity (including in a cost effective manner, such as by making the activity economically viable), or

(B) Comply with federal, state, or local law regulating the section 7704(d)(1)(E) activity.

(ii) Legal, financial, consulting, accounting, insurance, and other similar services do not qualify as essential to a section 7704(d)(1)(E) activity.

(4) *Significant services*—(i) An activity requires significant services to support the section 7704(d)(1)(E) activity if it must be conducted on an ongoing or frequent basis by the partnership's personnel at the site or sites of the section 7704(d)(1)(E) activities. Alternatively, those services may be conducted offsite if the services are performed on an ongoing or frequent basis and are offered exclusively to those engaged in one or more section 7704(d)(1)(E) activities. Whether services are conducted on an ongoing or frequent basis is determined based on all the facts and circumstances, including recognized best practices in the relevant industry.

(ii) Partnership personnel perform significant services only if those services are necessary for the partnership to perform an activity that is essential to the section 7704(d)(1)(E) activity, or to support the section 7704(d)(1)(E) activity.

(iii) An activity does not constitute significant services with respect to a section 7704(d)(1)(E) activity if the activity principally involves the design, construction, manufacturing, repair, maintenance, lease, rent, or temporary provision of property.

(e) *Examples.* The following examples illustrate the provisions of this section:

Example 1. Petrochemical products sourced from an oil and gas well. (i) Z, a publicly traded partnership, chemically converts a mixture of ethane and propane (obtained from physical separation of natural gas) into ethylene, propylene, and other gases through use of a steam cracker.

(ii) Z's activities chemically convert physically separated components of natural gas. The chemical conversion of physically separated components of natural gas (ethane and propane) is not an activity that gives rise to qualifying income under paragraph (c)(5)(ii) of this section. Therefore, the income Z receives from the sale of ethylene and propylene is not qualifying income for purposes of section 7704(d)(1)(E).

Example 2. Petroleum streams chemically converted into refinery grade olefins byproducts. (i) Y, a publicly traded partnership, owns a petroleum refinery. Y classifies Y's assets used in the activity described in this paragraph under MACRS class 13.3 (Petroleum Refining). The refinery physically separates crude oil, obtaining heavy gas oil. The refinery then uses a catalytic cracking unit to chemically convert the heavy gas oil into a liquid stream suitable for gasoline blending and a gas stream containing ethane, ethylene, and other gases. The refinery also further physically separates the gas steam without additional chemical change, resulting in refinery grade ethylene. Y sells the ethylene to a third party.

(ii) Y's activities are performed to physically separate crude oil into its component parts and to chemically convert the separated heavy gas oil into a liquid stream for recombining with other physically separated components of crude oil. Y has classified its assets used in that activity under an appropriate MACRS code pursuant to paragraph (c)(5)(i) of this section. Income Y receives from the liquid stream is qualifying income pursuant to paragraph (c)(5)(iii)(A)(*2*) of this section. Y's further physical separation of the gas stream produces ethane, ethylene, and other gases. Pursuant to paragraph (c)(5)(iii)(A)(*3*), income Y receives from the physically separated gases is qualifying income because the heavy gas oil was chemically converted as part of a processing activity pursuant to paragraph (c)(5)(iii)(A)(*2*) of this section.

Example 3. Processing methane gas into synthetic fuels through chemical change. (i) Y, a publicly traded partnership, chemically converts methane into methanol and synthesis gas, and further chemically converts those products into gasoline and diesel fuel. Y receives income from sales of gasoline and diesel created during the conversion processes, as well as from sales of methanol.

(ii) With respect to the production of gasoline or diesel, Y is engaged in the processing of natural gas as provided in paragraph (c)(5)(ii)(C) of this section. The production and sale of methanol, an intermediate product in the conversion process, is not a section 7704(d)(1)(E) activity because methanol is not a liquid fuel otherwise produced from the processing of crude oil.

Example 4. Delivery of refined products. (i) X, a publicly traded partnership, sells diesel and lubricating oils to a government entity at wholesale prices and delivers those goods in bulk.

(ii) X's sale of refined products to the government entity is a section 7704(d)(1)(E) activity because it is a bulk transportation and sale as described in paragraphs (c)(6) and (7) of this section and is not a retail sale.

Example 5. Delivery of water. (i) X, a publicly traded partnership, owns interstate and intrastate natural gas pipelines. X built a water delivery pipeline along the existing right of way for its natural gas pipeline to deliver water to A for use in A's fracturing activity. A uses the delivered water in fracturing to develop A's natural gas reserve in a cost-efficient manner. X earns income for transporting natural gas in the pipelines and for delivery of water.

(ii) X's income from transporting natural gas in its interstate and intrastate pipelines is qualifying income for purposes of section 7704(c) because transportation of natural gas is a section 7704(d)(1)(E) activity as provided in paragraph (c)(6) of this section.

(iii) The income X obtains from its water delivery services is not a section 7704(d)(1)(E) activity as provided in paragraph (c) of this section. However, because X's water delivery supports A's

development of natural gas, a section 7704(d)(1)(E) activity, X's income from water delivery services may be qualifying income for purposes of section 7704(c) if the water delivery service is an intrinsic activity as provided in paragraph (d) of this section. An activity is an intrinsic activity if the activity is specialized to narrowly support the section 7704(d)(1)(E) activity, is essential to the completion of the section 7704(d)(1)(E) activity, and requires the provision of significant services to support the section 7704(d)(1)(E) activity. Under paragraph (d)(2)(ii)(B) of this section, the provision of water used in a section 7704(d)(1)(E) activity is specialized to that activity only if the partnership also collects and cleans, recycles, or otherwise disposes of the water after use in accordance with federal, state, or local regulations concerning waste products from mining or production activities. Because X does not collect and clean, recycle, or otherwise dispose of the delivered water after use, X's water delivery activities are not specialized to narrowly support the section 7704(d)(1)(E) activity. Thus, X's water delivery is not an intrinsic activity. Accordingly, X's income from the delivery of water is not qualifying income for purposes of section 7704(c).

Example 6. Delivery of water and recovery and recycling of flowback. (i) Assume the same facts as in *Example 5,* except that X also collects and treats flowback at the drilling site in accordance with state regulations as part of its water delivery services and transports the treated flowback away from the site. In connection with these services, X provides personnel to perform these services on an ongoing or frequent basis that is consistent with best industry practices. X has provided these personnel with specialized training regarding the recovery and recycling of flowback produced during the development of natural gas, and this training is of limited utility other than to perform or support the development of natural gas.

(ii) The income X obtains from its water delivery services is not a section 7704(d)(1)(E) activity as provided in paragraph (d) of this section. However, because X's water delivery supports A's development of natural gas, a section 7704(d)(1)(E) activity, X's income from water delivery services may be qualifying income for purposes of section 7704(c) if the water delivery service is an intrinsic activity as provided in paragraph (d) of this section.

(iii) An activity is an intrinsic activity if the activity is specialized to narrowly support the section 7704(d)(1)(E) activity, is essential to the completion of the section 7704(d)(1)(E) activity, and requires the provision of significant services to support the section 7704(d)(1)(E) activity. Under paragraph (d)(2)(ii)(B) of this section, the provision of water used in a section 7704(d)(1)(E) activity is specialized to that activity only if the partnership also collects and cleans, recycles, or otherwise disposes of the water after use in accordance with federal, state, or local regulations concerning waste products from mining or production activities. X's provision of personnel is specialized because those personnel received training regarding the recovery and recycling of flowback produced during the development of natural gas, and this training is of limited utility other than to perform or support the development of natural gas. The provision of water is also specialized because water is an injectant used to perform a section 7704(d)(1)(E) activity, and X also collects and treats flowback in accordance with state regulations as part of its water delivery services. Therefore, X meets the specialized requirement. The delivery of water is essential to support A's development activity because the water is needed for use in fracturing to develop A's natural gas reserve in a cost-efficient manner. Finally, the water delivery and recovery and recycling activities require significant services to support the development activity because X's personnel provide services necessary for the partnership to perform the support activity at the development site on an ongoing or frequent basis that is consistent with best industry practices. Because X's delivery of water and X's collection, transport, and treatment of flowback is a specialized activity, is essential to the completion of a section 7704(d)(1)(E) activity, and requires significant services, the delivery of water and the transport and treatment of flowback is an intrinsic activity. X's income from the delivery of water and the collection, treatment, and transport of flowback is qualifying income for purposes of section 7704(c).

(f) *Proposed Effective/Applicability Date and Transition Rule*—(i) Except as provided in paragraph (f)(ii) of this section, this section is proposed to apply to income earned by a partnership in a taxable year beginning on or after the date these regulations are published as final regulations in the **Federal Register**. Paragraph (f)(ii) of this section applies during the Transition Period, which ends on the last day of the partnership's taxable year that includes the date that is ten years after the date that these regulations are published as final regulations in the **Federal Register**.

(ii) A partnership may treat income from an activity as qualifying income during the Transition Period if:

(A) The partnership received a private letter ruling from the IRS holding that the income from that activity is qualifying income;

(B) Prior to May 6, 2015, the partnership was publicly traded, engaged in the activity, and treated the activity as giving rise to qualifying income under section 7704(d)(1)(E), and that income was qualifying income under the statute as reasonably interpreted prior to the issuance of these proposed regulations; or

(C) The partnership is publicly traded and engages in the activity after May 6, 2015 but before the date these regulations are published as final regulations in the **Federal Register**, and the income from that activity is qualifying income under these proposed regulations.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[PS Docket No. 08–51; FCC 15–43]

911 Call-Forwarding Requirements for Non-Service-Initialized Phones

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on whether the obligation to transmit 911 calls from non-service-initialized (NSI) devices still serves an important public safety objective. Because the cumbersome call validation methods extant when the rules were adopted in the late 1990s are no longer in use, and because of the current ubiquity of low-cost options for wireless services, the Commission proposes to sunset the obligation to transmit 911 calls from an NSI device within six month, accompanied by consumer outreach and education. Public safety representatives have indicated that NSI devices are frequently used to make fraudulent or otherwise non-emergency calls, causing a significant waste of limited public safety resources.

DATES: Submit comments on or before June 5, 2015 and reply comments by July 6, 2015. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before July 6, 2015.

ADDRESSES: Submit comments to the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Comments may be submitted electronically through the Federal Communications Commission's Web site: *http://apps.fcc.gov/ecfs//.* In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov.* For detailed instructions for submitting comments and additional information on the rulemaking process, see the

SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Michael E. Connelly, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–0132 or *michael.connelly@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole Ongele, (202) 418–2991, or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in PS Docket No. 08–51, released on April 1, 2015. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *http://www.fcc.gov/document/fcc-seeks-comment-911-call-forwarding-requirements-nsi-phones.* Parties may file comments and reply comments in response to this Notice of Proposed Rulemaking (NPRM) on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs//.*

Paper Filers: Parties that choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All paper filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. The Commission has a longstanding commitment to ensuring access to 911 for the American public. In support of this objective, the Commission's rules require commercial mobile radio service (CMRS) providers subject to the 911 rules to transmit all wireless 911 calls without respect to their call validation process. Thus, the rule requires providers to transmit both 911 calls originating from customers that have contracts with CMRS providers and calls originating from ''non-service-initialized'' (NSI) devices to Public Safety Answering Points (PSAPs). An NSI device is a mobile device for which there is no valid service contract with any CMRS provider. As such, NSI devices have no associated subscriber name and address, and do not provide Automatic Number Identification (ANI) or call-back features. As a result, when a caller uses a NSI device to call 911, the PSAP typically cannot identify the caller.

2. In this Notice of Proposed Rulemaking (NPRM), the Commission seeks comment on whether the obligation to transmit 911 calls from NSI devices continues to serve an important public safety objective. A primary rationale for the initial adoption of the Commission's rule in the late 1990s was to expedite wireless calls to 911 that would otherwise have been delayed due to lengthy call validation processes for unidentified callers that were commonly used at the time. In the nearly two decades since the rule was adopted, however, the call validation methods of concern to the Commission are no longer in use. Moreover, the availability of low-cost options for wireless services has increased. These trends suggest that the NSI component of the requirement is no longer necessary to ensure that wireless callers have continued access to emergency services. Further, the inability to identify the caller creates considerable difficulty for PSAPs when a caller uses an NSI device to place fraudulent calls. Public safety representatives have indicated that NSI devices are frequently used to make such calls, causing a significant waste of limited public safety resources. For these reasons, the Commission proposes to sunset the NSI component of the rule after a six-month transition period that will allow for public outreach and education. The Commission also seeks comment on alternative approaches to addressing the issue of fraudulent calls from NSI devices.

II. Background

A. Adoption of the NSI Device Requirement

3. In 1996, the Commission issued its E911 First Report and Order, which required covered carriers (now defined as CMRS providers) to transmit all 911 calls from wireless mobile handsets that transmit a code identification, without requiring any user or call validation or similar procedure. The Commission noted that user validation procedures, such as requiring a caller to provide credit card information, could be long and cumbersome, and that applying these procedures in emergencies could thus cause a dangerous delay or interruption of the 911 assistance process and, effectively, the denial of assistance in some cases. The Commission also required covered carriers to comply with PSAP requests for transmission of 911 calls made without code identification. Even at the time of adoption of the NSI requirement, however, the Commission recognized that there were disadvantages associated with requiring all 911 calls to be processed without regard to evidence that a call is emanating from an authorized user of some CMRS provider. The Commission acknowledged that placing 911 calls from handsets without a code identification has significant drawbacks, including the fact that ANI and call back features may not be usable, and hoax and false alarm calls may be facilitated. The Commission concluded, however, that public safety organizations are in the best position to determine whether acceptance of calls without code identification would help or hinder their efforts.

4. In response to several petitions for reconsideration of the *E911 First Report and Order,* the Commission issued a stay of its rules and sought additional comment. On the basis of the updated record on reconsideration, in 1997 the Commission released its *E911 First Memorandum Opinion and Order.* In that order, the Commission determined that without applying validation procedures, then-present technology could not distinguish between code-identified and non-code-identified handsets. Accordingly, the *E911 First Memorandum Opinion and Order* required carriers to forward all 911 calls whether or not they transmit a code identification. The Commission also found that PSAPs should be able to screen out or identify many types of fraudulent calls or those where call back

is not possible and also expressed the hope that PSAPs could implement call back technology for NSI devices.

5. Since the adoption of the NSI requirement, the Commission has been aware of the continuing concern regarding fraudulent calls and the lack of call-back capabilities associated with NSI devices, and has taken various measures to address this issue. In 2002, the Commission required NSI handsets donated through carrier-sponsored programs, as well as newly manufactured ''911-only'' devices, to be programmed with the number 123–456–7890 as the ''telephone number,'' in order to alert PSAPs that call-back features were unavailable. The Commission also required that carriers complete any network programming necessary to deliver this programmed number to PSAPs. Later that year, the Commission clarified that its rules requiring carriers to forward all 911 calls to PSAPs did not preclude carriers from blocking fraudulent 911 calls from non-service initialized phones pursuant to applicable state and local law enforcement procedures. The Commission added that where a PSAP has identified a handset that is transmitting fraudulent 911 calls and makes a request to a wireless carrier to block 911 calls from that handset in accordance with applicable state and local law enforcement procedures, the carrier's compliance does not constitute a violation of Section 20.18(b).

6. In its subsequent *E911 Second Memorandum Opinion and Order,* the Commission modified its rules to require that carrier-donated handsets and newly manufactured 911-only devices be programmed with the number ''911,'' followed by seven digits from the handset's unique identifier, such as the Electronic Serial Number (ESN) or International Mobile Station Equipment Identity (IMEI) (911+ESN/IMEI). The Commission took this action to facilitate identification of individual NSI devices used to make fraudulent or harassing calls, finding it ''highly probable'' that this form of identification would enable a PSAP to identify a suspected device and work with carriers and law enforcement to trace it and block further harassing calls from the device. The Commission further stated that it would continue monitoring the nature and extent of problems associated with 911 service for NSI devices.

B. Notice of Inquiry

7. In February 2008, a coalition of nine public safety organizations, including the National Emergency Number Association (NENA) and the Association of Public-Safety Communications Officials (APCO), and a software development firm (Petitioners), filed a petition for notice of inquiry (Petition) to address the problem of non-emergency calls placed to 911 by NSI devices. The Petition contended that while the *E911 Second Memorandum Opinion and Order* achieved the goal of helping PSAPs identify when 911 calls are from NSI devices, such calls continue to create severe problems for PSAPs. The Petition asserted that only a very small minority of the 911 calls from NSI devices were made to report actual emergencies, and that non-emergency NSI calls waste the limited and precious resources of the PSAPs and interfere with PSAPs' ability to answer emergency calls, as do subsequent efforts to locate or prosecute the callers.

8. The Petition also asserted that when PSAPs and other authorities requested that CMRS providers block harassing 911 calls from NSI devices, the providers had declined, citing technical and legal concerns related to complying with such requests. Accordingly, the Petition requested that the Commission provide further clarification and guidance on this blocking option to stop harassing and fraudulent 911 calls from NSI devices. The Petition also asked the Commission to consider other options to address fraudulent calls from NSI devices, including identifying further call-back capabilities for NSI devices, the elimination of call-forwarding requirements for NSI devices, and/or requiring CMRS providers' donation programs to provide service-initialized devices. In the alternative, the Petition asked the Commission to seek comment on other solutions.

9. On April 2008, the Commission granted the Petition and issued a *Notice of Inquiry* to enhance its understanding of the problems created by non-emergency 911 calls made from NSI devices and to explore potential solutions. In the Notice of Inquiry, the Commission requested comment on three specific areas: (1) The nature and extent of fraudulent 911 calls made from NSI devices; (2) concerns with blocking NSI devices used to make fraudulent 911 calls, and suggestions for making this a more viable option for CMRS providers; and (3) other possible solutions to the problem of fraudulent 911 calls from NSI devices. In response to the *Notice of Inquiry,* the Commission received comments from public safety representatives at state, county, and local government levels in twenty-one states, as well as comments from CMRS providers, third-party vendors, and others.

C. 2013 Public Notice

10. In their comments to the Notice of Inquiry, the Petitioners, including NENA, argued in favor of retaining the NSI call-forwarding requirement on the grounds that the public relied on the fact that NSI devices are 911-capable and that a significant number of calls to 911 from NSI devices are legitimate. However, in an *ex parte* filing submitted in 2013, NENA revised its view, stating that it now supported eliminating the 911 call-forwarding requirement, and that there was now a ''consensus view'' that requiring 911 call forwarding from NSI devices does more harm than good. In light of NENA's revised view on the necessity of retaining the 911 call-forwarding requirement, as well as the passage of time since the filing of comments in response to the Notice of Inquiry, in March 2013 the Commission released a public notice seeking to refresh the record on the foregoing issues (*2013 PN*). In response to the *2013 PN,* the Commission received six comments from public safety entities and one from a CMRS provider.

III. Discussion of Proposed Sunsetting of the Requirement To Transmit 911 Calls From NSI Devices

11. The record received in response to the *Notice of Inquiry* and *2013 PN* has helped to further define and document the problem of fraudulent 911 calls placed by users of NSI devices. As discussed below, the problem remains acute. At the same time, the evolution of the record and changes in wireless service offerings, including the expanded availability of low-cost wireless services, suggest there is now significantly less need for the NSI rule then when it was adopted in 1996. Accordingly, in this NPRM we propose to sunset the NSI rule after a six-month transition and outreach period. During the transition period, we would partner with industry and public interest organizations to educate consumers about the transition and the availability of alternative means to call 911. We seek comment on this proposal in the discussion below. We also seek comment on the relative costs and benefits of other potential approaches and solutions to the problem, including blocking calls from NSI devices.

A. Public Policy Analysis and Comparative Benefits

1. The Extent of Fraudulent 911 Calls From NSI Devices and Associated Costs to Public Safety

12. The record to date shows that fraudulent 911 calls from NSI devices continue to pose a major problem for PSAPs, imposing substantial costs while reducing their ability to respond to legitimate 911 calls. In the *Notice of Inquiry* in 2008, the Commission cited data from the Petitioners, generated in late 2006 from jurisdictions in four states, showing that between 3.5% and less than 1% of 911 calls placed by NSI devices were legitimate calls relating to actual emergencies. The *Notice of Inquiry* asked commenters to provide more recent and expansive data from the same and other jurisdictions, and also welcomed further evidence illustrating the extent of the problem, such as statements from knowledgeable parties and media reports. In response, public safety commenters provided additional evidence that the vast majority of 911 calls from NSI devices were not actual calls for help, and that these calls both wasted the limited resources of PSAPs and interfered with their ability to respond to legitimate emergency calls. For example, Indiana estimated that over 90% of all NSI calls received were not legitimate, while North Carolina similarly reported that between May 15, 2008 and June 15, 2008, PSAPs across the state received 159,129 calls from NSI devices, of which 132,885, or 83.51%, were non-emergency calls, and an additional 11,395, or 7.16%, were ''malicious'' non-emergency calls. Amelia County, Virginia also stated that NSI devices were the biggest problem we have with the E911 system, and that, at times, they had been inundated with phone calls from these phones with the only purpose being to harass the call takers/dispatchers. Washington State likewise indicated that by far, the majority of calls to 911 from NSI sets did not appear to be legitimate emergencies. Moreover, Washington estimated that reported NSI problems were very likely an understatement, due to lack of time and resources of PSAPs to respond to the *Notice of Inquiry.* Other public safety commenters reported similar patterns of frequent and recurring non-emergency calls from NSI devices.

13. Subsequent to the close of the *Notice of Inquiry* comment period, the Commission continued to receive evidence that fraudulent 911 calls from NSI devices remain a large problem for PSAPs and other public safety entities. Comments received in response to the 2013 PN also indicate that the problem is continuing. For example, Tennessee states that during a three-month period in 2008, of over 10,000 NSI calls only 188 were valid emergencies. Sonoma County, California indicates that between April 2011 and April 2013 only approximately 8% of calls from NSI devices were to report an emergency or crime. Peoria, Illinois similarly asserts that it got numerous calls from NSI phones that were used to harass the 9–1–1 telecommunicators and pump as many as 25 calls per day into Peoria's system, while few if any actual 9–1–1 calls came from these types of phones. Media reports also indicate that this is a serious and continuing problem.

14. The Commission seeks comment and updated data regarding the degree to which the issue of fraudulent calls from NSI devices has continued since the *2013 PN* comments were filed, as well as any other data that will help clarify the extent of the problem. Have changes in mobile device technology or design had any impact on the overall numbers of fraudulent NSI 911 calls? Has the increased proliferation and use of smartphones added to or reduced the problem, and if so, how? What technological advancements, if any, might increase the ability to trace back individual NSI callers and thereby deter fraudulent calls?

15. The Commission also seeks comment on the percentage of fraudulent 911 calls coming from particular types of NSI devices or subsets of NSI device users. Several commenters suggested that a disproportionate number of fraudulent 911 calls come from a relatively small subset of NSI devices. California, for example, stated that between October 1, 2007 and May 15, 2008, PSAPs across the state reported 266 active repetitive callers who placed over 77,000 calls to 911, mainly using NSI devices. Of the 266 callers identified, 85 had placed 200 or more calls, and eight callers had made more than 1,000 calls. Other commenters noted that such calling patterns were often related to the accessibility of NSI devices to minors. For example, Petitioners stated that donated phones appear to be only a small portion of the problem, with the bulk of troublesome devices being old equipment no longer in use, often given to children to play with. Is data available regarding the percentage of fraudulent NSI calls that come from minors? Are there other categories of NSI devices that are disproportionately associated with fraudulent calls? For example, how frequently do fraudulent calls originate from NSI devices that appear to have been purchased by individuals specifically for the purpose of placing such fraudulent calls (*e.g.,* devices purchased on auction sites or at pawn shops)?

16. Some public safety commenters have also argued that the NSI rule exposes PSAPs to the risk of coordinated efforts to overload or impair their operations. Clinton County, Illinois, for example, cited the possibility of a group of individuals perpetrating a wireless denial-of-service by placing large amounts of calls to 9–1–1 from NSI phones, with the potential of jamming or at the very least severely impairing the operations of the 9–1–1 system. Accordingly, the Commission seeks comment on the extent to which NSI devices could be used in a coordinated manner to deny 911 service.

17. Finally, the Commission seeks further comment regarding the costs that fraudulent NSI calls to 911 continue to impose on public safety and on consumers. For example, in response to the *Notice of Inquiry,* Kentucky indicated that the time taken away from real emergency calls to deal with calls from NSI devices seriously threatens the safety of any citizen in true need of service. Amelia County, Virginia similarly stated that there have been times when it has been totally inundated with calls from NSI devices. Tennessee notes how calls from a single child in one night nearly immobilized the call center's ability to receive actual emergency calls. Spokane County, Washington noted receiving 911 calls from a non-initialized cellular phone that was an open line and therefore tied up one of our 911 trunks and made it unavailable for emergency calls. Laredo, Texas cited bomb threats made from NSI phones which, when they cannot be identified with absolute certainty as a hoax, require deployment of response agencies to the alleged target. The Commission asks commenters to provide instances of fraudulent NSI calls delaying the ability of public safety dispatchers to send help to callers in distress or otherwise negatively impacting the ability of first responders to respond to actual emergencies, and seeks examples of fraudulent NSI calls impeding public safety, such as whether prison inmates have used the 911-calling capability of NSI devices to harass PSAPs or to circumvent call blocking or managed access technologies designed to deter contraband cellphone use from inside prison facilities. In all of the above examples, the Commission seeks cost estimates of the losses—including financial or human capital resources—

that PSAPs have incurred due to fraudulent calls.

2. Decreasing Benefits of the NSI Rule

18. At the same time that the NSI requirement imposes costs on public safety resources—by diverting much-needed resources from legitimate emergencies—the record suggests that the benefits of the NSI rule are diminishing and the need for the rule is decreasing. The Commission seeks comment on whether this is the case. For example, several commenters pointed out that service-initialized devices have become far more ubiquitous and inexpensive, as compared to when the Commission originally implemented the NSI rule, thereby decreasing public reliance on the ability of NSI devices to call 911. Washington State, for instance, noted that when the NSI rule was adopted, there were few opportunities for a customer to acquire a wireless device other than by signing a relatively expensive long-term contract. Thus, while the rule originally ensured access to 911-service for segments of the population that could not afford a long-term wireless subscription, Washington contended that service-initialized devices are now sufficiently ubiquitous and affordable to render the rule unnecessary. CTIA likewise indicated that wireless device prices in the U.S. keep dropping; since 2006, wireless CPI has fallen 8.0%, even as the CPI for all items has increased 16.7%. In this regard, the Commission notes that the Bureau of Labor Statistics' Wireless Price Index shows that the effective monthly cost of wireless service to consumers has fallen by more than 40% since December 1997. There has also been a proliferation of pre-paid devices since the Commission promulgated the NSI rule. For example, CTIA reported that 76.4 million consumers had prepaid plans in 2012, up from 71.7 million in 2011.

19. Several commenters have also noted the potential of Lifeline-supported wireless services to provide a sufficient alternative to NSI phones. Accordingly, the Commission seeks comment on whether the increasing ubiquity and decreasing cost of service-initialized devices obviates the need for the NSI rule. Does the increased availability and use of pre-paid services provide a sufficient alternative?

20. Many commenters also referenced a decrease in NSI handset donation programs. For example, NENA stated that most charities and domestic violence advocates have abandoned the practice of distributing NSI devices. APCO similarly indicated its understanding that current programs for at-risk individuals only distribute handsets that have at least limited carrier-subscription status and are 'service initialized.' This also seems to indicate a decreasing need for the NSI rule due to fewer NSI devices in circulation.

21. Two public safety commenters (King County, Washington, and Livingston County, New York, Sherriff's Department) also argued that eliminating the NSI requirement would eliminate false expectations among NSI device users who are unaware that NSI devices do not provide 911 call-back capability or Phase II location information. Other commenters, however, argued that the public has come to rely on the fact that NSI devices are 911-capable, and that eliminating the call-forwarding requirement could lead to tragic results given this public reliance. CTIA, for example, stated that the public now has a reasonable expectation that all wireless 911 calls will terminate at a PSAP. Likewise, the Petitioners noted that they while they were sympathetic to those calling for an outright FCC reversal of current rule, they could not support such a request at this time because there remain a significant number of legitimate 9–1–1 calls from NSI devices. California noted that calls from NSI phones have saved many lives, and Maryland indicated that 30% of calls to 911 from NSI handsets were legitimate in Montgomery County during the one-month period studied in 2008. Vermont also questions the availability of low-cost service-initialized devices, and adds that it is puzzled by the comment that calls on these devices do not include location information, as its review identified a high percentage of calls from NSI devices that arrive with Phase II location information.

22. Accordingly, the Commission seeks comment on the extent to which the public, especially lower-income populations, the elderly, and other vulnerable segments of society, still rely on the use of NSI devices to seek emergency assistance. Has such reliance decreased, increased, or remained the same? Would consumers who presently use NSI devices to call 911 be able to effectively utilize other means of accessing 911? To what extent are ''911-only'' wireless handsets that rely on the NSI rule to enable a caller to reach a PSAP in use today? Are CMRS providers or third parties continuing to support NSI phone donation programs, and if so, are figures available for the number of phone donations within the last five years?

B. Sunset of the NSI Requirement After a Reasonable Transition Period

23. *Background.* In the *E911 Second Report and Order,* the Commission declined to eliminate the 911 call-forwarding requirement for NSI devices because abolishing the requirement at this stage would restrict basic 911 service and result in the inability of many non-initialized wireless phone users to reach help in the event of an emergency. However, in the subsequent *Notice of Inquiry,* the Commission noted that the evidence suggested that NSI devices were the source of an overwhelming number of fraudulent 911 calls and sought comment regarding whether it should eliminate the NSI requirement. In response to the *Notice of Inquiry,* a significant number of public safety commenters advocated for elimination of the rule. Washington, for example, asserted that there is no justification in retaining the rules permitting calls to 911 from non-initialized handsets; more recently, NENA stated that there is now a consensus view that the promotion of NSI devices does more harm than good.

24. Accordingly, the *2013 PN* sought comment, in particular, on whether other interested parties agree or disagree with NENA's view that the Commission should consider phasing out the call-forwarding requirement as it applies to NSI devices. The subsequent record indicates that APCO now also agrees that the FCC should eliminate the requirement that wireless carriers forward to PSAPs 9–1–1 calls from NSI handsets, as do some other public safety commenters.

25. At the same time, some commenters continue to advocate retention of the NSI requirement, arguing that the public has come to rely on the fact that NSI devices are 911-capable, and that given this public reliance, eliminating the call-forwarding requirement could lead to tragic results.

26. *Discussion.* The Commission believes that the concerns that led the Commission to adopt the NSI rule in 1996, and to retain it twelve years ago, are less relevant today, and that it is now in the public interest to sunset the requirement. The record suggests that fraudulent calls to 911 from NSI devices constitute a large and continuing drain on public safety resources and that the problem is not abating. Moreover, it appears there is now less public need for the NSI rule than at the time the Commission implemented it. Indeed, while the Commission implemented the NSI rule in large part at the urging of public safety entities, including NENA

and APCO, both of these entities now favor elimination of the rule.

27. Additionally, impending technological changes in carrier networks are likely to make the NSI call-forwarding rule less effective in protecting consumers while increasing the cost of implementation. As carriers migrate their networks away from legacy 2G technology, 2G-only NSI handsets will no longer be technically capable of supporting 911 call-forwarding. If we retain the NSI rule, this technological shift is likely to create confusion among the very consumers that have retained older-generation NSI handsets for their 911 capability. Moreover, retaining the rule will impose added costs on carriers to implement NSI call-forwarding capability in 3G and 4G networks. While the Commission recognizes that public safety interests are driven by more than economic considerations, it believes that avoiding these added costs by sunsetting the rule will have significant net cost benefits for carriers, in addition to eliminating the burden of fraudulent 911 calls on first responders. Conversely, the Commission believes that any cost to carriers associated with removing NSI call-forwarding capability from their networks will be relatively minor. For these reasons, the Commission believes that the costs of retaining the NSI rule appear to outweigh the benefits, and thus proposes to sunset the NSI rule after a six-month transition period.

28. Based on the comments advocating for elimination of the rule, the Commission believes that a uniform, nationwide deadline to sunset the NSI requirement would best address the concerns that have been raised in the record regarding the prevalence of fraudulent calls from NSI devices. A uniform sunset date would provide the greatest certainty to the public, as well as to PSAPs and CMRS providers, and would be easiest for all parties to administer. The Commission also believes that any necessary consumer education and outreach regarding a uniform deadline would be less burdensome than for an alternative ''phase-out'' approach, as it would avoid public confusion with respect to timing and with regard to which NSI devices could and could not call 911; this method of eliminating the NSI requirement best balances the needs of the public, public safety, and CMRS providers.

29. The Commission also seeks comment on other possible transition approaches. For example, NENA has suggested that the Commission phase out the NSI rule for devices and networks that no longer support legacy circuit-switched voice calling, reasoning that this will minimize stranded investments by carriers and consumers as carriers transition to fully IP-based architectures such as LTE and as consumers transition to IP-only devices that no longer support circuit-switched voice services. Alternatively, the Commission seeks comment on whether to eliminate the NSI requirement for new wireless devices sold after a particular date, thus grandfathering the 911 call-forwarding capability for existing NSI devices.

30. In the event the Commission sunsets the NSI rule, it would seek to educate consumers during the transition on whether their particular NSI device will allow them to reach 911, and on how to ensure continued, uninterrupted access to 911. The Commission recognizes that the public is increasingly reliant on wireless technology for their basic communications needs and that many persons have elected to do without landline telephone service. With this in mind, the Commission believes that elimination of the NSI rule must be accompanied by sufficient public education and outreach to ensure that the public is aware that they can no longer call 911 from NSI devices prior to loss of that capability, but that there are low-cost options for replacing such devices. Accordingly, the Commission proposes to allow a six-month transition period for service providers, public interest organizations, and other interested parties to engage in this educational outreach process, and seek comment on this proposal. We also seek comment on the necessary components of such an education and outreach effort, and on implementation of these components.

31. Finally, assuming that the NSI call-forwarding rule is eliminated after a transition period, should CMRS providers be allowed to forward 911 calls from NSI devices at their discretion on a voluntary basis, or should we prohibit NSI call forwarding? What is the likelihood that CMRS providers would voluntarily continue to forward 911 calls from NSI devices? Would allowing them to do so reduce the benefits of eliminating the NSI requirement?

C. Protecting Calls to 911 From Service-Initialized Devices That May Appear To Be NSI Devices

32. *Background.* The obligation of CMRS providers to transmit 911 calls without regard to their call validation process ensures that wireless customers are able to access life-saving emergency services without delay. This obligation to connect 911 calls from service-initialized devices ensures, for example, that customers have access to 911 when traveling in areas where service may be provided by another provider which does not have a roaming agreement with the customer's provider or when a wireless customer's provider is experiencing a network outage. The Commission does not propose to alter the obligation of CMRS providers to connect calls from devices that have a valid agreement with any CMRS provider at the time of the 911 call.

33. The record indicates, however, that in certain circumstances a service-initialized device may appear to be an NSI device to a CMRS provider's network. For example, according to the Petitioners, devices can also become NSI in the following situations: (1) When a phone has not completed registration at the time a 9–1–1 call is placed; (2) when calls are placed from areas of weak or no signal for one carrier that receive a signal from another carrier; (3) when calls are made from a handset that selects the strongest signal, which may not be the subscriber's carrier; (4) for calls placed by consumers roaming in areas with or without automatic roaming agreements; (5) for calls placed on foreign phones; or (6) because of normal network events, system reboots, and other circumstances that can occur during mobile switching center ('MSC') to MSC handoffs, for several seconds after the phone is powered on, and as the phone recovers from loss of service in a tunnel. The Commission also observes that, when pre-paid phones have run out of minutes, they become *de facto* NSI devices until the user pays for more pre-paid minutes.

34. *Discussion.* The Commission seeks comment on how calls to 911 from service-initialized devices that may appear to be NSI might be affected, in the event it sunsets the requirement to transmit calls from NSI devices. Is this an extensive issue of concern? For example, in what specific circumstances would a service-initialized device nevertheless appear to a CMRS network as an NSI device? If the Commission were to sunset the NSI requirement, is there a way to ensure that such service-initialized devices could still call 911? What would be the cost of implementing such a solution? The Commission is also concerned that consumers with service-initialized phones could be at risk if they were to lose 911-capability immediately following a CMRS provider's stoppage of service for non-payment. Would it be in the public interest to require all CMRS providers to continue to forward

calls to 911 from such devices for a certain ''grace period'' following stoppage of service? If so, what would be the proper length of such a grace period? Should it differ based on whether the device is pre-paid or post-paid? Alternatively, rather than establishing a grace period, would it be sufficient for CMRS providers to send automated messages to pre-paid customers when their minutes are about to expire, warning them that if they do not extend their pre-paid service their devices will not support 911 calling?

D. Technical and Operational Considerations Relating to Sunset of the NSI Rule

35. The Commission seeks to determine what technical and operational changes, if any, CMRS providers and/or PSAPs would need to implement in conjunction with the sunset of the NSI rule, including the timeframe needed to implement any such changes, as well as the costs involved, as well as determining how these answers might vary depending on whether the Commission sunsets the rule on a date certain or whether it phases out the rule.

36. What network modifications or other technical and operational changes would CMRS providers need to undertake, if any, if we were to sunset the NSI requirement as of a date certain? How long would it take to implement these changes? At what cost? Is the Commission's assumption that any costs associated with discontinuing call-forwarding of 911 calls from NSI devices as of the six-month sunset date proposed above would be relatively minor correct? The Commission also seeks comment on what, if anything, PSAPs would need to do to accommodate the sunset of the NSI requirement after six months. Would PSAPs incur any costs or are there timing considerations that the Commission should take into account? Alternatively, what technical and operational changes would CMRS providers and PSAPs need to implement if the Commission were to phase out the NSI requirement rather than sunset the rule on a uniform date?

E. Alternative Approaches to the Problem of Fraudulent NSI 911 Calls

37. The Commission recognizes that sunsetting the NSI rule is not the only means of reducing the incidence of fraudulent calls to 911 from such devices. In the *Notice of Inquiry,* the Commission examined the possibility of blocking NSI devices used to make fraudulent 911 calls while retaining the NSI rule itself, and sought comment on suggestions for making blocking a more viable option for CMRS providers, as well as on other possible solutions. The Commission seeks comment on whether call-blocking is a viable alternative to sunsetting the NSI rule. While Commission rules generally require CMRS providers to forward all 911 calls to PSAPs, including calls from NSI devices, they do not prohibit CMRS providers from blocking fraudulent 911 calls pursuant to applicable state and local law enforcement procedures. Nevertheless, the Petition asserted that CMRS providers refuse to honor PSAP blocking requests due to technical and legal concerns. In response to the *Notice of Inquiry,* many commenters—both CMRS provider and public safety—cited technical and legal problems that continue to make blocking calls difficult.

38. In the *Notice of Inquiry,* the Commission requested comment on two other alternative approaches to address the problem of fraudulent 911 calls from NSI devices: (1) Implementing call-back capabilities for NSI devices, and (2) requiring CMRS provider-sponsored device donation programs to provide service-initialized devices. The Commission seeks further comment on the relative costs and benefits of these proposals as alternatives to sunsetting the NSI rule.

IV. Procedural Matter

F. Ex Parte Presentations

39. The proceedings initiated by this NPRM shall be treated as ''permit-but-disclose'' proceedings in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

G. Comment Filing Procedures

40. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments in response to this NPRM on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties that choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail

and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

H. Accessible Formats

41. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

I. Regulatory Flexibility Analysis

42. An Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document is located under section titled *Initial Regulatory Flexibility Analysis.* Written public comments are requested in the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to this NPRM as set forth on the first page of this document, and have a separate and distinct heading designating them as responses to the IRFA.

J. Paperwork Reduction Act Analysis

43. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

V. Initial Regulatory Flexibility Analysis

44. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact of the proposal described in the attached Notice of Proposed Rulemaking on small entities. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the Notice of Proposed Rulemaking. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

45. In this NPRM, we address regulatory concerns raised by non-service initialized (NSI) devices. The Commission's rules require commercial mobile radio service (CMRS) providers subject to the 911 rules to transmit all wireless 911 calls, including those originated from ''non-service-initialized'' (NSI) devices, to Public Safety Answering Points (PSAPs). A NSI device is a mobile device for which there is no valid service contract with a CMRS provider. Examples of NSI devices include prepaid cell phones with expired minutes, devices under an expired contract, donated cell phones, and ''911-only'' devices that are configured solely to make emergency calls. NSI devices by their nature have no associated subscriber name and address, and do not provide Automatic Number Identification (ANI) or call-back features. As a result, when a caller uses a NSI device to call 911, the PSAP typically cannot identify the caller.

46. While the 911 calling capability of NSI devices initially provided significant public safety benefits by increasing the public's access to 911, those benefits have greatly decreased due to changed call validation methods and the increase in low-cost options for wireless services. Moreover, the inability of PSAPs to identify the caller on an NSI device creates significant difficulty for them when a caller uses a NSI device to place fraudulent non-emergency calls to the PSAP. Numerous PSAPs around the nation have reported that fraudulent and harassing calls from NSI devices are a persistent and significant problem that requires action. In February 2008, a group of public safety entities filed a petition requesting that the Commission examine the issue. In response to the petition, the Commission adopted a Notice of Inquiry in April 2008 to enhance our understanding of fraudulent and harassing 911 calls made from NSI devices and to explore potential solutions.

47. In this NPRM, the Commission proposes to sunset the NSI rule after a six month transition period that will allow for public outreach and education. It also seeks comment on alternative approaches to addressing the issue of fraudulent calls from NSI devices.

B. Legal Basis

48. The legal basis for any action that may be taken pursuant to this Notice of Proposed Rulemaking is contained in Sections 1, 4(i), 4(j), 303(r) and 332 of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 154(j), 303(r), 332.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Would Apply

49. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

50. Small Businesses, Small Organizations, and Small Governmental Jurisdictions. Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA. In addition, a ''small organization'' is generally any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88, 506 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireless Telecommunications Service Providers

51. Pursuant to 47 CFR 20.18(a), the Commission's 911 service requirements are only applicable to Commercial Mobile Radio Service (CMRS) providers, excluding mobile satellite service operators, to the extent that they: (1) Offer real-time, two way switched voice service that is interconnected with the public switched network; and (2) Utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These requirements are applicable to entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates from CMRS licensees.

52. Below, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

53. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.

54. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

55. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small.

56. A Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

57. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C– and F–Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F–Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C–Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D, E, and F Blocks. On April 15, 1999, the Commission completed the reauction of 347 C–, D–, E–, and F–Block licenses in Auction No. 22. Of the

57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

58. On January 26, 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C–, D–, E–, and F–Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C–, D–, E–, and F–Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

59. *Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards.

60. *Specialized Mobile Radio.* The Commission awards ''small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards ''very small entity'' bidding credits to firms that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR was completed in 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels was conducted in 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was conducted in 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

61. The auction of the 1,050 800 MHz SMR geographic area licenses for the General Category channels was conducted in 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed in 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed ''small business'' status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

62. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. In addition, we do not know how many of these firms have 1500 or fewer employees. We assume, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is approved by the SBA.

63. *AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)).* For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. In 2006, the Commission conducted its first auction of AWS–1 licenses. In that initial AWS–1 auction, 31 winning bidders identified themselves as very small businesses. Twenty-six of the winning bidders identified themselves as small businesses. In a subsequent 2008 auction, the Commission offered 35 AWS–1 licenses. Four winning bidders identified themselves as very small businesses, and three of the winning bidders identified themselves as a small business. For AWS–2 and AWS–3, although we do not know for certain which entities are likely to apply for these frequencies, we note that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but has proposed to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

64. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (''BETRS''). In the present context, we will use the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.,* an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

65. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses in the 2305–2320 MHz and 2345–2360 MHz bands. The Commission defined ''small business'' for the wireless communications services (WCS) auction

as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

66. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable. The SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For this service, the SBA uses the category of Wireless Telecommunications Carriers (except Satellite). Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.

67. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz Third Report and Order, the Commission adopted a small business size standard for defining ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small size standards. Auctions of Phase II licenses commenced on and closed in 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won 373 licenses in the first 220 MHz auction. A second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses. A third auction included four licenses: 2 BEA licenses and 2 EAG licenses in the 220 MHz Service. No small or very small business won any of these licenses. In 2007, the Commission conducted a fourth auction of the 220 MHz licenses. Bidding credits were offered to small businesses. A bidder with attributed average annual gross revenues that exceeded $3 million and did not exceed $15 million for the preceding three years (''small business'') received a 25 percent discount on its winning bid. A bidder with attributed average annual gross revenues that did not exceed $3 million for the preceding three years received a 35 percent discount on its winning bid (''very small business''). Auction 72, which offered 94 Phase II 220 MHz Service licenses, concluded in 2007. In this auction, five winning bidders won a total of 76 licenses. Two winning bidders identified themselves as very small businesses won 56 of the 76 licenses. One of the winning bidders that identified themselves as a small business won 5 of the 76 licenses won.

68. *700 MHz Guard Band Licenses.* In the 700 MHz Guard Band Order, the Commission adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. In 2000, the Commission conducted an auction of 52 Major Economic Area (''MEA'') licenses. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced and closed in 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

69. *Upper 700 MHz Band Licenses.* In the 700 MHz Second Report and Order, the Commission revised its rules regarding Upper 700 MHz licenses. On January 24, 2008, the Commission commenced Auction 73 in which several licenses in the Upper 700 MHz band were available for licensing: 12 Regional Economic Area Grouping licenses in the C Block, and one nationwide license in the D Block. The auction concluded on March 18, 2008, with 3 winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) and winning five licenses.

70. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses—''entrepreneur''—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) was conducted in 2002. Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won licenses. A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses. Seventeen winning bidders claimed small or very small business status, and nine winning bidders claimed entrepreneur status. In 2005,

the Commission completed an auction of 5 licenses in the Lower 700 MHz band. All three winning bidders claimed small business status.

71. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order.* An auction of A, B and E block 700 MHz licenses was held in 2008. Twenty winning bidders claimed small business status (those with attributable average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years). Thirty three winning bidders claimed very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years).

72. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for the category of Wireless Telecommunications Carriers (except Satellite). Under that standard. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.

73. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Trends in Telephone Service data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

74. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules. The second has a size standard of $25 million or less in annual receipts.

75. The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

76. The second category, *i.e.* ''All Other Telecommunications,'' comprises ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,346 firms had annual receipts of under $25 million and 37 firms had annual receipts of $25 million to $49,999,999. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

b. Equipment Manufacturers

77. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. Of this total, 784 had less than 500 employees and 155 had more than 100 employees. Thus, under this size standard, the majority of firms can be considered small.

78. *Semiconductor and Related Device Manufacturing.* These establishments manufacture computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media. The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media. According to data from the 2007 U.S. Census, in 2007, there were 954 establishments engaged in this business. Of these, 545 had from 1 to 19 employees; 219 had from 20 to 99 employees; and 190 had 100 or more employees. Based on this data, the Commission concludes that the majority of the businesses engaged in this industry are small.

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

79. The *Notice of Proposed Rulemaking* does not propose any recordkeeping or reporting requirements.

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

80. The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design,

standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.

81. The *Notice of Proposed Rulemaking* proposes sunsetting the NSI rule after a six-month transition period, as well as seeking comment on a variety of possible alternatives to addressing the issue of fraudulent calls from NSI handsets. Because sunsetting the NSI rule will remove certain call-forwarding obligations on small entities, it is likely the method that would impose the least costs on these small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

82. None.

VI. Ordering Clause

83. The Federal Communications Commission ADOPTS, pursuant to Sections 1, 4(i), 4(j), 303(r) and 332 of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 154(j), 303(r), 332, this Notice of Proposed Rulemaking.

84. It is further ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carriers, Communications equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 1. The authority citation for part 20 continues to read:

Authority: 47 U.S.C. 151, 152(a), 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 615, 615a, 615b, 615c.

■ 2. Section 20.18 is amended by revising paragraph (b) and adding paragraph (o)(4), to read as follows:

§ 20.18 911 Service.

* * * * *

(b) *Basic 911 Service.* CMRS providers subject to this section must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, or, where no Public Safety Answering Point has been designated, to a designated statewide default answering point or appropriate local emergency authority pursuant to § 64.3001 of this chapter, provided that ''all wireless 911 calls'' is defined as ''any call initiated by a wireless user dialing 911 on a phone using a compliant radio frequency protocol of the serving carrier.'' After [insert date six months from the effective date of the Order], the requirements of this section will no longer apply to calls from non-service-initialized handsets as defined in paragraph (o)(3)(i) of this section.

* * * * *

(o) * * *

(4) *Sunset.* The requirements of this paragraph shall cease to be effective [insert date six months from the effective date of the Order].

* * * * *

[FR Doc. 2015–10472 Filed 5–5–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36, 42, 54, 63, and 64

[WC Docket No. 15–33; FCC 15–13]

Modernizing Common Carrier Rules

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) initiates a rulemaking that seeks to update the Commission's rules to better reflect current requirements and technology by removing outmoded regulations from the CFR. The Commission proposes to update the CFR by eliminating certain rules from which the Commission has forborn and eliminating references to telegraph service in certain rules. The Commission would clarify regulatory requirements, and modernize our rules to better reflect the state of the current telecommunications market.

DATES: Submit comments on or before June 5, 2015. Submit reply comments on or before June 22, 2015.

ADDRESSES: You may submit comments, identified by WC Docket No. 15–33 by any of the following methods:

- Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alexis Johns, Wireline Competition Bureau, Competition Policy Division, (202) 418–1580, or send an email to *alexis.johns@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in WC Docket No. 15–33, adopted February 2, 2015 and released February 6, 2015. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

I. Introduction

1. This Notice of Proposed Rulemaking (*NPRM*) seeks to update our rules to better reflect current requirements and technology by removing outmoded regulations from the Code of Federal Regulations (CFR). The *NPRM* proposes to update the CFR by (1) eliminating certain rules from which the Commission has forborn, and (2) eliminating references to telegraph service in certain rules.

2. The *NPRM* follows two orders adopted in 2013 that granted forbearance from 126 legacy wireline regulations, and the *Process Reform Report,* a Commission staff report that suggested eliminating or streamlining wireline rules that are unnecessary as a result of marketplace or technology changes. In this *NPRM,* we propose to address Recommendations 5.37 and 5.38 of the *Process Reform Report.*

3. We propose to eliminate several rules from which the Commission has granted unconditional forbearance for all carriers. These are: (1) Section 64.804(c)–(g), which governs a carrier's recordkeeping and other obligations when it extends to federal candidates unsecured credit for communications service; (2) sections 42.4, 42.5, and 42.7, which require carriers to preserve

certain records; (3) section 64.301, which requires carriers to provide communications service to foreign governments for international communications; (4) section 64.501, governing telephone companies' obligations when recording telephone conversations; (5) section 64.5001(a)–(c)(2), and (c)(4), which imposes certain reporting and certification requirements for prepaid calling card providers; and (6) section 64.1, governing traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service.

4. We also propose to remove references to ''telegraph'' from certain sections of the Commission's rules. This proposal is consistent with Recommendation 5.38 of the *Process Reform Report.* Specifically, we propose to remove ''telegraph'' from: (1) Section 36.126 (separations); (2) section 54.706(a)(13) (universal service contributions); and (3) sections 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k) (discontinuance).

5. We seek comment on these proposed modifications. And for each of the rules addressed in this *NPRM,* we seek comment on whether there are other steps the Commission should or must take, along with elimination of the rule or the term ''telegraph'' from the CFR, in order to ensure that any telegraph service provider is not subject to unnecessary regulatory obligations. With this *NPRM,* we would clarify regulatory requirements, and modernize our rules to better reflect the state of the current telecommunications market.

II. Discussion

A. Deleting Rules From Which the Commission Granted Forbearance in the USTelecom Orders

6. In 2012, USTelecom requested forbearance from an array of legacy regulations. In 2013, the Commission granted forbearance from many, but not all, of those rules. The rationale for those decisions is set forth in the *USTelecom Orders,* and we are not seeking to reopen the decisions therein. In many instances, the Commission granted unconditional forbearance from a requirement, but the forbearance orders did not alter the text of the codified rule or remove the rule from the CFR. Thus, the rules appear in the CFR even though the Commission has stated that it will forbear from applying such rules. Absent additional research, a carrier or a consumer might believe the regulations to be in force. We thus believe that deleting from the CFR the rules identified below, for which the Commission granted unconditional forbearance, will clarify carriers' regulatory obligations and make the CFR more accurately reflect the Commission's intended approach as to those rules. We therefore propose to eliminate from the CFR the rules listed below from which the Commission forbore in the *USTelecom Orders.*

7. *Sections 42.4, 42.5, and 42.7.* Section 42.4 requires each carrier to maintain at its operating company headquarters a physical copy of its master index of records. Section 42.5 governs the preparation and preservation of the original records. Section 42.7 governs how long a carrier must retain the master index of records and when records must be added.

8. *Section 64.1.* This section covers traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service.

9. *Section 64.301.* This section requires that common carriers furnish communications services to a foreign government ''upon reasonable demand'' and deny communications services to a foreign government, upon order of the Commission, when such government ''fails or refuses'' to provide communications services to the U.S. government.

10. *Section 64.501.* Section 64.501 is the present-day iteration of rules first promulgated in 1947 governing telephone companies' obligations when recording telephone conversations and precludes a telephone company from recording any telephone conversation with members of the public unless the recording is preceded by ''verbal or written consent of all parties to the telephone conversation,'' ''preceded by verbal notification,'' or ''accompanied by an automatic tone warning device.'' In the *USTelecom Forbearance Long Order,* the Commission concluded that unconditional forbearance for all carriers was warranted stating that ''since we initiated the rule more than 60 years ago, the Federal Wiretap Act, as well as State laws, have addressed the same issue in a more comprehensive fashion.''

11. *Sections 64.804(c)–(g).* These provisions require carriers to (1) obtain a signed application from the candidate for Federal office or a person on behalf of such candidate before extending credit; (2) serve written notice to the candidate for non-payment; (3) take appropriate action at law to collect any unpaid balance; (4) maintain certain associated records; and (5) carriers with revenues in excess of $1 million must file an annual report with the Commission.

12. *Sections 64.5001(a)–(c)(2), and (c)(4).* Section 64.5001 establishes reporting and certification requirements for prepaid calling card providers. Sections 64.5001(a) and (b) require prepaid calling card providers to report to their transport providers specific information, including percentage of interstate usage (PIU) factors and call volumes for which these factors were calculated. Section 64.5001(c) requires the prepaid calling card provider to submit a quarterly certification statement signed by an officer of the company to the Commission with the following information: (1) The percentage of intrastate, interstate, and international calling card minutes for the reporting period; (2) the percentage of total prepaid calling card revenue attributable to interstate and international calls for the reporting period; (3) it is making the required Universal Service Fund contribution based on the reported information; and (4) has complied with the reporting requirements in 64.5001(a). We do not propose to delete section 64.5001(c)(3) because the Commission did not grant unconditional forbearance. Rather, it granted forbearance ''only to those prepaid calling card providers that have a two-year track record of timely filing required annual and quarterly Telecommunications Reporting Worksheets (FCC Forms 499–A and 499–Q) [and] [o]nce a prepaid calling card provider has established that track record, it need not comply further with section 64.5001(c)(3).''

B. Deleting Other Rules Relating to Telegraph Service

13. In the *Process Reform Report,* Commission staff suggested deleting references to telegraph service from several wireline rules. The *Process Reform Report* recommended that the Wireline Competition Bureau delete section 64.1 and delete the word ''telegraph'' from the Commission's separations, universal service contributions, and discontinuance rules. We agree that the references to telegraph appear out of date, and propose to delete the word ''telegraph'' from the rules, as proposed in the Appendix, below. We seek comment on this proposal.

14. In light of the evolution of technology away from the use of telegraphs, we believe that the references to telegraph service in the following rules are no longer necessary, and should be deleted. Continuing to include telegraph service in these rules appears unnecessary, and potentially confusing. We seek comment on whether there are any providers offering

telegraph service today at all, and if so, whether such service offerings warrant retaining the term ''telegraph'' in the rules identified below. Would there be any practical impact if the Commission were to delete ''telegraph'' from these rules?

15. *Section 36.126 of the Separations Rules.* Jurisdictional separations is the process by which incumbent local exchange carriers (LECs) apportion regulated costs between intrastate and interstate jurisdictions. Incumbent LECs assign regulated costs to various categories of plant and expenses, and the costs in each category are apportioned between the intrastate and interstate jurisdictions. As part of this process, section 36.126 identifies equipment that is considered ''Circuit equipment—Category 4.'' Section 36.126 lists ''telegraph,'' ''telegraph system terminals,'' ''telegraph carrier terminals,'' ''telegraph private line services,'' and ''telegraph repeaters'' as examples of such equipment. We propose to delete these terms throughout section 36.126. Would deletion have any practical impact? As noted in the *Process Reform Report,* we anticipate sharing this *NPRM* with the Federal-State Joint Board on Separations. We note that there is a pending referral to the Federal-State Joint Board on separations that welcomed input on ''whether, how, and when the Commission's jurisdictional separations rules should be modified.'' Thus, we need not specifically refer this discrete matter.

16. *Section 54.706(a)(13) of the Universal Service Rules.* Section 54.706(a) requires providers of interstate telecommunications services to contribute to the universal service fund if they provide more than a *de minimis* amount of such service, and paragraph (a)(13) lists telegraph as an illustrative example of interstate telecommunications. We propose to delete the term ''telegraph'' from section 54.706(a)(13), and seek comment on this proposal. No entities filing FCC Form 499 indicate that they are providing telegraph service, and we are not aware of any interstate telegraph providers today. *De minimis* providers are required to register and file FCC Form 499 even if they do not contribute. If telegraph providers with more than a *de minimis* amount of service existed, they still would be required to contribute to the universal service fund, but this proposed rule change would update the rule to be in line with today's marketplace.

17. *Portions of Part 63 of the Discontinuance, Reduction, Outage and Impairment Rules.* Section 214(a) of the Communications Act of 1934, as amended states in part that ''[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.'' Today, carriers providing telegraph service must comply with the Commission's Part 63 rules, which were adopted pursuant to section 214(a). We propose to delete references to ''telegraph'' as proposed in the Appendix below. To the extent that any entities are still providing telegraph service, we intend to exempt telegraph service from all exit regulation by exercising our forbearance authority and we seek comment on whether we should do so. We seek comment on this proposal.

III. Procedural Matters

A. Ex Parte Rules

18. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Filing Procedures

19. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

C. Accessible Formats

20. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

D. Initial Regulatory Flexibility Certification

21. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

22. In the *NPRM,* the Commission seeks to update the CFR by (1) eliminating certain rules from which the Commission has forborn, and (2) eliminating references to telegraph service in certain rules. Specifically, the Commission proposes to eliminate several rules from which the Commission has granted unconditional forbearance for all carriers. These are: (1) Sections 64.804(c)–(g), which govern a carrier's recordkeeping and other obligations when it extends to federal candidates unsecured credit for communications service; (2) sections 42.4, 42.5, and 42.7, which require carriers to preserve certain records; (3) section 64.301, which requires carriers to provide communications service to foreign governments for international communications; (4) section 64.501 governing telephone companies' obligations when recording telephone conversations; (5) sections 64.5001(a)–(c)(2), and (c)(4), which impose certain reporting and certification requirements for prepaid calling card providers; and (6) section 64.1 governing traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service. The *NPRM* also seeks to remove references to ''telegraph'' from certain sections of the Commission's rules, consistent with Recommendation 5.38 of the *Process Reform Report.* Specifically, we propose to remove ''telegraph'' from (1) section 36.126 (separations); (2) section 54.706(a)(13) (universal service contributions); and (3) sections 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k) (discontinuance).

23. The rule changes proposed in the *NPRM,* if adopted by the Commission, would remove requirements governing reporting, recordkeeping, and other compliance obligations. All providers, including those deemed to be small entities under the SBA's standard will have reduced costs and burdens and would benefit by being relieved from compliance with these rules. Carriers are no longer required to comply with rules from which the Commission granted unconditional forbearance. Therefore, removing these rules is not likely to have any economic impact on carriers. While the *NPRM* also seeks to remove ''telegraph'' from several rule provisions not currently subject to forbearance, the number of telegraph service providers today is likely very small. As such, we do not believe the proposals in the *NPRM* would impact a substantial number of small entities.

24. The Commission therefore certifies, pursuant to the RFA, that the proposals in this *NPRM,* if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in this *NPRM* require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of this *NPRM,* including a copy of this initial regulatory flexibility certification, to the Chief Counsel for Advocacy of the SBA. In addition, a copy of this *Notice of Proposed Rulemaking* and this initial certification will be published in the **Federal Register**.

E. Initial Paperwork Reduction Act of 1995 Analysis

25. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

F. Contact Person

26. For further information about this proceeding, please contact Alex Johns, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C317, 445 12th Street SW., Washington, DC 20554, (202) 418–1580, *alexis.johns@fcc.gov*.

IV. Ordering Clauses

27. Accordingly, *it is ordered,* pursuant to sections 1, 2(a), 4(i), 4(j), 5, 10–11, 201–205, 214, 218–221, 225–228, 254, 303, 308, 403, 410, and 651 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. §§ 151, 152(a), 154(i), 154(j), 155, 160–161, 201–205, 214, 218–221, 225–228, 254, 303, 308, 403, 410, 571, 1302, and section 401 of the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. 30141, that this Notice of Proposed Rulemaking *is adopted*.

28. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

47 CFR Part 42

Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone.

47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

47 CFR Part 63

Cable television, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph, Telephone.

47 CFR Part 64

Civil defense, Claims, Communications common carriers, Computer technology, Credit, Foreign relations, Individuals with disabilities, Political candidates, Radio, Reporting and recordkeeping requirements, Telecommunications, Telegraph, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 36, 42, 54, 63, and 64 to read as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (j), 205, 221(c), 254, 303(r), 403, 410, and 1302 unless otherwise noted.

■ 2. Amend § 36.126 by revising paragraphs (a)(1), (2), and (8), adding paragraph (b)(4), and revising paragraphs (d)(1), (e)(1), and (e)(3)(iii) to read as follows:

§ 36.126 Circuit equipment—Category 4.

(a) * * *

(1) Carrier telephone system terminals.

(2) Telephone repeaters, termination sets, impedance compensators, pulse link repeaters, echo suppressors and other intermediate transmission amplification and balancing equipment except that included in switchboards.

* * * * *

(8) Testboards, test desks, repair desks and patch bays, including those provided for test and control, and for transmission testing.

(b) * * *

(4) In addition, for the purpose of identifying and separating property associated with special services, circuit equipment included in Categories 4.12 (other than wideband equipment) 4.13 and 4.23 is identified as either basic circuit equipment, *i.e.,* equipment that performs functions necessary to provide and operate channels suitable for voice transmission (telephone grade channels), or special circuit equipment, *i.e.,* equipment that is peculiar to special service circuits. Carrier telephone terminals and carrier telephone repeaters are examples of basic circuit equipment in general use, while audio program transmission amplifiers, bridges, monitoring devices and volume indicators are examples of special circuit equipment in general use.

* * * * *

(d) * * *

(1) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use—Category 4.21—This category comprises that circuit equipment provided for the use of another company as an integral part of its interexchange circuit facilities used wholly for interstate services. This category includes such circuit equipment as telephone carrier terminals and microwave systems used wholly for interstate services. The total cost of the circuit equipment in this category for the study area is assigned to the interstate operation

(e) * * *

(1) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use—Category 4.21—This category comprises that circuit equipment provided for the use of another company as an integral part of its interexchange circuit facilities used wholly for interstate services. This category includes such circuit equipment as telephone carrier terminals and microwave systems used wholly for interstate services. The total cost of the circuit equipment in this category for the study area is assigned to the interstate operation.

* * * * *

(3) * * *

(iii) The cost of special circuit equipment is segregated among private line services based on an analysis of the use of the equipment and in accordance with § 36.126(b)(4). The special circuit equipment cost assigned to private line services is directly assigned to the appropriate operations.

* * * * *

PART 42—PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS

■ 3. The authority citation for part 42 continues to read as follows:

Authority: Sec. 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i). Interprets or applies secs. 219 and 220, 48 Stat. 1077–78, 47 U.S.C. 219, 220.

§ 42.4 [Removed]

■ 4. Remove § 42.4.

§ 42.5 [Removed]

■ 5. Remove § 42.5.

§ 42.7 [Removed]

■ 6. Remove § 42.7.

PART 54—UNIVERSAL SERVICE

■ 7. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

§ 54.706 [Amended]

■ 8. In § 54.706, remove and reserve paragraph (a)(13).

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 9. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 10. Amend § 63.60 by revising paragraph (c) to read as follows:

§ 63.60 Definitions.

* * * * *

(c) Emergency discontinuance, reduction, or impairment of service means any discontinuance, reduction, or impairment of the service of a carrier occasioned by conditions beyond the control of such carrier where the original service is not restored or comparable service is not established within a reasonable time. For the purpose of this part, a reasonable time shall be deemed to be a period not in excess of the following: 10 days in the case of public coast stations; and 60 days in all other cases;

* * * * *

■ 11. Amend § 63.61 by revising the introductory text to read as follows:

§ 63.61 Applicability.

Any carrier subject to the provisions of section 214 of the Communications Act of 1934, as amended, proposing to discontinue, reduce or impair interstate or foreign telephone service to a community, or a part of a community, shall request authority therefor by formal application or informal request as specified in the pertinent sections of this part:

* * * * *

■ 12. Amend § 63.62 by revising the section heading to read as follows:

§ 63.62 Type of discontinuance, reduction, or impairment of telephone service requiring formal application.

* * * * *

§ 63.65 [Amended]

■ 13. In § 63.65, remove and reserve paragraph (a)(4).

■ 14. Amend § 63.500 by revising paragraph (g) to read as follows:

§ 63.500 Contents of applications to dismantle or remove a trunk line.

* * * * *

(g) Name of any other carrier or carriers providing telephone service to the community;

* * * * *

■ 15. Amend § 63.501 by revising paragraph (g) to read as follows:

§ 63.501 Contents of applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier.

* * * * *

(g) Name of any other carrier or carriers providing telephone service to the community;

* * * * *

■ 16. Amend § 63.504 by revising paragraph (k) to read as follows:

§ 63.504 Contents of applications to close a public toll station where no other such toll station of the applicant in the community will continue service and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.

* * * * *

(k) Description of the service involved, including a statement of the number of toll telephone messages sent-paid and received-collect, and the revenues from such traffic, in connection with the service proposed to be discontinued for each of the past 6 months; and, if the volume of such traffic handled in the area has decreased during recent years, the reasons therefor.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

Subpart A—[Removed and Reserved]

■ 18. Remove and reserve subpart A, consisting of § 64.1.

Subpart C—[Removed and Reserved]

■ 19. Remove and reserve subpart C, consisting of § 64.301.

Subpart E—[Removed and Reserved]

■ 20. Remove and reserve subpart E, consisting of § 64.501.

§ 64.804 [Amended]

■ 21. In § 64.804, remove and reserve paragraphs (c) through (g).

■ 22. Revise § 64.5001 to read as follows:

§ 64.5001 Reporting and certification requirements.

On a quarterly basis, every prepaid calling card provider must submit to the Commission a certification, signed by an officer of the company under penalty of perjury, stating that it is making the required Universal Service Fund contribution based on the reported information. This provision shall not apply to any prepaid calling card provider that has timely filed every FCC Form 499–A and 499–Q due during the preceding two-year period.

[FR Doc. 2015–10470 Filed 5–5–15; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 516, 538 and 552

[GSAR Case 2013–G504; Docket 2014–0020; Sequence 1]

RIN 3090–AJ51

General Services Administration Acquisition Regulation (GSAR); Transactional Data Reporting; Extension of Time for Comments

AGENCY: Office of Acquisition Policy, General Services Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The General Services Administration (GSA) issued a proposed rule on March 4, 2015, amending the General Services Administration Acquisition Regulation (GSAR) to include clauses that would require vendors to report transactional data from orders and prices paid by ordering activities. This includes orders placed against both Federal Supply Schedule (FSS) contract vehicles and GSA's non-FSS contract vehicles—Government-wide Acquisition Contracts (GWACs) and Government-wide Indefinite-Delivery, Indefinite-Quality (IDIQ) contracts. For FSS vehicles, the clause would be introduced in phases, beginning with a pilot for select products and commoditized services. The new clause will be paired with changes to the basis of award monitoring requirement of the existing price reductions clause, resulting in a burden reduction for participating FSS contractors. This rulemaking does not apply to the Department of Veterans Affairs (VA) FSS contract holders. The comment period is being extended to provide additional time for interested parties to provide comments for GSAR Case 2013–G504, Transactional Data Reporting, to May 11, 2015.

DATES: For the proposed rule published on March 4, 2015 (80 FR 11619), submit comments by May 11, 2015.

ADDRESSES: Submit comments in response to GSAR Case 2013–G504 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments by searching for ''GSAR Case 2013–G504''. Select the link ''Comment Now'' and follow the instructions provided at the ''You are commenting on'' screen. Please include your name, company name (if any), and ''GSAR Case 2013–G504'', on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, ATTN: Ms. Flowers, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite GSAR Case 2013–G504 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, General Services Acquisition Policy Division, GSA, at 202–357–9652, or Mr. Matthew McFarland, General Services Acquisition Policy Division, GSA, at 202–690–9232, or email *gsar@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite GSAR Case 2013–G504.

SUPPLEMENTARY INFORMATION:

Background

GSA published a proposed rule in the **Federal Register** at 80 FR 11619, March 4, 2015. The comment period is extended to provide additional time for interested parties to submit comments on the GSAR case until May 11, 2015.

List of Subjects in 48 CFR Parts 501, 516, 538, and 552

Government procurement.

Dated: April 30, 2015.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2015–10637 Filed 5–5–15; 8:45 am]

BILLING CODE 6820–61–P

Notices

Federal Register
Vol. 80, No. 87
Wednesday, May 6, 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

Submission for OMB Review; Comment Request

April 30, 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 June 5, 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.

Farm Service Agency

Title: Data on Nonresident.

OMB Control Number: 0560—New.

Summary of Collection: 26 CFR Chapter 3 requires any individual to report taxes to the IRS. The Farm Service Agency (FSA) will be using the FSA–500 Data on Nonresident Applicants, to verify each applicant's citizenship, if applications for payments are filed by or for applicants who reside outside the United States, its territories or possessions, even if the application is filed by an agent of the applicant whose address is in the United States.

Need and Use of the Information: The FSA–500 request the applicant's name, address, United States citizenship and signature of applicant or authorized agent. The data collected on the FSA–500 will assist in ensuring foreign taxes are collected and reported to the IRS accurately.

Description of Respondents: Individuals or households.

Number of Respondents: 55.

Frequency of Responses: Reporting; on occasion.

Total Burden Hours: 60.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–10529 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0031]

Notice of Request for Extension of Approval of an Information Collection; User Fee Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the collection of user fees.

DATES: We will consider all comments that we receive on or before July 6, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0031.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0031, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0031* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading Room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on user fees, contact Ms. Serina Eckwood, Auditor, Review and Analysis Branch, Financial Management Division, APHIS, 4700 River Road Unit 55, Riverdale, MD 20737; (301) 851–2604. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: User Fee Regulations.

OMB Control Number: 0579–0094.

Type of Request: Extension of approval of an information collection.

Abstract: Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended, authorizes the Animal and Plant Health Inspection Service (APHIS) to collect user fees for agricultural quarantine and inspection (AQI) services, for providing for the inspection and certification of plants and plant products offered for export or transiting the United States, and for providing veterinary diagnostic services and services related to the importation and exportation of animals and animal products.

Although certain AQI functions, but not the laws or regulations upon which they are premised, were transferred from APHIS to the Customs and Border Protection (CBP) bureau of the Department of Homeland Security in 2002, APHIS remains responsible for the regulations related to AQI activities, including the user fee regulations. APHIS also remains responsible for administration of the user fee programs.

Neither APHIS nor CBP receives an appropriation to fund activities that are considered AQI services; instead, user fees are calculated and assessed to ensure full cost recovery of each user fee program. If the information was not collected, the agencies would not be able to perform the services since the fees collected are necessary to fund the work.

Requesters of services usually are repeat customers, and, in many cases, request that we bill them for our services. Also, the 1996 Debt Collection Improvement Act requires that agencies collect tax identification numbers (TINs) from all persons doing business with the Government for purposes of collecting delinquent debts. Without a TIN, service cannot be provided on a credit basis.

The requests for services are in writing, by telephone, or in person. The information contained in each request identifies the specific service requested and the time in which the requester wishes the service to be performed. This information is necessary in order for animal import centers and port offices to schedule the work and to calculate the fees due.

APHIS is responsible for ensuring that fees collected are correct and that they are remitted in full and in a timely manner. To ensure this, the party (ticketing agents for transportation companies) responsible for collecting and remitting fees must allow APHIS personnel to verify the accuracy of the fees collected and remitted, and otherwise determine compliance with the statute and regulations. We also require that whoever is responsible for making fee payments advise us of the name, address, and telephone number of a responsible officer who is authorized to verify fee calculations, collections, and remittances.

This information collection is necessary for APHIS to effectively collect fees, ensure remittances in a timely manner, and determine proper credit for payment of international air passenger, aircraft clearance, commercial truck, commercial railroad car, commercial vessel, phytosanitary certificate, import/export, and veterinary diagnostic user fees.

For this extension of approval, we have adjusted the estimated annual number of respondents from 51,981 to 151,409, and we have increased the estimated annual number of responses from 295,881 to 6,965,268. As a result, the estimated total annual burden on respondents has increased from 15,998 hours to 270,225 hours. The increases are due to an increase in respondents because more people are participating in the animal import and export business.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.0388 hours per response.

Respondents: Arriving international passengers, owners and operators of arriving international means of conveyances, and importers/exporters who import or export animals and animal products.

Estimated annual number of respondents: 151,409.

Estimated annual number of responses per respondent: 46.

Estimated annual number of responses: 6,965,268.

Estimated total annual burden on respondents: 270,225 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 29th day of April 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–10531 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Request for Aerial Photography

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and organizations on an extension of a currently approved information collection associated with FSA Aerial Photography Program. The FSA Aerial Photography Field Office (APFO) uses the information from the form to collect the customer and photography information needed to produce and ship the various photographic products ordered.

DATES: We will consider comments that we receive by July 6, 2015.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* David Parry, Supervisor, USDA, Farm Service Agency, APFO Customer Service Section, 2222 West 2300 South Salt Lake City, Utah 84119–2020.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting David Parry at the above address.

FOR FURTHER INFORMATION CONTACT: David Parry, Supervisor, (801) 844–2923. Persons with disabilities who require alternative mean for communication (Braille, large print, audio tape, etc.) should contact the USDA's TARGET Center at (202) 720–2600 (Voice).

SUPPLEMENTARY INFORMATION:

Title: Request for Aerial Photography.
OMB Control Number: 0560–0176.
Expiration Date: November 30, 2015.
Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The information collection is needed to enable the Department of Agriculture to effectively administer the Aerial Photography Program. APFO has the responsibility for conducting and coordinating the FSA's aerial photography, remote sensing programs, and the aerial photography flying contract programs. The digital and film imagery secured by FSA is public domain and reproductions of such imagery are available at cost to any customer with a need. All receipts from the sale of aerial photography products and services are retained by FSA. The FSA–441, Request for Aerial Photography, is the form FSA supplies to the customers for placing an order for aerial imagery products and services. There are no changes to the burden hours since the last OMB submission.

The formula used to calculate the total burden hour is estimated average time per responses hours times total annual responses.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 19 minutes hours per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

Respondents: Farmers, Ranchers and other USDA customers who wish to purchase imagery products and services.

Estimated Number of Respondents: 12,120.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses. 12,120.

Estimated Average Time per Response: 0.32.

Estimated Total Annual Burden Hours on Respondents: 3,770 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses where provided, will be made a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Signed on May 1, 2015.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2015–10606 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2015–0020]

Notice of Request To Extend an Information Collection: (Consumer Complaint Monitoring System and the Food Safety Mobile Questionnaire)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to extend the currently approved information collection regarding both its Consumer Complaint Monitoring System (CCMS) web portal and its electronic Food Safety Mobile questionnaire. The approval for this information collection will expire on August 31, 2015. FSIS is making no changes to the currently approved collection. The public may comment on either the entire information collection or on one of its two parts.

DATES: Submit comments on or before July 6, 2015.

ADDRESSES: FSIS invites interested persons to submit comments on this information collection. Comments may be submitted by one of the following methods:

- Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the on-line instructions at that site for submitting comments.
- Mail, including CD–ROMs, etc.: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2015–0020. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6067, South Building, Washington, DC 20250; (202)690–6510.

SUPPLEMENTARY INFORMATION:

Title: Consumer Complaint Monitoring System; the Food Safety Mobile Questionnaire.

OMB Control Number: 0583–0133.

Expiration Date: 8/31/2015.

Type of Request: Extension of an approved information collection.

Abstract: FSIS, by delegation (7 CFR 2.18, 2.53), exercises the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et 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 statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS tracks consumer complaints about meat, poultry, and egg products. Consumer complaints are usually filed because the food made the consumer sick, caused an allergic reaction, was not properly labeled (misbranded), or contained a foreign object. FSIS uses a web portal to allow consumers to electronically file a complaint with the Agency about a meat, poultry, or egg product. FSIS uses this information to look for trends that will enhance the Agency's food safety efforts.

FSIS uses a Food Safety Mobile or USDA Food Safety Discovery Zone—a

vehicle that travels throughout the continental United States, to educate consumers about the risks associated with the mishandling of food and the steps they can take to reduce their risk of foodborne illness. Organizations can request a visit from the FSIS Food Safety Mobile, although its availability is limited. To facilitate the scheduling of the Food Safety Mobile's visits when it is available, the Agency uses an electronic questionnaire on its Web site. The questionnaire solicits information about the person or organization requesting the visit, the timing of the visit, and the type of event at which the Food Safety Mobile is to appear.

FSIS is requesting an extension of an approved information collection addressing paperwork and recordkeeping requirements regarding the Agency's CCMS web portal and regarding its electronic Food Safety Mobile questionnaire.

FSIS has made the following estimates based upon an information collection assessment.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average .446 hours per response.

Respondents: Consumers and organizations.

Estimated Number of Respondents: The CCMS web portal will have approximately 1,000 respondents. The Food Safety Mobile questionnaire will have approximately 150 respondents.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: The total annual burden time is estimated to be around 500 hours for respondents using CCMS web portal, and 13 hours for respondents using the Food Safety Mobile questionnaire. Thus, the total annual burden time for these two systems is 513 hours. Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence, SW., Room 6077, South Building, Washington, DC 20250, (202)690–6510.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register*.

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe*. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, Fax: (202) 690–7442, Email: *program.intake@usda.gov*.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: May 1, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–10607 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Request for Applications for the Veterinary Medicine Loan Repayment Program

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is announcing the release of the Veterinary Medicine Loan Repayment Program (VMLRP). General information regarding the VMLRP can be obtained at: *www.nifa.usda.gov/vmlrp.*

The Request for Applications (RFA) can be obtained at: *http://nifa.usda.gov/vmlrp-request-applications-rfa*.

DATES: The fiscal year (FY) 2015 Veterinary Medicine Loan Repayment Program (VMLRP) application package will be available at: *http://nifa.usda.gov/vmlrp-request-applications-rfa.* Applications must be received by June 22, 2015.

FOR FURTHER INFORMATION CONTACT: Danielle Tack, VMLRP Program Manager, Program Coordinator, Institute of Food Production and Sustainability, National Institute of Food and Agriculture, U.S. Department of Agriculture, Washington, DC 20024; telephone: (202) 401–6802; fax: (202) 720–6486; email: *vmlrp@nifa.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background and Purpose

In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA). This law established a new Veterinary Medicine Loan Repayment Program (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations.

On December 16, 2014, the President signed into law the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235), which appropriated $5,000,000 for the VMLRP.

Section 7105 of FCEA amended section 1415A to revise the determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

NARETPA section 1415A requires the Secretary, when determining the amount of repayment for a year of service by a veterinarian to consider the ability of USDA to maximize the number of agreements from the amounts appropriated and to provide an incentive to serve in veterinary service shortage areas with the greatest need. This section also provides that loan repayments may consist of payments of the principal and interest on government and commercial loans received by the individual for the attendance of the individual at an accredited college of veterinary medicine resulting in a degree of Doctor of Veterinary Medicine or the equivalent. This program is not authorized to provide repayments for any government or commercial loans incurred during the pursuit of another degree, such as an associate or bachelor degree. Loans eligible for repayment include educational loans made for one or more of the following: loans for tuition expenses; other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and reasonable living expenses as determined by the Secretary. In addition, the Secretary is directed to make such additional payments to participants as the Secretary determines appropriate for the purpose of providing reimbursements to participants for individual tax liability resulting from participation in this program. Finally, this section requires USDA to promulgate regulations within 270 days of the enactment of FCEA (*i.e.,* June 18, 2008). The Secretary delegated the authority to carry out this program to NIFA.

The final rule was published in the **Federal Register** on April 19, 2010 (75 FR 20239). Based on comments received during the 60-day comment period upon publication of the interim rule on July 9, 2009 (74 FR 32788), NIFA reconsidered the policy regarding individuals who consolidated their veterinary school loans with other educational loans (*e.g.,* undergraduate) and their eligibility to apply for the VMLRP. NIFA will allow these individuals to apply for and receive a VMLRP award; however, only the eligible portion of the consolidation will be repaid by the VMLRP. Furthermore, applicants with consolidated loans will be asked to provide a complete history of their student loans from the National Student Loan Database System (NSLDS), a central database for student aid operated by the U.S. Department of Education. The NSLDS Web site can be found at *www.nslds.ed.gov.* Individuals who consolidated their DVM loans with non-educational loans or loans belonging to an individual other than the applicant, such as a spouse or child, will continue to be ineligible for the VMLRP.

In FY 2010, NIFA announced its first funding opportunity for the VMLRP. In the five (5) program cycles since, NIFA has received 858 applications from which 291 VMLRP awards totaling $25,292,341 were issued. Consequently, up to $4,428,150 is available to support this program in FY 2015. Funding for future years will be based on annual appropriations and balances, if any, remaining from prior years. General information regarding the VMLRP can be obtained at the VMLRP Web site: *http://www.nifa.usda.gov/vmlrp.*

The eligibility criteria for applicants and the application forms and associated instructions needed to apply for a VMLRP award can be viewed and downloaded from the VMLRP Web site at: *http://nifa.usda.gov/vmlrp-request-applications-rfa.*

Done in Washington, DC, this 27th day of April, 2015.

Sonny Ramaswamy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2015–10287 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2015–0003]

Notice of Proposed Changes to the National Handbook of Conservation Practices for the Natural Resources Conservation Service

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices for public review and comment.

SUMMARY: Notice is hereby given of the intention of NRCS to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices. These standards include: Amending Soil Properties with Gypsum Products (Code 333), Animal Mortality Facility (Code 316), Contour Orchards and Other Perennial Crops (Code 331), Controlled Traffic Farming (Code 334), Denitrifying Bioreactor (Code 605), Emergency Animal Mortality Management (Code 368), Field Operations Emissions Reduction (Code 376), Forest Stand Improvement (Code 666), Herbaceous Wind Barriers (Code 603), Irrigation System, Micro-irrigation (Code 441), Roofs and Covers (Code 367), Sprinkler System (Code 442), Vegetated Treatment Area (Code 635), and Vegetative Barrier (Code 601).

NRCS State Conservationists who choose to adopt these practices for use within their States will incorporate them into Section IV of their respective electronic Field Office Technical Guide. These practices may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be a wetland. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out HEL and wetland provisions of the law.

DATES: This is effective May 6, 2015. Submit comments on or before June 5, 2015. Final versions of these new or revised conservation practice standards will be adopted after the close of the 30-

day period and after consideration of all comments.

ADDRESSES: Mail or hand-deliver comments to Public Comments Processing, Attention: Regulatory and Agency Policy Team, Strategic Planning and Accountability, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1–1112D, Beltsville, Maryland 20705. Submit electronic comments via the Federal eRulemaking Portal at *http://www.regulations.gov.* All submitted comments should be identified by Docket Number NRCS–2015–0003.

NRCS will post all comments on *http://www.regulations.gov.* In general, personal information provided with comments will be posted. If your comment includes your address, phone number, email, or other personal identifying information, your comments, including personal information, may be available to the public. You may ask in your comment that your personal identifying information be withheld from public view, but this cannot be guaranteed.

FOR FURTHER INFORMATION CONTACT: Wayne Bogovich, Natural Resources Conservation Service, 1400 Independence Avenue Southwest, South Building, Room 6136, Washington, DC 20250.

Electronic copies of the proposed revised standards are available through *http://www.regulations.gov* by accessing Docket No. NRCS–2015–0003. Alternatively, copies can be downloaded or printed from the following Web site: *http://go.usa.gov/TXye.* Requests for paper versions or inquiries may be directed to Emil Horvath, Natural Resources Conservation Service, Central National Technology Support Center, 501 West Felix Street, Fort Worth, Texas 76115.

SUPPLEMENTARY INFORMATION: The amount of the proposed changes varies considerably for each of the conservation practice standards addressed in this notice. To fully understand the proposed changes, individuals are encouraged to compare these changes with each standard's current version as shown at: *http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/technical/cp/ncps/?cid=nrcs143026849.* To aid in this comparison, the following are highlights of some of the proposed revisions to each standard:

Amending Soil Properties with Gypsum Products (Code 333): This is a new conservation practice standard using the technology of gypsum products to improve soil structure, and to reduce phosphorus runoff from fields and buffer areas.

Animal Mortality Facility (Code 316): Criteria for catastrophic animal mortality has been removed and placed in Emergency Animal Mortality Management (368). The information provided on composting has been expanded. The language was changed to improve the readability of the standard.

Contour Orchards and Other Perennial Crops (Code 331): Wind erosion was removed as one of the purposes, and the technology addresses only sheet and rill erosion from water. Edits were made to the purposes to align with NRCS' list of natural resource concerns. The criteria for additional temporary erosion control measures on sites that are disturbed was added. The allowable contour row grade was reduced from 10 percent to 4 percent. The criteria to improve sediment trapping on the slopes of inward-sloping benches was added. Minor edits where made throughout the standard to improve clarity.

Controlled Traffic Farming (Code 334): This is a new conservation practice where heavy axle loads are confined to designated lanes or tramlines that will cover no more than 33 percent of the surface area of the field. The primary purpose is to reduce soil compaction.

Denitrifying Bioreactor (Code 605): This proposed National standard is based on interim standards from Illinois and Iowa. These States have been using and refining this standard since 2009. As the interim standards are revised each year, new data becomes available. This summary of changes is brief.

Emergency Animal Mortality Management (Code 368): This is a new conservation practice standard defined as a means or method for the management of animal carcasses from catastrophic mortality events.

Field Operations Emissions Reduction (Code 376): This is a new conservation practice standard to address air particulate emissions (10 micrometers in diameter or smaller), especially in designated air quality impaired zones. The standard provides criteria to reduce emission of particulate matter from field operations; primarily from tillage and harvest operations.

Forest Stand Improvement (Code 666): The agency added new language to the definition: ''. . . to achieve a desired future condition or obtain ecosystem services.'' Two purposes that refer to forest products where deleted because they do not refer to an environmental benefit. Purposes that refer to renewable energy systems, and aesthetics and recreation are moved to ''Considerations'' because they are not primary purposes for this practice. NRCS changed ''Conditions where Practice Applies'' from ''All Forest land'', (with exceptions for some agroforestry practices), to ''All land where the quantity and quality of trees can be enhanced.'' Under ''General Criteria Applicable to All Purposes,'' NRCS changed the emphasis from silvicultural systems to achieving desired future conditions by altering the species composition or tree density. ''Additional Criteria to Improve and Sustain Forest Health and Productivity'' were added. Several new ''Considerations'' were added, including descriptions of silvicultural and carbon sequestration options. Several new references were also added.

Herbaceous Wind Barriers (Code 603): The purpose and criteria to enhance snow deposition was removed because the vegetation during the winter period is not conducive to uniform snow deposition. Minor edits were made throughout the standard to improve clarity. The criteria for barrier height for the wind erosion period was increased to 1.5 feet from 0.5 feet.

Irrigation System, Micro-irrigation (Code 441): The purpose of reduced energy use was removed. It would not be the primary purpose of planning a micro-irrigation system. There are also some minor editorial changes.

Roofs and Covers (Code 367): The definition for the ''Roofs and Covers'' practice added agrichemical handling facilities to the waste management facilities specified. Criteria was added to include treated wood products and the type of associated fasteners, as was a table for geomembrane materials specified by cover purpose. Criteria was also added for appurtenant equipment associated with cover over liquid manure storage facilities for the safe collection, conveyance, treatment, or utilization of biogases.

Sprinkler System (Code 442): ''In absence of manufacturer's recommendations for pressure regulator operation, ensure line pressure upstream of regulators is at least 5 psi above rated regulator pressure'' was added. There are also some minor editorial changes.

Vegetated Treatment Area (Code 635): This standard was edited to improve clarity. Additionally, criteria was added to address pretreatment and erosion control measures, and the minimum flow length that affected the design of small facilities was removed.

Vegetative Barrier (Code 601): The purpose and the criteria to use the vegetative barrier to control concentrated flow erosion was removed

due to poor performance. Minor edits here made throughout the standard to improve clarity.

Signed this 22nd day of April, 2015, in Washington, DC.

Jason A. Weller,

Chief, Natural Resources Conservation Service.

[FR Doc. 2015–10476 Filed 5–5–15; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will hold a meeting on Tuesday, June 23, 2015 at the Department of Commerce Herbert C. Hoover Building in Washington, DC. The meeting is open to the public and interested parties are requested to contact the Department of Commerce in advance of the meeting.

DATES: June 23, 2015, from approximately 8:30 a.m. to 4 p.m. Daylight Saving Time (DST). Members of the public wishing to participate must notify Andrew Bennett at the contact information below by 5 p.m. DST on Friday, June 19, 2015, in order to pre-register.

FOR FURTHER INFORMATION CONTACT: Andrew Bennett, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–5235; email: *Andrew.Bennett@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on July 14, 2010. The RE&EEAC was re-chartered on June 12, 2014. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries.

During the June 23rd meeting of the RE&EEAC, committee members will discuss priority issues identified in advance by the Committee Chair and Sub-Committee leadership, and hear from interagency partners on issues impacting the competitiveness of the U.S. Renewable Energy and Energy Efficiency industries.

A limited amount of time before the close of the meeting will be available for pertinent oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two to five minutes per person (depending on number of public participants). Individuals wishing to reserve additional speaking time during the meeting must contact Mr. Bennett and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5 p.m. DST on Friday, June 19, 2015. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the teleconference, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a copy of their oral comments by email to Mr. Bennett for distribution to the participants in advance of the teleconference.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Andrew Bennett, Office of Energy and Environmental Industries, U.S. Department of Commerce, Mail Stop: 4053, 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5 p.m. DST on Friday, June 19, 2015, to ensure transmission to the Committee prior to the teleconference. Comments received after that date will be distributed to the members but may not be considered on the teleconference.

Copies of RE&EEAC meeting minutes will be available within 30 days following the meeting.

Dated: April 29, 2015.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2015–10527 Filed 5–5–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is amending its final results in the administrative review of the antidumping duty order on large power transformers from the Republic of Korea (Korea) for the period February 16, 2012, through July 31, 2013, to correct certain ministerial errors.

DATES: *Effective date:* May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Brian Davis (Hyosung) or David Cordell (Hyundai), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7924 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2015, the Department published its final results in the administrative review of the antidumping duty order on large power transformers from Korea.[1] On March 30, 2015, ABB Inc. (Petitioner) submitted a ministerial error allegation.[2] On March 30, 2015, Hyundai Heavy Industries Co., Ltd. (HHI) and Hyundai Corporation, USA (Hyundai USA) (collectively, Hyundai) filed a ministerial error allegation.[3] On April 3, 2015, Hyosung Corporation and HICO America Sales and Technology, Inc. (collectively, Hyosung) submitted comments in reply to Petitioner's allegation.[4] Based on our analysis of these allegations, we made changes to the calculation of the

[1] *See Large Power Transformers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 17034 (March 31, 2015) (*Final Results*).

[2] *See* Letter from Petitioner to the Department, ''Administrative Review of Large Power Transformers from Korea—Petitioner's Allegation on Ministerial Errors in the Department's Final Margin Calculation'' dated March 30, 2015.

[3] *See* Letter from Hyundai to the Department, ''Antidumping Administrative Review of Large Power Transformers from Korea Ministerial Error Comments'' dated March 30, 2015.

[4] *See* Letter from Hyosung to the Department, ''Large Power Transformers from the Republic of Korea: Reply to Petitioner's Allegation of Ministerial Errors'' (April 3, 2015).

weighted-average dumping margins for Hyundai, Hyosung and for the non-individually examined respondents.

Scope of the Order

The scope of this order covers large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete.

Incomplete LPTs are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of LPTs. The ''active part'' of the transformer consists of one or more of the following when attached to or otherwise assembled with one another: The steel core or shell, the windings, electrical insulation between the windings, the mechanical frame for an LPT.

The product definition encompasses all such LPTs regardless of name designation, including but not limited to step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, and power rectifier transformers.

The LPTs subject to this order are currently classifiable under subheadings 8504.23.0040, 8504.23.0080 and 8504.90.9540 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Ministerial Error

Section 751(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.''

We agree with Hyundai that we made a ministerial error within the meaning of 19 CFR 351.224(f) with respect to one expense field. For sales of multiple units, the Department inadvertently used the total amounts of the expense for the relevant sales rather than the per-unit amounts. No other party commented on this issue.

With respect to Petitioner's allegation that in the Department's margin program, the Department erred by failing to include all U.S. selling expenses in calculating the amount of CEP profit to deduct in its determination of the net U.S. price, the Department agrees that this is a ministerial error. However, for reasons outlined in the accompanying ministerial error memorandum and in the calculation memoranda,[5] the Department has revised its CEP expense calculation using programming language that differs from that suggested by Petitioner in order to properly calculate CEP profit, net U.S. price, and normal value.

Hyosung argues that the Department should reject Petitioner's allegation on the grounds that Petitioner could have raised the allegation in its case brief and it is, therefore, now untimely. Hyosung also argues that it is a belated attempt to raise a methodological issue with respect to the Department's calculations. Nevertheless, we find that we made an inadvertent error in not using the correct calculation string with respect to CEP expenses, and therefore, are correcting and amending the final results of review in accordance with section 751(h) of the Act and 19 CFR 351.224(e). As a result, the weighted-average dumping margin for Hyosung changes from 6.43 percent to 9.09 percent, and for Hyundai changes from 9.53 percent to 13.82 percent. Furthermore, the rate for the respondents not selected for individual examination, which is based on the weighted-average of the two respondents selected for individual examination, changes from 8.16 percent to 11.73 percent.[6]

All Other's Rate

The Department, in the *Final Results,* inadvertently stated ''the cash deposit rate for all other manufacturers or exporters will continue to be 29.93 percent, the all-others rate established in the antidumping investigation.'' [7] This should have read: ''the cash deposit rate for all other manufacturers or exporters will continue to be 22.00 percent, the all-others rate established in the antidumping investigation.'' [8]

Amended Final Results of the Review

The Department determines that the following amended weighted-average dumping margins exist for the period February 16, 2012, through July 31, 2013:

Company	Weighted-average dumping margin (percent)
Hyosung Corporation	9.09
Hyundai Heavy Industries Co., Ltd	13.82
ILJIN Electric Co., Ltd	11.73
ILJIN	11.73
LSIS Co., Ltd	11.73

Disclosure

We will disclose the calculation memoranda used in our analysis to parties to this proceeding within five days of the date of the public announcement of these amended final results pursuant to 19 CFR 351.224(b).

Duty Assessment

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries.[9] For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the amended final results of this administrative review, if any importer-specific assessment rates calculated in the amended final results are above *de minimis* (*i.e.,* at or above 0.5 percent), the Department will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis,* in accordance with

[5] *See* Memoranda entitled ''Amended Final Results of the Antidumping Duty Administrative Review of Large Power Transformers from the Republic of Korea; 2012–2013: Allegations of Ministerial Errors''; ''Analysis of Data Submitted by Hyosung Corporation in the Amended Final Results of the Antidumping Duty Administrative Review of Large Power Transformers from the Republic of Korea; 2012–2013''; and ''Analysis of Data Submitted by Hyundai Heavy Industries Co., Ltd. (HHI) and Hyundai Corporation, USA (Hyundai USA) (collectively, Hyundai) in the Amended Final Results of the Antidumping Duty Administrative Review of Large Power Transformers from the Republic of Korea; 2012–2013,'' dated concurrently with this notice.

[6] The rate applied to the non-selected companies (*i.e.,* ILJIN, ILJIN Electric, and LSIS) is a weighted-average percentage margin calculated based on the publicly-ranged U.S. volumes of the two reviewed companies (both of which are affirmative dumping margins), for the period February 16, 2012, through July 31, 2013. *See* Memorandum to the File titled, ''Large Power Transformers from the Republic of Korea: Amended Final Dumping Margin for Respondents Not Selected for Individual Examination,'' through Angelica Townshend, Program Manager, dated concurrently with this notice.

[7] *See Final Results,* 80 FR at 17036.

[8] *See Large Power Transformers From the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

[9] In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[10] This clarification will apply to entries of subject merchandise during the period of review (POR) produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see* the *Automatic Assessment Clarification.*

We do not intend to issue assessment instructions to CBP because of the preliminary injunction that was issued after the issuance of the *Final Results. See* CBP Message Number 5111304.

Cash Deposit Instructions

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these amended final results, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be the rate established in the amended final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 22.00 percent, the all-others rate established in the antidumping investigation.[11] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these amended final results in accordance with section 751(h) of the Act and 19 CFR 351.224(f).

Dated: April 28, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–10512 Filed 5–5–15; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Automatic Assessment Clarification*).

[11] *See Large Power Transformers From the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Rescission of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico for the period November 1, 2013, through October 31, 2014.

DATES: *Effective Date:* May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6312 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 2014, based on a timely request for review by Wheatland Tube Company (Wheatland), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico covering the period November 1, 2013, through October 31, 2014.[1] On March 23, 2015, Wheatland withdrew its request for an administrative review of all of the companies listed in its review request.[2]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, Wheatland timely withdrew its review request by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order. As a result, we are rescinding the administrative review

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 76956 (December 23, 2014).

[2] *See* letter from Wheatland to the Secretary of Commerce entitled, ''Circular Welded Non-Alloy Steel Pipe From Mexico: Withdrawal Of Request For Administrative Review,'' date March 23, 2015.

of certain circular welded non-alloy steel pipe from Mexico for the period November 1, 2013, through October 31, 2014.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertained shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 41 days after the publication of this notice.

Notifications

This notice 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 the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final 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. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 30, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty.

[FR Doc. 2015–10623 Filed 5–5–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of prospective grant of exclusive patent license.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States of America, its territories, possessions and commonwealths, to NIST's interest in the invention embodied in U.S. Patent No. 8,918,884, entitled ''K-zero day safety,'' (NIST Docket No. 12–017) to the George Mason Research Foundation, Inc. The grant of the license would be for all fields of use.

FOR FURTHER INFORMATION CONTACT: Honeyeh Zube, National Institute of Standards and Technology, Technology Partnerships Office, 100 Bureau Drive, Stop 2200, Gaithersburg, MD 20899, (301) 975–2209, *honeyeh.zube@nist.gov.*

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. U.S. Patent No. 8,918,884 is co-owned by George Mason University and the U.S. Government, as represented by the Secretary of the Department of Commerce. The patent, which issued on December 23, 2014, describes systems and methods for determining a safety level of a network vulnerable to attack.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2015–10497 Filed 5–5–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NOAA RESTORE Act Science Program Science Plan

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Response to comments and release of final science plan.

SUMMARY: The National Ocean Service (NOS) of the National Oceanic and Atmospheric Administration (NOAA) publishes this notice to announce the availability of response to comments and release of the final science plan for the NOAA RESTORE Act Science Program.

ADDRESSES: The final science plan for the NOAA RESTORE Act Science Program will be available at *http://restoreactscienceprogram.noaa.gov/science-plan.* Inquiries about the plan may be addressed to Becky Allee at NOAA Office for Coastal Management, Gulf of Mexico Division, Bldg. 1100, Rm. 232, Stennis Space Center, MS 39529.

FOR FURTHER INFORMATION CONTACT: For further information, contact: Becky Allee (*becky.allee@noaa.gov,* 228–688–1701).

SUPPLEMENTARY INFORMATION: NOAA is publishing this Notice to announce Response to Comments received on the Draft Science Plan and release of the Final Science Plan for the NOAA RESTORE Act Science Program. The final plan will be posted on May 6, 2015. The Final Science Plan is being issued after careful consideration and adjudication of public comments received following a 45-day comment period from October 30, 2014—December 15, 2014.

Section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) establishes the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program (Science Program) to be administered by NOAA and to carry out research, observation, and monitoring to support the long-term sustainability of the ecosystem, fish stocks, fish habitat, and the recreational, commercial, and charter fishing industry in the Gulf of Mexico. The Final Science Plan for the NOAA RESTORE Act Science Program lays out the path forward for the program. The

plan provides an overview of the program and its establishing legislation, describes our three short-term and 10 long-term research priorities and the process by which they were determined, and summarizes the Program's structure and administration. The plan is organized in three sections. Section I includes: background on legislative requirements and mission; the vision, goal, and outcomes for the program; research scope and priorities; NOAA's roles; geographic scope; and approach to engagement. Section II describes each of the 10 long-term research priorities identified for the program. For each priority we include the management needs that drive the priority, desired outcomes, examples of key activities; and examples of potential outputs. This section also includes a brief discussion on the importance of synthesis and integration of the research conducted under these priorities. Section III, which describes the program's structure and administration, includes sections on program management, consultation and coordination, program parameters, funding opportunities and competitive process; environmental compliance, and data and information sharing.

Response to Comments

''NOAA received 19 sets of comments from organizations and private citizens (241 total recommendations). Many of the comments were supportive of the science plan as a whole while only offering minor editorial suggestions or requesting clarification on elements of the plan. The breakdown of the 19 submissions was 7 individuals, 6 non-governmental organizations or groups (represented 9 organizations), 2 federal agencies, 1 state agency, 1 academic institution, 1 regional ocean observing partnership, and 1 fishery management organization.'' Of the comments addressing core components of the plan, the topics most frequently raised were NOAA's role in the program; the process for translating the long-term research priorities into future funding opportunities; prioritization of data synthesis; integration, communication, and coordination with other programs; and a process for measuring the success of the program and research carried out under the program. From the draft version of the plan to this final version of the plan, the key changes are a clearer description of NOAA's role in the program, additional information on the factors the program will consider in translating the long-term research priorities into future funding opportunities, and additional information on the geographic scope of the program.

The following section, organized by category (1–9), presents a summary of the comments and NOAA's responses. The number of total recommendations (of the 241) is listed for each category. Editorial corrections will not be extensively addressed in this Notice; however a few examples have been provided. For further information on Response to Comments, contact: Becky Allee (*becky.allee@noaa.gov,* 228–688–1701).

1. General Comments
2. NOAA' role
3. Program Scope
4. Research Priorities
5. Clarification of Priorities
6. Performance Measures
7. Coordination and Engagement
8. Funding, Eligibility and Prioritization
9. Editorial

Category 1: General Comments (22 Recommendations)

(a) Is there a mechanism to include previous research or outside research?

(b) Cite the Coastal Protection and Restoration Authority's (CPRA) Coastal Master Plan in the references.

Response 1

Overall, the program received several comments supporting the goals and activities of the plan and complimenting the program on developing the plan. One comment queried the program's plan for inclusion of previous research or outside research. The revised plan highlights the immediate responsibility of the program to manage the data requirements of projects funded under the program. A comprehensive, integrated mechanism to pull all research together is the objective of one of the priorities presented in this plan. Other comments ranged from recommendations to include missing references (*e.g.,* CPRA's Coastal Master Plan, considered a regionally significant accomplishment) or requests to update references cited in the plan (*e.g.,* Gulf Councils updated list of research and priority needs for 2015–2019). The majority of the general comments were supportive of the programs draft plan. Many others, while acknowledged, did not warrant changes in the document.

Category 2: NOAA's Role (4 Recommendations)

Commenters asked for clarification on the role NOAA staff and scientists have in administering and carrying out the NOAA RESTORE Act Science Program, for example, involvement in research activities, processes for funding expenditures, participation in research results synthesis and integration activities, etc.

Response 2

The final science plan has a sub-section titled, ''NOAA's Role'' in Section I.4. This section restates the specific actions that NOAA will (or will not) carry out as authorized by the RESTORE Act [Section 1604(b)(4)]. Specifically regarding the question on synthesis and integration, a paragraph addressing this was added in Section II, ''Long-term Research Priorities''.

Category 3: Program Scope and Domain (34 Recommendations)

(a) Include a section on adaptive management.

(b) What is the geographical scope of the program?

(c) Include further details and clarification on terms and species within plan.

(d) Recommendations to include research areas.

Response 3

The Program received several comments on the need for more information and clarification on its scope. One comment encouraged the inclusion of an adaptive management discussion in the document. The Program recognizes the important role of adaptive management in addressing resource issues in the Gulf of Mexico; however, since the NOAA RESTORE Act Science Program is a research program and not a resource management program, we decided this was beyond the scope of the plan. The Program will not provide direct financial support to management activities, but will support science that intends to inform management decisions.

Many comments inquired about the geographic scope (domain) of the program. They expressed concern that the domain extended too far inland or that offshore and deepwater environments and their associated biological communities were not included. We revised Section I.5, ''Geographic Scope'' to better define our intent, including extent of watershed activities. Further clarification on included species has been added throughout the plan. Following these revisions we determined that the ''Program Scope'' section was mostly redundant with information presented elsewhere in the plan so the section was removed in the final version.

Category 4: Research Priorities (14 Recommendations)

(a) Missing management needs, outcomes, example activities, or outputs for some aspects of research priorities.

(b) Redundancy among example activities, outputs, and/or outcomes across research priorities.

(c) Requests for expanded discussion on short-term priorities.

(d) How will priorities be further ''prioritized'' or sequenced?

Response 4

(a) Management needs, outcomes, example activities, and outputs identified under each of the 10 long-term research priorities represent the types of activities and outputs that could be undertaken and developed in support of research and management needs and do not represent an exhaustive list. Rather, we have provided an initial list based on review of existing documents from the Gulf of Mexico, stakeholder input, conversations with partners, and expertise of program staff. Language in the plan that explained this use of examples was further clarified.

(b) We agree with comments about redundancy among example activities, outputs, and/or outcomes across research priorities. Upon further review, we determined that some activities, outputs, and/or outcomes were not appropriate for the research priority under which they were listed and so they were removed. In other cases, simple edits were sufficient to address any issue(s). However, in some instances, redundancy should be expected. It is quite acceptable to expect like activities to occur in support of ecosystem research, recognizing that ultimately the activities are intended to answer different sets of questions.

(c) Several comments requested that the plan elaborate and invest more discussion on short-term priorities. Since the short-term priorities were originally released in the Program's Framework document (December 2013), and subsequently were the focus of a federal funding opportunity (FFO), they are not covered in greater depth in this plan. The focus of this plan is to establish the long-term research priorities that will guide future implementation of this Program.

(d) A considerable number of comments expressed concern over the Program's ability to address all of the long-term research priorities and requested information on the Program's plan for further prioritizing and sequencing priorities. Refer to Section III.4, ''Funding Opportunities and Competitive Process'', for a revised list of factors that will inform sequencing among the Program's long-term research priorities.

Category 5: Priority Clarification (42 Recommendations)

(a) Provide greater detail.

(b) Build on existing data/knowledge better.

Response 5

(a) A number of comments requested that the plan provide greater detail on the long-term research priorities, intended actions to be carried out under these priorities, and the anticipated outcomes. The plan identifies priorities for the Gulf of Mexico ecosystem that will add to our understanding of the condition of its living coastal and marine resources and wildlife populations, and the human coastal communities that are dependent upon this ecosystem. To achieve this holistic understanding requires a broad array of multi-disciplinary research projects that address both the natural and socioeconomic sciences. To address each in fine detail would be an immense undertaking, particularly for a new Program such as this one. At this early stage of the Program's development, the plan was purposefully written at a higher level with less detail to allow space for the Program to mature its own niche and fill unmet research needs in the region, all within the scope of the Program's authorization. This plan will be revised approximately every 5 years and more frequently if deemed necessary. As the Program matures, long-term research priorities may be refined.

(b) Several comments requested that the plan recognize certain existing data and knowledge and seek to build off this previous work. We reviewed the plan and added additional references to previous work and mentioned additional opportunities to leverage ongoing or previous activities

Category 6: Performance Measures (10 Recommendations)

(a) What is the process for evaluating success?

(b) How will performance be measured?

(c) What are the metrics for success?

Response 6

There were several comments on performance management, many of which were focused on the long-term research priorities. We are currently developing our approach to performance management; however, it will not be completed in time for inclusion with the Final Science Plan. We will vet our approach for performance management with our internal and external advisory bodies (refer to Section III.1, ''Program Management Structure'' for more details on our advisory structure).

Category 7: Coordination and Engagement (32 Recommendations)

(a) Elaborate on the coordination and engagement process.

(b) Coordinate with the Centers of Excellence Research Grants Program.

(c) Emphasis placed on interactions with Gulf state agencies.

(d) Will the science plan be revised to reflect finalized coordination plans?

Response 7

Additional text describing the Program's approach to coordination was added to the plan in Section III.2, ''Consultation and Coordination.'' That revised section addresses how we will meet legislative requirements for consultation and coordination with other Gulf of Mexico-focused programs. Avoiding duplication of effort is one of the main goals we will work on with our partner programs. The inclusion of citizen science was also recommended in several comments but did not require revisions to the plan. Refer to Section I.6, ''Engagement'', for details on the Program's approach to stakeholder engagement.

Category 8: Funding, Eligibility, and Prioritization (20 Recommendations)

(a) Provide more details on FFOs, the decision process for proposal reviews, evaluation, and prioritization.

(b) Who is eligible for support?

(c) Explicitly state funding on upstream research.

(d) Is there a contingency plan for research in response to future disasters?

(e) Encouragement for the facilitation of student opportunities.

Response 8

The Program received several comments regarding the process we will use to develop FFOs. The Program has added language to clarify our approach to FFO development, including a list of factors that will inform the selection of topical priorities for specific funding opportunities. Refer to Section III.4, ''Funding Opportunities and Competitive Process'' for additional information on our approach to FFO development. This section also includes subsections that cover eligibility requirements for applying for funding, funding mechanisms, peer-review process, scientific integrity, and partnerships.

Category 9: Editorial (63 Recommendations)

(a) Typographical errors;

(b) Grammatical errors; and

(c) Recommendations for rewording or reorganizing.

Response 9

All typographical and grammatical errors pointed out in comments were corrected. In many cases, requests for rewording or reorganizing were accepted (*e.g.,* outcomes, outputs, and example activities listed under each long-term research priority in Section II were reordered to example activities, example outputs, and outcomes); however, some requests would have required extensive rewriting of the plan or were beyond the scope of this document. In other cases, the requested information was already in the plan—this revised version improves the organization and alignment of information and section headers throughout the plan to make it easier to locate specific information. There were several comments regarding some confusion on information presented in appendices. Several appendices have been revised and their captions have been clarified. Non-essential appendices have been removed from the plan.

Dated: April 27, 2015.

Mary C. Erickson,

Director, National Centers for Coastal Ocean Science, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–10453 Filed 5–5–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Broadband Opportunity Council Webinar

AGENCY: Rural Utilities Service, U.S. Department of Agriculture, and National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of public webinar.

SUMMARY: In a request for comment (RFC) published in the **Federal Register** on April 29, 2015, the Departments of Agriculture and Commerce, which are co-chairing the Broadband Opportunity Council (Council), asked for public input on barriers that are hampering deployment of broadband, ways to promote public and private investment in broadband, challenges facing areas that lack access to broadband, and ways to measure broadband availability, adoption, and speed.[1] To explain the RFC's purpose and objectives, and to allow an opportunity for members of the public to pose questions regarding the RFC, the Rural Utilities Service (RUS) and the National Telecommunications and Information Administration (NTIA) will host a webinar on May 20, 2015.

DATES: The webinar will be held on May 20, 2015, from 4:00 p.m. until 5:00 p.m. Eastern Daylight Time.

ADDRESSES: The webinar will be open to the public and press on a first-come, first-served basis. To help assure that adequate space is provided, all attendees are required to register for the webinar at *https://attendee.gotowebinar.com/register/4277364480826458625* by May 13, 2015. Upon registration, webinar information will be distributed, including both the link to the webinar (video) as well as the dial-in information (sound). Due to the limited capacity, we encourage and request that parties at the same location share a webinar link. Refer to the Supplemental Information below and to *http://www.rd.usda.gov* and *http://www.ntia.doc.gov/* for additional information on the webinar.

FOR FURTHER INFORMATION CONTACT: Jennifer Holtz, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4878, Washington, DC 20230; telephone: (202) 482–2048; email: *broadbandusa@ntia.doc.gov* or Denise Scott, Rural Development, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250; telephone: (202) 720–1910; email: *Denise.Scott1@wdc.usda.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

I. Background

On January 13, 2015, President Obama announced new Administration efforts to help more people, in more communities around the country, gain access to fast and affordable broadband.[2] With this effort, President Obama created an interagency Broadband Opportunity Council, which is seeking public comment on steps federal agencies can take to help promote broadband deployment, adoption and competition.

The Presidential Memorandum also directs the Council to consult with state, local, tribal, and territorial governments, as well as telecommunications companies, utilities, trade associations, philanthropic entities, policy experts, and other interested parties to identify and assess regulatory barriers and determine possible actions. This Notice seeks public participation, especially from the named stakeholders above, in the Council's RFC webinar to ensure that the RFC will bolster the Council's work and to improve the number and quality of ideas expressed in response to the RFC.

II. Objectives of This Notice

The RFC requests public input on: (i) Ways the federal government can promote best practices, modernize outdated regulations, promote coordination, and offer more services online; (ii) identification of regulatory barriers to broadband deployment, competition, and adoption; (iii) ways to promote public and private investment in broadband; (iv) ways to promote broadband adoption; (v) issues related to state, local, and tribal governments; (vi) issues related to vulnerable communities and communities with limited or no broadband; (vii) issues specific to rural areas; and (viii) ways to measure broadband availability, adoption, and speed.

This Notice announces a public webinar on May 20, 2015 to inform all stakeholders and other interested parties on how they can share their perspectives and recommend actions that the federal government can take to promote broadband deployment, adoption, and competition, including by identifying and removing regulatory barriers unduly impeding investments in broadband technology. The webinar will educate stakeholders and other interested parties on the purpose and objectives of the RFC. It will also provide the public with information on how to participate in the RFC, while also allowing the public to ask any questions about the RFC.

III. Public Webinar

The purpose of the webinar is to inform the public of the Council's RFC and how interested parties may participate in the request. The webinar will be open to the public and press on a first-come, first-served basis. Refer to **ADDRESSES** above for information on registration for the webinar. Should problems arise with webinar

[1] Broadband Opportunity Council Notice and Request for Comment, 80 FR 23785 (April 29, 2015), available at *www.ntia.doc.gov/federal-register-notice/2015/broadband-opportunity-council-notice-and-request-comment.*

[2] *See* FACT SHEET: Broadband That Works: Promoting Competition & Local Choice In Next-Generation Connectivity, White House, January 13, 2015, available at *http://www.whitehouse.gov/the-press-office/2015/01/13/fact-sheet-broadband-works-promoting-competition-local-choice-next-gener.*

registration, please contact Jennifer Holtz at (202) 482–2048 or email *broadbandusa@ntia.doc.gov.* Copies of the presentations provided in the webinar will be available on the NTIA Web site within 30 days following the webinar.

The webinar will be accessible to people with disabilities. Individuals requiring accommodations are asked to notify Theresa Thomas at (202) 482–7407 or *tthomas@ntia.doc.gov* at least 5 business days before the webinar.

Dated: May 1, 2015.

Lisa Mensah,

Under Secretary for Rural Development.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2015–10580 Filed 5–5–15; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2015–HA–0039]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 6, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, Medical Benefits and Reimbursement Office, 16401 E. Centretech Pkwy, Attn: Sharon Seelmeyer, Aurora, CO 80011–9066, or call Defense Health Agency, Medical Benefits and Reimbursement Office at (303) 676–3690.

SUPPLEMENTARY INFORMATION: *Title; Associated Form; and OMB Number:* Diagnosis Related Groups (DRG) Reimbursement; OMB Control Number: 0720–0017.

Needs and Uses: The TRICARE/CHAMPUS contractors will use the information collected to reimburse hospitals for TRICARE/CHAMPUS share of capital and direct medical education costs.

Affected Public: Individuals; business or other for-profit.

Annual Burden Hours: 8,400.

Number of Respondents: 5,600.

Responses per Respondent: 1.

Average Burden per Response: 90 minutes.

Frequency: On occasion.

The Department of Defense Authorization Act, 1984, Public Law 98–94 amended Title 10, section 1079(j)(2)(A) of the U.S.C. and provided the Civilian Health and Medical Program of the Uniform Services (CHAMPUS) with the statutory authority to reimburse institutional providers based on diagnosis-related groups (DRGs). The CHAMPUS DRG-based payment system, except for children's hospitals (whose capital and direct medical education costs are incorporated in the children's hospital differential), who want to be reimbursed for allowed capital and direct medical education costs must submit a request for payment to the TRICARE/CHAMPUS contractor. The request allows TRICARE to collect the information necessary to properly reimburse hospitals for its share of these costs. The information can be submitted in any form, most likely in the form of a letter. The contractor will calculate the TRICARE/CHAMPUS share of capital and direct medical educations costs and make a lump-sum payment to the hospital. The TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare Prospective Payment System (PPS) and was implemented on October 1, 1987. Initially, under 42 CFR 412.46 of the Medicare regulations, physicians was required to sign attestation and acknowledgment statements. These requirements were implemented to ensure a means of holding hospitals and physicians accountable for the information they submit on the Medicare claim forms. Being modeled on the Medicare PPS, CHAMPUS also adopted these requirements. The physicians attestation and physician acknowledgment required by Medicare under 42 CFR 412.46 are also required for TRICARE/CHAMPUS as a condition for payment and may be satisfied by the same statements as required for Medicare, with substitution or addition of ''TRICARE/CHAMPUS'' when the word ''Medicare'' is used. Physicians sign a physician acknowledgement, maintained by the institution, at the time the physician is granted admitting privileges. This acknowledgement indicates the physician understands the importance of a correct medical record, and misrepresentation may be subject to penalties.

Dated: April 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–10510 Filed 5–5–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–HA–0040]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 6, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the TRICARE Dental Care Office, Health Plan Execution and Operation, Defense Health Agency (DHA), Rm. 3M451, ATTN: COL Colleen C. Shull, Falls Church, VA 22042 or call (703) 681–9517, DSN 761.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Active Duty Dental Program (ADDP) Claim Form; OMB Control Number 0720–0053.

Needs and Uses: The information collection is necessary to obtain and record the dental readiness of Service Members using the Active Duty Dental Program (ADDP) and at the same time submit the claim for the dental procedures provided so that claims can be processed and reimbursement made to the provider. Many Service Members are not located near a military dental treatment facility and receive their dental care in the private sector.

Affected Public: Business or other for profit institutions; Not-for-profit institutions.

Annual Burden Hours: 25,000.

Number of Respondents: 75,000.

Responses per Respondent: 4.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

Respondents are dental providers who submit claims in order to be reimbursed for delivered dental care. The ADDP Claim form allows civilian dental providers to submit the claim for dental procedures provided to active duty service members and to update their dental readiness classification at the same time. The completed form is forwarded to the ADDP contractor, United Concordia Companies, Inc. for reimbursement and the electronic update of the dental readiness. If the form is not available, civilian providers will not have a mechanism to submit dental claims with the information required for reimbursement to provide an updated dental readiness classification for the member. Dental readiness classification allows the Services to ensure that all Service Members are ready for worldwide deployment. Dental readiness is an integral part of medical readiness, and medical readiness is fundamental to the readiness of our forces.

Dated: April 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–10513 Filed 5–5–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–HA–0038]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 6, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on

any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, TRICARE, Medical Benefits & Reimbursement Office, 16401 E. Centretech Parkway, Aurora, CO 80011, ATTN: Amber Butterfield, or call TRICARE, Medical Benefits and Reimbursement Office at (303) 676–3565.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Health Insurance Claim Form, CMS–1500 OMB Control Number 0720–0001.

Needs and Uses: The information collection requirement is used by TRICARE to determine reimbursement for health care services or supplies rendered by individual professional providers to TRICARE beneficiaries. The requested information is used to determine beneficiary eligibility, appropriateness and cost of care, other health insurance liability and whether services received are covered benefits.

Affected Public: Business or other for profit; Not-for-profit institutions, Federal government, state, local or tribal government.

Annual Burden Hours: 22,108,225.

Number of Respondents: 88,432,900.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are individual professional providers or healthcare related providers, who file for reimbursement of civilian health care services or supplies provided to TRICARE beneficiaries under the Civilian Health and Medical Program of the Uniformed Services. TRICARE is a health benefits entitlement program for active duty, the dependents of active duty Uniformed Services member and deceased sponsors, retirees and their dependents, dependents of Department of Homeland Security (Coast Guard) sponsors, and certain North Atlantic Treaty Organizations, National Oceanic and Atmospheric Administration, and Public Health Service eligible beneficiaries. Use of this form continues TRICARE's commitment to use the national standard claim form for reimbursement of services/supplies provided by individual professional providers or healthcare related providers, and is accepted by all major commercial and government payers.

Dated: April 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–10509 Filed 5–5–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Termination of Environmental Impact Statement for the Gray's Beach Restoration Project, Waikiki, Island of Oahu, Hawaii

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Honolulu District, is issuing this notice to advise Federal, state, and local governmental agencies and the public that the Corps is withdrawing its Notice of Intent (NOI) to prepare a Draft Environmental Impact Statement (EIS) for the Gray's Beach Restoration Project located in Waikiki on the Island of Oahu, Hawaii (Corps File No. POH–2007–00192).

FOR FURTHER INFORMATION CONTACT: Susan Meyer, Senior Project Manager, Regulatory Office. Mailing address: U.S. Army Corps of Engineers, Honolulu District, CEPOH–RO (Attn: Ms. Susan Meyer), Building 230, Ft. Shafter, Hawaii 96858–5440. Email address: *susan.a.meyer@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Corps published an NOI in the **Federal Register** on November 17, 2008 (73 FR 67847) to prepare a Draft EIS pursuant to the National Environmental Policy Act for the proposed Gray's Beach Restoration Project. A public scoping meeting was held on December 17, 2008 to solicit public input on the scope of analysis; significant issues to be evaluated in the Draft EIS; cooperating agencies; direct, indirect and cumulative impacts resulting from the proposed action; and proposed alternatives. Since that time, the project proponent has withdrawn its Department of the Army permit application and is no longer actively pursuing the proposed project. Therefore, the Corps is withdrawing the NOI to prepare a Draft EIS.

Christopher W. Crary,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 2015–10618 Filed 5–5–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The executive session of this meeting from 11:00 a.m. to 12:00 p.m. on June 15, 2015, will include discussions of new and pending administrative/minor disciplinary infractions and non-judicial punishment proceedings involving Midshipmen attending the Naval Academy to include but not limited to individual honor/conduct violations within the Brigade; the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on June 15, 2015, from 9:00 a.m. to 11:00 a.m. The executive session held from 11:00 a.m. to 12:00 p.m. will be the closed portion of the meeting.

ADDRESSES: The meeting will be held at the U.S. Naval Academy, Annapolis, MD. The meeting will be handicap accessible.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Eric Madonia, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11:00 a.m. to 12:00 p.m. on June 15, 2015, will consist of discussions of new and pending administrative/minor disciplinary infractions and non-judicial punishment proceedings involving Midshipmen attending the Naval Academy to include but not limited to individual honor/conduct violations within the Brigade. The discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Department of the Navy/Assistant for Administration has

determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11:00 a.m. to 12:00 p.m. will be concerned with matters protected under sections 552b(c)(5), (6), and (7) of title 5, United States Code.

Authority: 5 U.S.C. 552b.

Dated: April 29, 2015.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–10556 Filed 5–5–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Secretarial Authorization for a Member of the Department of the Navy To Serve on the Board of Directors, Navy-Marine Corps Relief Society

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to 10 U.S.C. 1033, the Secretary of the Navy, with the concurrence of the Department of Defense General Counsel, has authorized Commander, Navy Installations Command, current incumbent Vice Admiral Dixon R. Smith, to serve without compensation on the Board of Directors of the Navy-Marine Corps Relief Society. Authorization to serve on the Board of Directors has been made for the purpose of providing oversight and advice to, and coordination with, the Navy-Marine Corps Relief Society.

Participation of the above official in the activities of the Society will not extend to participation in day-to-day operations.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Abby Kagle, Office of the Judge Advocate General, Administrative Law Division, 703–614–7406.

Dated: April 29, 2015.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–10578 Filed 5–5–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0059]

Agency Information Collection Activities; Comment Request; Migrant Student Information Exchange (MSIX)

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 a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before July 6, 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–0059 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 Patricia 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).

OMB Control Number: 1810–0683.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 17,520.

Total Estimated Number of Annual Burden Hours: 360,491.

Abstract: The U.S. Department of Education (ED) is proposing new regulations to implement the Migrant Student Information Exchange (MSIX), a nationwide, electronic records exchange mechanism mandated under Title I, Part C of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act. As a condition of receiving a grant of funds under the Migrant Education Program (MEP), each State educational agency (SEA) would be required to collect, maintain, and submit minimum health and education-related data to MSIX within established timeframes. The proposed regulations would facilitate timely school enrollment, placement, and accrual of secondary course credits for migratory children and help us determine accurate migratory child counts and meet other MEP reporting requirements. The MEP is authorized under sections 1301–1309 in Title I, Part C of the ESEA. MSIX and the minimum data elements (MDEs) are authorized specifically under section 1308(b) of the ESEA.

This collection replaces the current collection for the MSIX MDEs under OMB No. 1810–0683. The burden hours and costs associated with this data collection are required to ensure that States implement and utilize MSIX for interstate migrant student records exchange, which will then enable the Department to meet the statutory

mandate in section 1308(b) of the ESEA to facilitate the electronic exchange of MDEs by SEAs to address the educational and related needs of migratory children. The information collection addresses the following statutory requirements in the ESEA: Section 1304(b)(3), which requires SEAs to promote interstate and intrastate coordination of services for migratory children, including providing educational continuity through the timely transfer of pertinent school records (including health information) when children move from one school to another, whether or not the move occurs during the regular school year. Section 1308(b)(1), which requires ED to assist SEAs in providing for the electronic transfer of migrant student records. Section 1308(b)(2), which requires ED, in consultation with SEAs, to ensure the linkage of migrant student record systems for the purpose of electronically exchanging health and educational information regarding migrant children among States and determine the MDEs that each SEA shall collect and maintain for electronic exchange. Section 1309(2), which provides the statutory definition of a migratory child.

Dated: April 30, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–10514 Filed 5–5–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

The Historically Black Colleges and Universities Capital Financing Advisory Board

AGENCY: U.S. Department of Education, the Historically Black Colleges and Universities Capital Financing Board.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open meeting of the Historically Black Colleges and Universities Capital Financing Advisory Board (Board). The notice also describes the functions of the Board. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES: The Board meeting will be held on Monday, May 18, 2015 10:00 a.m.–2:00 p.m., Central Time at Xavier University of Louisiana, The Convocation Annex, 7800 Washington Avenue, New Orleans, LA 70125.

FOR FURTHER INFORMATION CONTACT: Donald E. Watson, Executive Director/Designated Federal Official, Historically Black College and University Capital Financing Program, 1990 K Street NW., Room 6040, Washington, DC 20006–8513. Telephone: (202) 219–7037 or by email: *donald.watson@ed.gov.*

SUPPLEMENTARY INFORMATION: *The Historically Black College and University Capital Financing Advisory Board's Statutory Authority and Function:* The Historically Black College and University Capital Financing Advisory Board is authorized by Title III, Part D, Section 347, of the Higher Education Act of 1965, as amended in 1998 (20 U.S.C. 1066f). The Board is established within the U.S. Department of Education to provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on historically Black college and university campuses and to advise Congress regarding the progress made in implementing the program. Specifically, the Board will provide advice as to the capital needs of Historically Black Colleges and Universities, how those needs can be met through the program, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

Meeting Agenda: The purpose of this meeting is to update the Board on current activities, set future meeting dates, and for the Board to make recommendations to the Secretary on the current capital needs of Historically Black Colleges and Universities.

There will be an opportunity for public comment regarding the Board's activities on Friday, May 18, 2015, between 1:15 p.m.–1:45 p.m. Please be advised that comments cannot exceed five (5) minutes. Members of the public interested in submitting written comments may do so by submitting comments to the attention of Don E. Watson, 1990 K Street NW., Washington, DC, by Monday, May 11, 2015. Comments should pertain to the work of the Board and or the HBCU Capital Financing Program.

Access to Records of the Meeting: Pursuant to FACA requirements, the public may also inspect the meeting materials at *http://www2.ed.gov/about/bdscomm/list/hbcu-finance.html* on Friday, July 17, 2015 by 9:00 a.m. ET. The official verbatim transcripts of the public meeting sessions will be available for public inspection no later than 60 calendar days following the meeting.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least one week before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Title III, Part D, Section 347, of the Higher Education Act of 1965, as amended in 1998 (20 U.S.C. 1066f).

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–10596 Filed 5–5–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1121–118]

Pacific Gas and Electric Company; Notice Of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 1121–118.

c. *Date Filed:* March 2, 2015.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Battle Creek.

f. *Location:* On the mainstem Battle Creek, and on the North Fork and South Fork Battle Creek in Shasta and Tehama Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Lisa Whitman, Pacific Gas and Electric Company, P.O. Box No. 770000, San Francisco, CA 94177. Tel: (415) 973–7465.

i. *FERC Contact:* Ms. Rebecca Martin, (202) 502–6012, *rebecca.martin@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protests:* June 1, 2015.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–1121–118) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Application:* Pacific Gas and Electric Company (licensee or PG&E) is requesting that its license for the Battle Creek Hydroelectric Project be amended to support the Battle Creek Salmon and Steelhead Restoration Project (Restoration Project). The Restoration Project is a collaborative effort to restore fish habitat on Battle Creek and some of its tributaries through modification of the project facilities and operations, including instream flow releases. This collaborative effort is between PG&E, the U.S. Department of the Interior, Bureau of Reclamation, the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration National Marine Fisheries Service, and the California Department of Fish and Game.

The Restoration Project will reestablish approximately 42 miles of prime salmon and steelhead habitat in the North and South Forks of Battle Creek, plus an additional six miles of habitat on the tributaries of Battle Creek. The Restoration Project will be accomplished in three phases. The licensee is filing this license amendment application for approval and implementation of Phase 2 (third phase) of the Restoration Project. Proposed work for Phase 2 includes: (1) Installing a new fish screen and fish ladder at Inskip Diversion Dam; (2) installing a tailrace connector tunnel from South Powerhouse to Inskip Canal; (3) removing Lower Ripley Creek Feeder, Soap Creek Feeder and Coleman diversion dams; and (4) removing the South Diversion Dam and associated conveyance system.

The licensee has submitted the Battle Creek Salmon and Steelhead Restoration Project Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR), prepared in July 2005, as part of its application. The referenced EIS/EIR was a collaborative effort between PG&E, the Bureau of Reclamation, California State Water Resources Control Board, California Bay-Delta Authority, and the Federal Energy Regulatory Commission (Commission), to fulfill National Environmental Policy Act (NEPA) and California Environmental Quality Act requirements. The Commission intends to use the EIS/EIR to meet the NEPA requirements under the proposed action to amend the Battle Creek Project. The EIS/EIR is available for review at the Restoration Projects Web site (link: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=99*).

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, Or by calling (202) 502–8371. This filing may also 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 (P–1121) to access the document. 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. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by a proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10573 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1609–000]

Kiyoshi Technologies, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Kiyoshi Technologies, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10571 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14628–001—Minnesota A-Mill Artist Lofts Hydroelectric Project]

Minneapolis Lease Housing Associates IV, Limited Partnership; Notice of Revised Restricted Service List for a Programmatic Agreement for Managing Properties Included In or Eligible for Inclusion in the National Register of Historic Places

On February 18, 2018, the Federal Energy Regulatory Commission (Commission) issued notice of a proposed restricted service list for the preparation of a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the proposed A-Mill Artist Lofts Hydroelectric Project No. 14628–001 (A-Mill Project). Rule 2010(d)(1) of the Commission's Rules of Practice and Procedure, 18 CFR 385.2010(d)(1) (2014), provides for the establishment of such a list for a particular phase or issue in a proceeding to eliminate unnecessary expense or improve administrative efficiency. Under Rule 385.2010(d)(4), persons on the official service list are to be given notice of any proposal to establish a restricted service list and an opportunity to show why they should also be included on the restricted service list or why a restricted service list should not be established.

On April 7, 2015, Amy Burnette, Tribal Historic Preservation Officer for the Leech Lake Band of Ojibwe, filed a letter stating that the Leech Lake Band of Ojibwe does not have any known recorded sites of religious or cultural importance in the proposed project boundary, but they would like to be informed if any human remains or cultural importance objects are discovered.

On February 20, 2015, the city of Minneapolis, requested to be a consulting party in that section 106 on the National Historic Preservation Act process so that it may stay apprised and provide project input.

Under Rule 385.2010(d)(2), any restricted service list will contain the names of each person on the official service list, or the person's representative, who, in the judgment of the decisional authority establishing the list, is an active participant with respect to the phase or issue in the proceeding for which the list is established. The Leech Lake Band of Ojibwe and the city of Minneapolis have identified an interest in issues relating to the management of historic properties at the A-Mill Project. Therefore, they and their representatives will be added to the restrictive service list.

Accordingly, the restricted service list issued on February 18, 2015, for the A-Mill Artist Lofts Project No. 14628 is revised to add the following persons:

Amy Burnette or representative, Division of Resource Management, Leech Lake Tribal Historic Preservation Office, 190 Sailstar Drive NE., Cass Lake, MN 56633.

Haila Maze, AICP, or representative, City of Minneapolis, Community Planning and Economic Development, 105 Fifth Avenue South—200, Minneapolis, MN 55401–2534.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10567 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1612–000]

Arrow Energy RRH, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Arrow Energy RRH, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket

authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10572 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–115–000]

National Fuel Gas Supply Corporation and Empire Pipeline, Inc.; Supplemental Notice of Intent To Prepare an Environmental Assessment for the Proposed Northern Access 2016 Project, Request for Comments on Environmental Issues, Notice of Environmental Site Review, and Notice of Public Scoping Meeting

On October 22, 2014, the Federal Energy Regulatory Commission (FERC or Commission) issued in Docket No. PF14–18–000 a *Notice of Intent to Prepare an Environmental Assessment for the Planned Northern Access 2016 Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings* (NOI). In their application in the above-referenced docket, National Fuel Gas Supply Corporation (Supply) and Empire Pipeline Inc. (Empire) (collectively National Fuel) have since filed their proposed locations for one new compressor station and one natural gas dehydration facility in Niagara County, New York. This Supplemental Notice is being issued to seek comments on the new aboveground facilities and opens a new scoping period for interested parties to file comments on environmental issues specific to these facilities.

The October 22, 2014 NOI announced that the FERC will prepare an environmental assessment (EA) to address the environmental impacts of the Northern Access 2016 Project (Project). Please refer to the NOI for more information about the facilities proposed by National Fuel in Pennsylvania and New York. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

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. Your input will help Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before May 29, 2015.

The Commission previously solicited public input on the pipeline portion of the project in Pennsylvania and New York in the fall of 2014. We [1] are specifically seeking comments on the aboveground facilities to help the Commission staff determine what issues need to be evaluated in the EA. If you have previously submitted comments during the pre-filing review in docket no. PF14–18–000, you do not need to resubmit your comments at this time. Please note that this special scoping period will close on May 29, 2015.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives are asked to notify their constituents of this proposed 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.

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(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.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend the public scoping meeting its staff will conduct in the project area, scheduled as follows.

FERC Public Scoping Meeting, Northern Access 2016 Project—Aboveground Facilities in NY, May 20, 2015, 7:00 p.m., Wendelville Fire Company, 7340 Campbell Boulevard, North Tonawanda, NY 14120.

We will begin our sign up of speakers at 6:00 p.m. The scoping meeting will begin at 7:00 p.m. with a description of

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

our environmental review process by Commission staff, after which speakers will be called. The meeting will end once all speakers have provided their comments or at 10:00 p.m., whichever comes first. Please note that there may be a time limit of three minutes to present comments, and speakers should structure their comments accordingly. If time limits are implemented, they will be strictly enforced to ensure that as many individuals as possible are given an opportunity to comment. The meetings are recorded by a stenographer to ensure comments are accurately recorded. Transcripts will be entered into the formal record of the Commission proceeding.

National Fuel representatives will be present one hour prior to the start of the scoping meeting to provide additional information about the project and answer questions.

Environmental Onsite Review

Commission staff will conduct two environmental onsite reviews of National Fuel's proposed Pendleton Compressor Station site and its proposed Wheatfield Dehydration Facility. Notes from this onsite environmental site review will be posted to the docket.

Summary of the Newly Proposed Facilities

The aboveground facilities that are the focus of this notice are the new Pendleton Compressor Station and Wheatfield Dehydration Facility, both in Niagara County, New York. The general location of these proposed project facilities is shown in Appendix 1.[2]

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 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 important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA.

In the EA, we will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology;
- soils;
- water resources;
- vegetation;
- wildlife and aquatic resources;
- fisheries and aquatic resources;
- threatened, endangered, and other special-status species;
- land use, recreation, special interest areas, and visual resources;
- socioeconomics;
- cultural resources;
- air quality and noise;
- reliability and safety; and
- cumulative environmental impacts.

We will also evaluate possible alternatives to the proposed Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Please note that since National Fuel has filed an application for the proposed Project, a new docket number has been assigned (CP15–115–000). As part of our pre-filing review, we participated in public Open House meetings sponsored by National Fuel in the project area in August 2014 to explain the environmental review process to interested stakeholders. We also conducted public scoping meetings along the proposed pipeline route in November 2014. We have also contacted federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present our independent analysis of the issues. We will publish and distribute the EA for public comment. After the comment period, we will consider all timely comments which will be addressed in the Commission's decisional order.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues related to this Project to formally cooperate with us in the preparation of the EA. 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. Currently, the U.S. Army Corps of Engineers has expressed its intention to participate as a cooperating agency in the preparation of the EA to satisfy its NEPA responsibilities related to this Project.

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 the applicable State Historic Preservation Offices 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.[3] We will define the project-specific Area of Potential Effects in consultation with the State Historic Preservation Offices as the project develops. On natural gas facility projects, the Area of Potential Effects 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 EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

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 by 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 proposed Project.

Copies of the completed EA 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 a CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to

[2] 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.

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

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.

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.,* CP15–115). 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*.

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, National Fuel has established a project contact (Emily Ciraolo), a toll-free phone number (1–800–634–5440 ext. 7861) and an email support address (*ciraoloe@natfuel.com*) so that parties can call them directly with questions about the project.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10557 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 137–178]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application for Temporary Variance of License Requirement.

b. *Project No.:* 137–178.

c. *Date Filed:* April 24, 2015, and supplemented April 29, 2015.

d. *Applicants:* Pacific Gas and Electric Company (licensee).

e. *Name of Project:* Mokelumne River Project.

f. *Location:* Mokelumne River, South Fork Mokelumne River, Bear River, and their tributaries in Amador, Alpine, and Calaveras counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Ezra Becker, License Coordinator, Pacific Gas and Electric Company, (415) 973–3082.

i. *FERC Contact:* Mr. John Aedo, (415) 369–3335, or *john.aedo@ferc.gov*.

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission (April 29, 2015). The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–137–178) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* The licensee requests Commission approval of a temporary variance of the minimum and pulse flow requirements at the project Upper Lakes under the requirements of the project license and Condition No. 7 of the U.S. Forest Service's (FS) section 4(e) Conditions. Specifically, the license requests that the 5 cubic feet per second (cfs) minimum flow requirement be reduced to 2 cfs below Lower Blue and Meadow Lakes from May 1, 2015 through the June 30, 2015. The licensee also requests Commission approval to forego the 5-day, 20 cfs pulse flow requirement in 2015 at Upper Blue, Lower Blue, and Meadow Lakes. The licensee states that the temporary variance is necessary to conserve water in order to ensure minimum flow releases through the fall and to maintain an adequate level to recreation opportunities at the Upper Lakes this summer.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number excluding the last three digits in the docket number field to access the document. 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, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as

applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10562 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2101–096]

Sacramento Municipal Utility District; 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 amendment to authorize the construction of the new Slab Creek powerhouse and boating flow release valve for the Upper American River Hydroelectric Project. The project is located on Silver Creek and the Rubicon and South Fork American Rivers in El Dorado and Sacramento counties, California. The project occupies federal lands administered by the Bureau of Land Management and by the U.S. Forest Service within the Eldorado National Forest.

The application, filed with the Commission on August 27, 2014, contains an Environmental Analysis in its Exhibit E (pages 49–143). On April 20, 2015, the licensee filed a supplemental biological resource analysis to its application. In staff's independent review of the licensee's Exhibit E and the April 20, 2015 supplement, staff has decided to adopt the licensee's Environmental Analysis and issue it as staff's Environmental Assessment (EA). The EA analyzes the potential environmental impacts of the project plus the proposed mitigation measures and concludes that granting the amendment to licensing would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA and the supplemental biological resource analysis is on file with the Commission and is available for public inspection. The EA and supplement may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

A copy of the EA may also be accessed using this link: *http://elibrary.ferc.gov/IDMWS/common/opennat.asp?fileID=13623756.*

A copy of the supplement may also be accessed using this link: *http://elibrary.ferc.gov/IDMWS/common/opennat.asp?fileID=13844884.*

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.

All comments on the EA and supplement must be filed by May 29, 2015, and should reference Project No. 2101–096. The Commission strongly encourages electronic filing. Please file comments using the Commission's efiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

For further information, contact Rebecca Martin at (202) 502–6012 or *Rebecca.Martin@ferc.gov.*

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10563 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the New York Independent System Operator, Inc.

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting

May 4, 2015, 10 a.m.–4:30 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting

May 12, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The New York Independent System Operator, Inc. Business Issues Committee Meeting

May 13, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_*

operations/committees/meeting_materials/index.jsp?com=bic.

The New York Independent System Operator, Inc. Operating Committee Meeting

May 14, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=oc.*

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting

July 7, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The New York Independent System Operator, Inc. Electric System Planning Working Group Meeting

July 30, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/services/planning/index.jsp.*

The New York Independent System Operator, Inc. Business Issues Committee Meeting

August 12, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=bic.*

The New York Independent System Operator, Inc. Operating Committee Meeting

August 13, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=oc.*

The New York Independent System Operator, Inc. Management Committee Meeting

August 26, 2015, 10 a.m.–4 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=mc.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket Nos. ER13–102, ER13–1942, ER13–1946, New York Independent System Operator, Inc. and New York Transmission Owners

Docket No. ER13–1926, PJM Transmission Owners

Docket Nos. ER13–1947, ER13–198, PJM Interconnection, L.L.C.

Docket Nos. ER13–1957, ER13–193, ER13–196, ISO New England Inc.

Docket No. ER13–1960, ISO New England Inc., Participating Transmission Owners Administrative Committee, and New England Power Pool Participants Committee

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10577 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1579–000]

67RK 8me LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of 67RK 8me LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 19, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10560 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–61–000]

Northern Natural Gas Company; Notice of Withdrawal of Staff Protest to Proposed Blanket Certificate Activity

Commission staff (Protestor) hereby withdraws its Protest to the Proposed Blanket Certificate Activity filed in the above-referenced proceeding on March 31, 2015.

In its prior notice request filed on January 20, 2015 (in Docket No. CP15–61–000) and noticed on January 30, 2015,[1] Northern Natural Gas Company (Northern) proposed to construct and abandon facilities in Clark and Codington Counties, South Dakota. Protestor protested the prior notice because the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation indicated that it would be necessary to conduct a Traditional Cultural Properties (TCP) survey to ensure that no TCPs would be affected by construction. Northern had not provided the results of the TCP survey and/or updated communication with the tribe to ensure the project's compliance with the National Historic Preservation Act, as required under Appendix II to Subpart F of Part 157 of the Commission's regulations.

Subsequent to the filing of the protest, Northern submitted communication from the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation that stated the project would have no effect on historic resources, and revised alignment sheets to show the revised workspace to avoid the TCP site. Thus, Protestor's environmental concern has been satisfied. Accordingly, Protestor hereby withdraws its Protest to the Proposed Blanket Certificate Activity filed in the instant docket on March 31, 2015.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10569 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–37–000]

PJM Interconnection, LLC; Notice Inviting Post-Technical Conference Comments

On January 7, 2015, the Federal Energy Regulatory Commission (Commission) staff conducted a technical conference to evaluate whether: (1) PJM Interconnection, LLC's (PJM) Financial Transmission Rights (FTR) forfeiture rules as they apply to virtual transactions, including Up-to Congestion (UTC) transactions and INC/DEC transactions, are just and reasonable; and (2) PJM's current uplift allocation rules associated with UTC transactions and INCs/DECs are just and reasonable.

All interested persons are invited to file post-technical conference comments on any or all of the questions listed in the attachment to this Notice. These comments must be filed with the Commission no later than 5:00 p.m. Eastern Time on May 29, 2015.

For more information about this Notice, please contact:

Carmen Gastilo Machuga (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8657, *carmen.gastilo@ferc.gov*.

Elizabeth Topping (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 (202) 502–6731, *elizabeth.topping@ferc.gov*.

Cathleen Colbert (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8997, *cathleen.colbert@ferc.gov*.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

Post-Technical Conference Questions for Comment

In addition to any further responses to the questions posed in the Commission Staff's December 10, 2014 Supplemental Notice of Technical Conference,[1] Commission Staff seeks responses to the following questions. Parties submitting comments need not respond to each question.

(1) FTR Forfeiture Rule

(a) When calculating the contribution a virtual transaction (INC, DEC, or UTC) has to power flowing across a given constraint, how should the injection/withdrawal points for the virtual transaction be identified? Should the defined ''worst case'' node be limited to the market participant's own transactions? Additionally, should the impact threshold(s) used for triggering the forfeiture rule remain at 75 percent regardless of the injection/withdrawal points identified? Why or why not?

(b) As an alternative to the current approach of assessing one virtual transaction at a time, should the FTR forfeiture rule collectively assess the net impact of a market participant's entire portfolio of INCs, DECs, and UTCs? Should it assess the net impact of all virtual transactions that clear the market? In addition to virtual transactions, should a market participant's portfolio of physical transactions be considered? Why or why not? If a portfolio approach were adopted, should the impact threshold(s) continue to be 75 percent, as used in the past, or is a different threshold(s) more appropriate? How could a portfolio approach be implemented?

(c) Should counter-flow FTRs and bids that relieve congestion remain exempt from FTR forfeiture rule calculations? Should financial transactions that improve day-ahead and real-time market price convergence be exempt from the forfeiture rule? Why or why not? How, if at all, would these exemptions differ when assessing the impact of a market participant's portfolio as opposed to one INC, DEC, or UTC at a time? Are there any other currently exempt financial transactions that should be subject to FTR forfeiture calculations?

(d) Should the application of the forfeiture rule to INCs, DECs and UTCs be revised in ways not addressed by these questions, and if so, describe in detail the proposed revision and justification for the change.

(e) If you believe that changes to the current FTR Forfeiture Rule provisions of PJM's tariff are necessary, propose appropriate tariff language that you believe addresses your concern.

(2) Uplift

(a) Should UTCs be assessed uplift? Explain why or why not. If so, how, if at all, should this allocation differ from the allocation to individual INCs and DECs and ''paired'' INCs and DECs? Should INCs and DECs continue to be required to pay uplift charges? What effect does imposing these charges have on the ability of virtual traders to arbitrage day-ahead and real-time price differences?

(b) Do UTCs impact unit commitment decisions? If so, how? Several views were expressed during the conference. For example, one panelist cited PJM documentation stating that UTCs are not included in commitment decisions.[2] Other panelists expressed the view that both ''paired'' INCs and DECs and UTC's impact unit commitment.[3]

[1] Notice of the request was published in the **Federal Register** on February 5, 2015 (80 Fed. Reg. 6,512).

[1] *PJM Interconnection, L.L.C., Supplemental Notice of Technical Conference,* Docket No. EL14–37–000 (December 10, 2014). *http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13707421.*

[2] January 7, 2015 Presentation of Wesley Allen, ''Incremental Offers, Decrement Bids & Up To Congestion.'' at pp 4–5.

[3] January 7, 2015 Technical Conference on Financial Transactions in PJM, Transcript 240:15–241:4 (Adam Keech); Id. at 242: 14–16 (Joseph Bowring).

(c) Should market participants be allowed to net INC and DEC transactions for the purpose of uplift allocations? Why or why not? If yes, should netting within a market participant's portfolio (intra-market participant) be allowed or should market-wide (inter-market participant) netting be allowed? Should physical assets be included in the netting process? Please discuss the advantages and disadvantages to both approaches.

(d) Are there other cost-causation approaches that should be considered? What advantages, disadvantages, and operational challenges would be associated with implementing such approaches in PJM?

(e) If virtual transactions are assessed uplift, should the uplift be designed as a fixed amount known in advance to permit the traders to assess the costs of the trade versus the potential arbitrage differences between day-ahead and real-time?

(f) If you believe that changes to the current Uplift provisions of PJM's tariff are necessary, propose appropriate tariff language that you believe addresses your concern.

[FR Doc. 2015–10559 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2323–206]

TransCanada Hydro Northeast, Inc.; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request to Amend License Articles 409, 410, 411, and 413.

b. *Project No.:* 2323–206.

c. *Date Filed:* March 31, 2015.

d. *Applicant:* TransCanada Hydro Northeast, Inc. (licensee).

e. *Name of Project:* Deerfield River Hydroelectric Project.

f. *Location:* Windham and Bennington counties, Vermont and Franklin and Berkshire counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Ragonese, FERC License Manager, (603) 498–2851, or *john_ragonese@transcanada.com*.

i. *FERC Contact:* Alicia Burtner, (202) 502–8038, or *alicia.burtner@ferc.gov*.

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

Please include the project number (P–2323–206) on any comments, motions, or recommendations filed.

k. *Description of Request:* The licensee requests the deletion or suspension of the requirements of license Articles 409, 410, 411, and 413 and the associated Atlantic Salmon Radio-Tagging Plan, as approved by the Commission on March 31, 1998. The requirements pertain to monitoring and restoring Atlantic salmon (*Salmo salar*) in the Connecticut River and its tributaries. Article 409 requires the licensee to construct, operate, and maintain a permanent upstream fish passage facility. Article 410 requires a plan to capture upstream migrating Atlantic salmon below the dam and transport them to river reaches above the dam or to hatchery facilities until permanent passage facilities, are completed. Article 411 requires monitoring of Atlantic salmon smolts through project fish passage facilities, and Article 413 requires an Atlantic Salmon Radio-Tagging Plan. The licensee indicates that the U.S. Fish and Wildlife Service, which had been actively stocking Atlantic salmon in the Connecticut River and its tributaries, has officially withdrawn support for the restoration program due to unsatisfactory results. The licensee indicates that its efforts under Articles 409, 410, 411, and 413 have no feasible chance of success without the U.S. Fish and Wildlife's stocking component.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. 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, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the variance. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference

to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10574 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2310–207]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application for Temporary Variance of License Requirement.

b. *Project No.:* 2310–207.

c. *Date Filed:* April 24, 2015.

d. *Applicants:* Pacific Gas and Electric Company (licensee).

e. *Name of Project:* Drum-Spaulding Project.

f. *Location:* South Yuba River and Bear River in Placer and Nevada counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Ezra Becker, License Coordinator, Pacific Gas and Electric Company, (415) 973–3082.

i. *FERC Contact:* Mr. John Aedo, (415) 369–3335, or *john.aedo@ferc.gov.*

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission (April 29, 2015). The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2310–207) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* The licensee requests a temporary variance of the minimum flow requirements at streamflow gage YB–292, located in Mormon Ravine above Newcastle Powerhouse. Specifically, the licensee requests that the instantaneous 5 cubic feet per second (cfs) minimum flow requirement be reduced to 3 cfs from May 11 to October 15, 2015. During this time the licensee would also maintain a target flow of 5 cfs, based on a 24-hour average flow at gage YB–292. The licensee states that the variance is necessary due to reduced water deliveries in the upstream canal system during the ongoing drought and the large fluctuations caused by irregular water withdrawals in the canal system made by other users.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. 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, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10564 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1582–000]

65HK 8me LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of 65HK 8me LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for

blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 19, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10561 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7856–027]

Willow Creek Hydro, LLC; Notice of Termination Of License (Minor Project) by Implied Surrender and Soliciting Comments and Protests

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of license by implied surrender.

b. *Project No.:* 7856–027.

c. *Date Initiated:* April 29, 2015.

d. *Licensee:* Willow Creek Hydro, LLC.

e. *Name and Location of Project:* The Potosi Power Company Water Power Project, is located on the South Willow and Potosi Creeks, in Madison County, Montana and occupies 0.3 acres of federal lands within the Beaverhead National Forest.

f. *Filed Pursuant to:* Standard Article 24.

g. *Licensee Contact Information:* Ms. Jane Joslin, Willow Creek Hydro, LLC., 1 South Willow Creek, Pony, Montana 59747 and Mr. Darrin Brooks, Willow Creek Hydro, LLC., P.O. Box 267, Pony, Montana 59747, (406) 685–3330.

h. *FERC Contact:* Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov*.

i. Deadline for filing comments and protests is 30 days from the issuance date of this notice by the Commission. Please file your submittal electronically via the Internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp* and filing instructions in the Commission's Regulations at 18 CFR 385.2001(a)(1)(iii). To assist you with eFilings you should refer to the submission guidelines document at *http://www.ferc.gov/help/submission-guide/user-guide.pdf.* In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these ''qualified documents'' at *http://www.ferc.gov/docs-filing/efiling/filing.pdf.* You must include your name and contact information at the end of your comments. Please include the project number (P–7856–027) on any documents or motions filed. The Commission strongly encourages electronic filings; otherwise, you should submit an original and seven copies of any submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ–12, 888 First Street NE., Washington, DC 20426.

j. *Description of Project Facilities:* (1) A 6-foot-high diversion structure; (2) a 2,300-foot-long penstock; (3) a powerhouse containing two generating units with a combined installed capacity of 300 kW; (4) a 10,000-foot-long underground transmission line; (5) a 2.5-mile-long, 12.5-kV overhead transmission line; and (6) appurtenant facilities.

k. *Description of Proceeding:* The licensee is in violation of Article 24 of its license, which was issued October 7, 1985 (33 FERC ¶ 62,017). Article 24 states in part: If the Licensee shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission, the Commission will deem it to be the intent of the Licensee to surrender the license.

Commission records indicate that the project has not operated since the project penstock ruptured in 1994. After several years of correspondence regarding restoring project operation, the licensee has become non-responsive. The licensee most recently filed a plan and schedule to restore project operation with the Commission on February 6, 2014. By letter dated March 6, 2014, the Commission acknowledged the filing and required the licensee to file progress reports January 1 and June 1 of each year to ensure the licensee's continued progress towards restoring project operation. The licensee did not file the first progress report due on June 1, 2014. By letter dated November 12, 2014, the Commission indicated the licensee must file the overdue progress report, failure to do so would result in an implied surrender of the project license. To date, the licensee has not filed a response and the project remains inoperable.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–7856–027) excluding the last three digits in the docket number field to access the notice. 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, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should

so indicate by writing to the Secretary of the Commission.

n. *Comments and Protests*—Anyone may submit comments or protests in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.211. In determining the appropriate action to take, the Commission will consider all protests filed. Any protests must be received on or before the specified deadline date for the particular proceeding.

o. *Filing and Service of Responsive Documents*—Any filing must (1) bear in all capital letters the title ''COMMENTS or ''PROTEST,'' as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments or protests should relate to project works which are the subject of the termination of license. A copy of any protest must be served upon each representative of the licensee specified in item g above. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10566 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–62–000]

Chevron U.S.A. Inc.; Notice of Petition for Declaratory Order

Take notice that on April 29, 2015, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, Chevron U.S.A. Inc. (Petitioner) filed a petition for declaratory order requesting that the Commission confirm that certain qualifying cogeneration facilities indirectly owned by or affiliated with the Petitioner are exempt from section 203 of the Federal Power Act under 18 CFR 292.601(c), 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 May 29, 2015.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10570 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–137–000]

Rockies Express Pipeline LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Rex Zone 3 Capacity Enhancement Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment that will discuss the environmental impacts of the REX Zone 3 Capacity Enhancement Project involving construction and operation of facilities by Rockies Express LLC (REX) in Decatur County, Indiana and Pickaway, Fayette, Muskingum, and Warrenton Counties, Ohio. The Commission will use this EA 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 will use to gather input from the public and interested agencies on the project. 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. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before May 29, 2015.

If you sent comments on this project to the Commission before the opening of this docket on March 31, 2015, you will need to file those comments in Docket No. CP15–137–000 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 should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed 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, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

REX provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' 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. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature 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.''* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP15–137–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

REX proposes to construct and operate three new compressor stations and ancillary facilities in Ohio and Indiana, and add additional compression to an existing station in Ohio. REX would also add gas cooling facilities and/or power and control room buildings at two existing compressor stations in Ohio.

The REX Zone 3 Capacity Enhancement Project would consist of the following facilities:

- One new 49,428 horsepower (hp) Columbus Compressor Station in Pickaway County, Ohio;
- one new 31,791 hp Washington Court House Compressor Station in Fayette County, Ohio;
- one new 37,038 hp St. Paul Compressor Station in Decatur County, Indiana;
- an additional 38,400 hp of compression, gas cooling facilities, and a new power and control building at the existing Chandlersville Compressor Station in Muskingum County, Ohio; and
- gas cooling facilities and a new power and control building at the existing Hamilton Compressor Station in Warren County, Ohio.

According to REX, its project would provide an additional 800 million cubic feet per day (MMCFD) of east-to-west transportation service, of which 700 MMCFD is contracted to six shippers: American Energy—Utica LLC, EdgeMarc Energy Holdings LLC, EQT Energy LLC, Gulfport Energy Corporation, Jay-Bee Oil & Gas Inc., and Triad Hunter, LLC.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

REX would acquire about 145 acres of land for the new compressor station sites. Construction of the proposed compressor stations would disturb about 70.4 acres of land. Following construction, REX would maintain about 28.5 acres for permanent operation of the project facilities; the remaining acreage would be restored and revert to former uses. No additional land would be required for modifications at the existing compressor stations and construction activities would occur within the existing fence lines.

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 [2] 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. We will consider all filed comments 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 proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- vegetation and wildlife;
- cultural resources;
- air quality and noise;
- endangered and threatened species;
- socioeconomics
- public safety; and
- cumulative impacts

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] 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

[1] The appendices referenced in this notice will not appear 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] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (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.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs 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 EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

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 proposed project. If we publish and distribute the EA, 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 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, 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.

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 at *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.,* CP15–137). 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.*

Finally, 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.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10558 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

[4] The Advisory Council on Historic Preservation's 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.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1908–010; ER10–1909–010; ER10–1910–010; ER10–1911–010.

Applicants: Duquesne Conemaugh, LLC, Duquesne Keystone, LLC, Duquesne Light Company, Duquesne Power, LLC.

Description: Notice of Change in Status of the Duquesne MBR Sellers.

Filed Date: 4/28/15.

Accession Number: 20150428–5563.

Comments Due: 5 p.m. ET 5/19/15.

Docket Numbers: ER13–823–003; ER15–1348–001; ER12–1561–002.

Applicants: Roseton Generating LLC, Castleton Commodities Merchant Trading L.P., CCI Rensselaer LLC.

Description: Supplement to March 20, 2015 Triennial Market Power Analysis Update of Castleton Commodities Merchant Trading L.P., et al. for the Northeast Region.

Filed Date: 4/28/15.

Accession Number: 20150428–5560.

Comments Due: 5 p.m. ET 5/19/15.

Docket Numbers: ER14–279–001.

Applicants: Midcontinent Independent System Operator, Inc., Interstate Power and Light Company.

Description: Compliance filing per 35: 2015–04–29_Guttenberg WDS Compliance Filing to be effective 1/1/2014.

Filed Date: 4/29/15.

Accession Number: 20150429–5417.

Comments Due: 5 p.m. ET 5/20/15.

Docket Numbers: ER14–325–005; ER11–4500–008; ER12–128–006; ER14–2858–003.

Applicants: Enel Cove Fort, LLC, Enel Stillwater, LLC, EGP Stillwater Solar, LLC, Origin Wind Energy, LLC.

Description: Notice of Non-Material Change in Status of Enel Cove Fort, LLC, et. al.

Filed Date: 4/28/15.

Accession Number: 20150428–5566.

Comments Due: 5 p.m. ET 5/19/15.

Docket Numbers: ER14–480–000; ER15–1451–000.

Applicants: California Independent System Operator Corporation.

Description: Informational Filing on Market Data Required 120 Days in Advance of Reinstating Convergence Bidding at the Interties of the California Independent System Operator Corporation.

Filed Date: 12/31/14.

Accession Number: 20141231–5317.

Comments Due: 5 p.m. ET 5/20/15.

Docket Numbers: ER14–480–000; ER15–1451–000.

Applicants: California Independent System Operator Corporation.

Description: Supplement to December 31, 2014 Informational Filing on Market Data Required 120 Days in Advance of Reinstating Convergence Bidding at the Interties of the California Independent System Operator Corporation.

Filed Date: 4/3/15.
Accession Number: 20150403–5175.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–883–002.
Applicants: Southern California Edison Company.
Description: Tariff Amendment per 35.17(b): Second Amended GIA Distrib Serv Agmt San Gorgonio Weswinds II, Difwind Farms to be effective 12/31/9998.
Filed Date: 4/28/15.
Accession Number: 20150428–5332.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–945–001.
Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.
Description: Compliance filing per 35: 2015–04–29_ITC Midwest Adder Compliance Filing to be effective 4/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5325.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1190–001.
Applicants: Duke Energy Florida, Inc., Duke Energy Progress, Inc., Duke Energy Carolinas, LLC.
Description: Tariff Amendment per 35.17(b): OATT Attachment C Amendment (3rd) to be effective 2/10/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5005.
Comments Due: 5 p.m. ET 5/14/15.
Docket Numbers: ER15–1419–001.
Applicants: Emera Maine.
Description: Compliance filing per 35: Amended Order No. 676–H Compliance Filing to be effective 5/15/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5509.
Comments Due: 5 p.m. ET 5/8/15.
Docket Numbers: ER15–1584–000.
Applicants: New York State Electric & Gas Corporation.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of E&P Agreement with Beacon Power Corporation to be effective 5/11/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5466.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1585–000.
Applicants: New York State Electric & Gas Corporation.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of E&P Agreement with Broome Energy Resources LLC to be effective 5/11/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5470.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1586–000.
Applicants: New York State Electric & Gas Corporation.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of E&P Agreement with Marsh Hill Energy LLC to be effective 5/11/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5471.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1587–000.
Applicants: New York State Electric & Gas Corporation.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of E&P Agreement with Stony Creek Energy LLC to be effective 5/11/2015.
Filed Date: 4/28/15.
Accession Number: 20150428–5478.
Comments Due: 5 p.m. ET 5/19/15.
Docket Numbers: ER15–1588–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 5th Amendment to Extend the PG&E–NCPA Interconnection Agreement to be effective 6/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5013.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1589–000.
Applicants: Energy Technology Savings, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notice of Succession & Tariff Revisions to be effective 4/7/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5204.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1590–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 205 filing re: credit policy financial reporting enhancements—annual updates to be effective 7/15/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5223.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1591–000.
Applicants: Public Service Company of New Mexico.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Attachment EIP to be effective 4/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5251.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1592–000.
Applicants: Public Service Company of New Mexico.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revision to Table of Contents to be effective 4/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5255.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1593–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): GIA and Distribution Service Agmt SunEdison Elm Avenue Fontana Project to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5274.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1594–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 3023 Hallam Wind, LLC GIA to be effective 4/20/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5301.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1595–000.
Applicants: Idaho Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): PAC LTF BORA–ENPR/LGBP Service Agreements to be effective 7/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5306.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1596–000.
Applicants: Dynegy Commercial Asset Management, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5358.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1597–000.
Applicants: Dynegy Conesville, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5361.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1598–000.
Applicants: Dynegy Dicks Creek, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5362.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1599–000.
Applicants: Dynegy Energy Services (East), LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisons to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5365.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1600–000.

Applicants: Dynegy Fayette II, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5366.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1601–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–29_SA 2710 Notice of Termination J097 GIA to be effective 7/6/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5371.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1602–000.
Applicants: Dynegy Hanging Rock II, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisons to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5373.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1603–000.
Applicants: Dynegy Killen, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5378.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1604–000.
Applicants: Dynegy Lee II, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5403.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1605–000.
Applicants: Dynegy Miami Fort, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5404.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1606–000.
Applicants: Dynegy Stuart, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5406.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1607–000.
Applicants: Dynegy Washington II, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5412.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1608–000.
Applicants: Dynegy Zimmer, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Notices of Succession and Revisions to Market-Based Rate Tariffs to be effective 4/30/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5413.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER15–1609–000.
Applicants: Kiyoshi Technologies, LLC.
Description: Initial rate filing per 35.12 Kiyoshi Technologies, LLC, FERC Electric Tariff to be effective 6/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5416.
Comments Due: 5 p.m. ET 5/20/15.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES15–21–000.
Applicants: Connecticut Light & Power Company, Western Massachusetts Electric Company.
Description: Application of The Connecticut Light and Power Company and Western Massachusetts Electric Company to Issue Short-Term Debt Securities.
Filed Date: 4/28/15.
Accession Number: 20150428–5559.
Comments Due: 5 p.m. ET 5/19/15.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA15–1–000.
Applicants: Alabama Electric Marketing, LLC, Alabama Electric Marketing, LLC, Astoria Generating Company, L.P., Big Sandy Peaker Plant, LLC, California Electric Marketing, LLC, Crete Energy Venture, LLC, CSOLAR IV South, LLC, CSOLAR IV West, LLC, High Desert Power Project, LLC, Kiowa Power Partners, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, New Mexico Electric Marketing, LLC, Rolling Hills Generating, L.L.C., Tenaska Alabama Partners, L.P., Tenaska Frontier Partners, Ltd., Tenaska Alabama II Partners, L.P., Tenaska Gateway Partners, Ltd., Tenaska Georgia Partners, L.P., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Virginia Partners, L.P, Texas Electric Marketing, LLC, TPF Generation Holdings, LLC, Wolf Hills Energy, LLC.
Description: Quarterly Land Acquisition Report of the Tenaska MBR Sellers.
Filed Date: 4/28/15.
Accession Number: 20150428–5529.
Comments Due: 5 p.m. ET 5/19/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10576 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–131–000.
Applicants: Wisconsin Public Service Corporation.
Description: Application for Approval of Transaction Under Section 203(a)(1)(B) of the Federal Power Act of Wisconsin Public Service Corporation.
Filed Date: 4/30/15.
Accession Number: 20150430–5318.
Comments Due: 5 p.m. ET 5/21/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2487–002.
Applicants: Pacific Summit Energy LLC.
Description: Notice of Change in Facts of Pacific Summit Energy LLC.
Filed Date: 4/29/15.
Accession Number: 20150429–5533.
Comments Due: 5 p.m. ET 5/20/15.
Docket Numbers: ER14–2245–001.
Applicants: TriEagle Energy, LP.
Description: Notice of Non-Material Change in Status of TriEagle Energy, LP.
Filed Date: 4/29/15.

Accession Number: 20150429–5522.
Comments Due: 5 p.m. ET 5/20/15.

Docket Numbers: ER15–763–001.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing per 35: Compliance Filing Regarding Allocation of Over-Collected Losses to be effective N/A.
Filed Date: 4/29/15.
Accession Number: 20150429–5443.
Comments Due: 5 p.m. ET 5/20/15.

Docket Numbers: ER15–1042–001.
Applicants: New York Independent System Operator, Inc.
Description: Tariff Amendment per 35.17(b): Response to Deficiency Letter—Voltage Support to be effective 1/1/2016.
Filed Date: 4/30/15.
Accession Number: 20150430–5194.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1610–000.
Applicants: California Power Exchange Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Rate Filing for Rate Period 27 to be effective 7/1/2015.
Filed Date: 4/29/15.
Accession Number: 20150429–5445.
Comments Due: 5 p.m. ET 5/20/15.

Docket Numbers: ER15–1611–000.
Applicants: Exelon Generation Company, LLC.
Description: Request for Waiver of Tariff Provision, Request for Shortened Comment Period and Request for Expedited Commission Action of Exelon Generation Company, LLC.
Filed Date: 4/29/15.
Accession Number: 20150429–5538.
Comments Due: 5 p.m. ET 5/11/15.

Docket Numbers: ER15–1612–000.
Applicants: Arrow Energy RRH, LLC.
Description: Initial rate filing per 35.12 Market-Based Rate Application to be effective 6/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5176.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1613–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Southwestern Power Administration NITS Rate Change to be effective 6/1/2015 under ER15–1613 Filing Type: 10.
Filed Date: 4/30/15.
Accession Number: 20150430–5212.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1614–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C.'s Notices of Cancellation of Service Agreements.
Filed Date: 4/30/15.
Accession Number: 20150430–5243.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1615–000.
Applicants: Tampa Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Emergency Interchange Service Schedule A&B—2015 (Bundled) to be effective 5/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5256.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1616–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–30_SA 2784 Ameren Illinois-Prairie Power Construction Agreement to be effective 4/10/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5361.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1617–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–30_SA 2783 Ameren Illinois-SWECI Construction Agreement to be effective 4/10/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5398.
Comments Due: 5 p.m. ET 5/21/15.

Docket Numbers: ER15–1618–000.
Applicants: Duke Energy Florida, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): DEF IA Annual Cost Factor Update (2015) to be effective 5/1/2015.
Filed Date: 4/30/15.
Accession Number: 20150430–5470.
Comments Due: 5 p.m. ET 5/21/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10568 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4900–084]

Trafalgar Power, Inc. Ampersand Forestport Hydro, LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On January 27, 2015, Trafalgar Power, Inc. (transferor) and Ampersand Forestport Hydro, LLC (transferee) filed an application for transfer of license of the Forestport Hydroelectric Project, FERC No. 4900. The project is located on the Black River in Oneida County, New York.

The applicants seek Commission approval to transfer the license for the Forestport Project from the transferor to the transferee.

Applicant Contact: For Transferor: Mr. Arthur Steckler, President, Trafalgar Power, Inc., 11010 Lake Grove Blvd., Suite 100, Box 353, Morrisville, NC 27560–7392. For Transferee: Mr. Lutz Loegters, Ampersand Forestport Hydro, LLC, c/o Ampersand Hydro, LLC, 717 Atlantic Avenue, Suite 1A, Boston, MA 02111.

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments, motions to intervene, and protests: 15 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, comments, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–4900–084.

Dated: April 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–10565 Filed 5–5–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9927–34–Region 6]

Notice of Extension of Public Comment Period for the Preliminary Designation of Certain Stormwater Discharges in the State of New Mexico Under the National Pollutant Discharge Elimination System of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice and extension of public comment period.

SUMMARY: The public comment period for the Environmental Protection Agency Region 6 (EPA Region 6) Preliminary Designation of certain stormwater discharges in Los Alamos County, New Mexico has been extended until June 15, 2015.

DATES: The comment period for the notice published on March 17, 2015 (80 FR 13852) has been extended. Comments must be submitted in electronic format or in writing to EPA on or before June 15, 2015.

ADDRESSES: Comments should be submitted to Ms. Evelyn Rosborough via email: *rosborough.evelyn@epa.gov,* or may be mailed to Ms. Evelyn Rosborough, Environmental Protection Agency, Water Quality Protection Division (6WQ–NP), 1445 Ross Ave., Suite 1200, Dallas, TX 75202.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Evelyn Rosborough, (214) 665–7515 or at *rosborough.evelyn@epa.gov.*

SUPPLEMENTARY INFORMATION: The Regional Administrator of EPA Region 6 published a Notice of Availability for the Preliminary Determination that certain stormwater discharges in Los Alamos County, New Mexico will be required to obtain National Pollutant Discharge Elimination System (NPDES) permit coverage under the Clean Water Act in the **Federal Register** on March 17, 2015 (80 FR 13852). In response to requests, the EPA is extending the public comment period for the Preliminary Designation until June 15, 2015. The comment period for the preliminary designation was initially scheduled to close on April 16, 2015.

The Preliminary Designation Document and supplementary information are available on the EPA Region 6 Web page at *http://www.epa.gov/region6/water/npdes/publicnotices/nm/nmdraft.htm and the extension of the comment was posted on this Web page on April 15, 2015.*

Dated: April 24, 2015.

David W. Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2015–10617 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0022; FRL–9926–67]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before June 5, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*. The mailing address for the contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and

opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. *EPA Registration Number or File Symbol:* 100–895, 100–1154, 100–1259, 100–1351, 100–1408, 100–1439. *Docket ID number:* EPA–HQ–OPP–2015–0221. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Avermectin. *Product type:* Insecticide. *Proposed Use:* Bean, Pineapple, various Tropical Fruits, Green Onion Subgroup 3–07B, Small Fruit Vine Climbing Subgroup 13–07F, Low Growing Berry Subgroup 13–07G, and Pome Fruit Group, Crop group conversions for Fruiting Vegetable Group 8–10 (adding greenhouse tomato), Citrus Group 10–10, Stone Fruit Group 12–12, and Tree Nut Group 14–12. *Contact:* RD.

2. *EPA Registration Numbers:* 100–1070, 100–1001. *Docket ID Number:* EPA–HQ–OPP–2014–0878. *Applicant:* Syngenta Crop Protection, 410 S. Swing Road, Greensboro, NC 27409. *Active ingredient:* Fluazifop-p-butyl. *Product Type:* Herbicide. *Proposed Uses:* Lettuce (head and leaf), rhubarb, strawberry, green onion, caneberry subgroup 13–07A, bushberry subgroup 13–07B, tuberous and corn subgroup 1D, bulb onion subgroup 3–07A, small fruit vine climbing, except for fuzzy kiwifruit subgroup 13–07F, and grass with regional restrictions. *Contact:* RD.

3. *EPA Registration Number or File Symbol:* 1258–1267, 1258–1286, 1258–1249. *Docket ID number:* EPA–HQ–OPP–2015–0168. *Applicant:* Lonza 1200 Bluegrass Lakes Parkway Alpharetta, GA 30004. *Active ingredient:* 1,2-Benzisothiazol-3(2H)-one, 2-butyl-. *Product type:* Microbiocide. *Proposed Use:* Metal working fluid in open system. *Contact:* AD.

4. *EPA Registration Number:* 100–1281. *Docket ID number:* EPA–HQ–OPP–2015–0096. *Applicant:* Syngenta Crop Protection, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Mandipropamid. *Product type:* Fungicide. *Proposed Use:* Non-bearing citrus. *Contact:* RD.

5. *EPA Registration Number or File Symbol:* 71512–2 and 71512–3. *Docket ID number:* EPA–HQ–OPP–2015–0263. *Applican*t: ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, Ohio 44077. *Active ingredient:* Cyazofamid. *Product type:* Fungicide. *Proposed Use:* Bulb Vegetable Group 3–07, Herb Subgroup 19A, Greenhouse Tomato-foliar; Greenhouse Pepper-soil drench. *Contact:* RD.

6. *EPA Registration Numbers:* 264–704 and 264–788. *Docket ID number:* EPA–HQ–OPP–2014–0590. *Applicant:* Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. *Active ingredient:* Pyrimethanil. *Product type:* Fungicide. *Proposed Uses:* Cucumber; Conversion of Pome fruit group 11 (pre-harvest and post-harvest) to Pome fruit group 11–10; Conversion of Stone fruit group 12 to Stone fruit 12–12; Conversion of Lemon to Lemon subgroup 10–10B; and Conversion of Tomato subgroup to Tomato subgroup 8–10A. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 27, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–10483 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0023; FRL–9926–68]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before June 5, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

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

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FOR FURTHER INFORMATION CONTACT: Jennifer Mclain, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305–7090; email address: *ADFRNotices@epa.gov.*, Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*. The mailing address for the contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

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

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2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. *File Symbol:* 86297–E. *Docket ID number:* EPA–HQ–OPP–2015–0169. *Applicant:* Dune Sciences, Inc, 1900 Millrace Dr. Eugene, OR 97403. *Product name:* NSD20. *Active ingredient:* Materials preservative; silver nanoparticles at 0.45%. *Proposed classification/Use:* various materials, intermediate polymers, and coating solutions. *Contact:* AD.

2. *File Symbol:* 524–AEG. *Docket ID number:* EPA–HQ–OPP–2015–0215. *Applicant:* Monsanto Company, 1300 I Street NW., Suite 450 East, Washington, DC 20005. *Product name:* Tioxazafen Technical (Wetcake). *Active ingredient:* Seed Treatment Nematicide; Tioxazafen (MON 102100) at 82.5%. *Proposed Use:* Corn, cotton, and soybeans. *Contact:* RD.

3. *File Symbol:* 524–AEU. *Docket ID number:* EPA–HQ–OPP–2015–0215. *Applicant:* Monsanto Company, 1300 I Street NW., Suite 450 East, Washington, DC 20005. *Product name:* MON 102133 SC Nematicide Seed Treatment. *Active ingredient:* Seed Treatment Nematicide; Tioxazafen (MON 102100) at 45.9%. *Proposed Use:* Corn, cotton, and soybeans. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 27, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–10368 Filed 5–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0024; FRL 9927–29–OAR]

California State Nonroad Engine Pollution Control Standards; Amendments to Spark Ignition Marine Engine and Boat Regulations; Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of decision.

SUMMARY: The Environmental Protection Agency (EPA) is granting the California Air Resources Board (CARB) request for authorization of California's amendments to its Spark Ignition Marine Engine and Boat regulations (2008 amendments). EPA's decision also confirms that certain of the 2008 amendments are within the scope of prior EPA authorizations. The 2008 amendments apply to spark ignition marine outboard motors, personal watercraft, and stern drive and inboard engines subject to California emissions regulations. This decision is issued under the authority of the Clean Air Act (CAA or Act).

DATES: Petitions for review must be filed by July 6, 2015.

ADDRESSES: EPA has established a docket for this Notice of Decision under Docket ID EPA–HQ–OAR–2013–0024. All documents relied upon in making this decision, including those submitted to EPA by CARB, are contained in the public docket. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m.; Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The email address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may access EPA dockets at *http://www.regulations.gov.* After opening the *www.regulations.gov* Web site, enter EPA–HQ–OAR–2013–0024 in the ''Enter Keyword or ID'' fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality (''OTAQ'') maintains a Web page that contains general information on its review of California waiver and authorization requests. Included on that page are links to prior waiver **Federal Register** notices, some of which are cited in today's notice; the page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

FOR FURTHER INFORMATION CONTACT: Julian Davis, Attorney-Advisor, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4029. Fax: (734) 214–4053. Email: *davis.julian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

By letter dated November 30, 2012, CARB submitted a request to EPA for authorization of amendments to the California Spark Ignition (SI) Marine Engine and Boat regulations [1] (Marine SI regulations) pursuant to section 209(e) of the CAA (2008 amendments).[2] The 2008 amendments were adopted by CARB on June 24, 2008, and became operative state law on August 19, 2009.[3] The 2008 amendments update and clarify regulations California adopted in 1998, 2001, and 2006.[4] CARB refers to these regulations collectively as the Marine Spark Ignition Engine regulations (Marine SI regulations).

California's 1998 regulation established exhaust emission standards for outboard engines and personal watercraft. The 1998 regulation also established an accelerated

[1] 13 California Code of Regulations (CCR), sections 2111, 2112, Appendix A therein, 2139, 2147, 2440, 2441, 2442, 2443.1, 2443.2, 2443.3, 2444.1, 2444.2, 2445.1, 2445.2, 2447, 2474 and 2448.

[2] ''Clean Air Act section 209(e)(2) Authorization Support Document submitted by the California Air Resources Board, November 30, 2012,'' at EPA–HQ–OAR–2013–0024–0006 (Authorization Support Document).

[3] EPA–HQ–OAR–2013–0024–0003.

[4] In 2007 EPA granted California authorization to enforce CARB's marine spark ignition engine regulations for outboard/personal watercraft (OB/PWC) engines and Tier 1 of the California inboard/stern drive (IB/SD marine emission standards, *see* 72 FR 14546 (March 28, 2007). In 2011 EPA granted California authorization to enforce CARB's second tier (Tier II) standards for spark ignited inboard and stern drive marine engines, *see* 76 FR 24872 (May 3, 2011).

implementation schedule such that California's marine spark ignition standards would take effect in 2001, compared to a 2006 effective date for federal marine SI standards. CARB adopted emission standards for inboard and stern drive engines in 2001 and amended the regulation in 2006 to provide industry with additional flexibility for complying with the exhaust standards.

The 2008 amendments considered here address technical issues that CARB identified as developing between 2006 and 2008, make clarifications and correct cross-referencing errors among CARB marine SI provisions, modify or change emission standards and options, and enhance alignment between the Marine SI regulations and other CARB and EPA regulations.

A. California's Authorization Request

The 2008 amendments establish new standards relating to the control of emissions from marine SI products, clarify procedures, add new flexibility for marine manufacturers, and/or correct outdated references in the California regulations. The 2008 amendments package also includes provisions that CARB deems not preempted by the Act and that do not require EPA authorization. Those amendments are not part of California's authorization request and are not included in this discussion.[5]

California requested EPA perform two types of review. First, CARB requested an EPA determination that certain provisions of the 2008 amendments are within the scope of the prior authorizations, or in the alternative, merit full authorization. These provisions include: (1) An update to California's aftermarket exemption procedures to fix a cross-referencing error that resulted when CARB adopted new stern drive/inboard (SD/I) engine standards in 2001; (2) The addition of a new tier of voluntary emission standards; (3) The addition of three new test cycle options for certification of high performance engines; (4) A new option enabling use of portable emission testing systems for certification testing of high performance SD/I engines produced in very low volumes; (5) A change allowing optional use of assigned deterioration factors for high performance engines; (6) New optional engine discontinuation allowances for manufacturers of SD/I engines; (7) New hardship relief and compliance assistance petition processes; (8) Revised requirements for marine on-board diagnostics systems; (9) New replacement engine flexibility; and (10) Modification to exhaust standards for high performance SD/I engines.[6]

Second, CARB requested full authorization for amendments that revise standards or establish new requirements. These provisions include: (1) Revised total hydrocarbon plus oxides of nitrogen ($HC + NO_X$) emission standards; (2) Enhanced evaporative emission controls for high performance SD/I engines; (3) Not-to-exceed limits for most marine SI engine categories; (4) Revised jet boat engine standards; and (5) New carbon monoxide emission standards.[7]

B. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Act permanently preempts any state, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles.[8] For all other nonroad engines, states generally are preempted from adopting and enforcing standards and other requirements relating to the control of emissions. Section 209(e)(2), however, requires the Administrator, after notice and opportunity for public hearing, to authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. However, EPA shall not grant such authorization if it finds that: (1) The determination of California is arbitrary and capricious; (2) California does not need such California standards to meet compelling and extraordinary conditions; or (3) California standards and accompanying enforcement procedures are not consistent with [CAA section 209].[9]

On July 20, 1994, EPA promulgated a rule interpreting the three criteria set forth in section 209(e)(2)(A) that EPA must consider before granting any California authorization request for nonroad engine or vehicle emission standards.[10] EPA revised these regulations in 1997.[11] As stated in the preamble to the 1994 rule, EPA historically has interpreted the consistency inquiry under the third criterion, outlined above and set forth in section 209(e)(2)(A)(iii), to require, at minimum, that California standards and enforcement procedures be consistent with sections 209(a), 209(e)(1), and 209(b)(1)(C) of the Act.[12]

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests under section 209(b)(1)(C). That provision provides that the Administrator shall not grant California a motor vehicle waiver if she finds that California ''standards and accompanying enforcement procedures are not consistent with section 202(a)'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures will be found to be inconsistent with section 202(a) if: (1) There is inadequate lead time to permit

[5] Authorization Support Document at 4. EPA takes no position as to whether such provisions are subject to preemption in section 209(a) of the Act.

[6] Authorization Support Document at. 3.

[7] Authorization Support Document at 3.

[8] States are expressly preempted from adopting or attempting to enforce any standard or other requirement relating to the control of emissions from new nonroad engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower. Such express preemption under section 209(e)(1) of the Act also applies to new locomotives or new engines used in locomotives.

CAA section 209(e)(1), 42 U.S.C. 7543(e)(1)(A).

[9] EPA's review of California regulations under section 209 is not a broad review of the reasonableness of the regulations or its compatibility with all other laws. Sections 209(b) and 209(e) of the Clean Air Act limit EPA's authority to deny California requests for waivers and authorizations to the three criteria listed therein. As a result, EPA has consistently refrained from denying California's requests for waivers and authorizations based on any other criteria. In instances where the U.S. Court of Appeals has reviewed EPA decisions declining to deny waiver requests based on criteria not found in section 209(b), the Court has upheld and agreed with EPA's determination. *See Motor and Equipment Manufacturers Ass'n* v. *Nichols,* 142 F.3d 449, 462–63, 466–67 (D.C. Cir. 1998), *Motor and Equipment Manufacturers Ass'n* v. *EPA,* 627 F.2d 1095, 1111, 1114–20 (D.C. Cir. 1979). *See also* 78 FR 58090, 58120 (September 20, 2013).

[10] *See* ''Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards,'' 59 FR 36969 (July 20, 1994).

[11] *See* ''Control of Air Pollution: Emission Standards for New Nonroad Compression-Ignition Engines at or Above 37 Kilowatts; Preemption of State Regulation for Nonroad Engine and Vehicle Standards; Amendments to Rules,'' 62 FR 67733 (December 30, 1997). The applicable regulations are now found in 40 CFR part 1074, subpart B, section 1074.105.

[12] 59 FR 36969 (July 20, 1994). EPA has interpreted 209(b)(1)(C) in the context of section 209(b) motor vehicle waivers.

the development of the necessary technology, giving appropriate consideration to the cost of compliance within that time,[13] or (2) the federal and state testing procedures impose inconsistent certification requirements.[14]

In light of the similar language in sections 209(b) and 209(e)(2)(A), EPA has reviewed California's requests for authorization of nonroad vehicle or engine standards under section 209(e)(2)(A) using the same principles that it has historically applied in reviewing requests for waivers of preemption for new motor vehicle or new motor vehicle engine standards under section 209(b).[15] These principles include, among other things, that EPA should limit its inquiry to the three specific authorization criteria identified in section 209(e)(2)(A),[16] and that EPA should give substantial deference to the policy judgments California has made in adopting its regulations. In previous waiver decisions, EPA has stated that Congress intended EPA's review of California's decision-making be narrow. EPA has rejected arguments that are not specified in the statute as grounds for denying a waiver: The law makes it clear that the waiver requests cannot be denied unless the specific findings designated in the statute can properly be made. The issue of whether a proposed California requirement is likely to result in only marginal improvement in California air quality not commensurate with its costs or is otherwise an arguably unwise exercise of regulatory power is not legally pertinent to my decision under section 209, so long as the California requirement is consistent with section 202(a) and is more stringent than applicable Federal requirements in the sense that it may result in some further reduction in air pollution in California.[17]

This principle of narrow EPA review has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit.[18] Thus, EPA's consideration of all the evidence submitted concerning an authorization decision is circumscribed by its relevance to those questions that may be considered under section 209(e)(2)(A).

C. Within-the-Scope Determinations

If California amends regulations that have been previously authorized by EPA, California may ask EPA to determine that the amendments are within the scope of the earlier authorization. A within-the-scope determination for such amendments is permissible without a full authorization review if three conditions are met. First, the amended regulations must not undermine California's previous determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect consistency with section 209 of the Act, following the same criteria discussed above in the context of full authorizations. Third, the amended regulations must not raise any new issues affecting EPA's prior waiver or authorization decisions.[19]

D. Deference to California

In previous waiver decisions, EPA has recognized that the intent of Congress in creating a limited review based on the section 209(b)(1) criteria was to ensure that the federal government did not second-guess state policy choices. As the agency explained in one prior waiver decision:

> It is worth noting * * * I would feel constrained to approve a California approach to the problem which I might also feel unable to adopt at the federal level in my own capacity as a regulator. The whole approach of the Clean Air Act is to force the development of new types of emission control technology where that is needed by compelling the industry to ''catch up'' to some degree with newly promulgated standards. Such an approach * * * may be attended with costs, in the shape of reduced product offering, or price or fuel economy penalties, and by risks that a wider number of vehicle classes may not be able to complete their development work in time. Since a balancing of these risks and costs against the potential benefits from reduced emissions is a central policy decision for any regulatory agency under the statutory scheme outlined above, I believe I am required to give very substantial deference to California's judgments on this score.[20]

Similarly, EPA has stated that the text, structure, and history of the California waiver provision clearly indicate both a congressional intent and appropriate EPA practice of leaving the decision on ''ambiguous and controversial matters of public policy'' to California's judgment.[21] This interpretation is supported by relevant discussion in the House Committee Report for the 1977 amendments to the Clean Air Act.[22] Congress had the opportunity through the 1977 amendments to restrict the preexisting waiver provision, but elected instead to expand California's flexibility to adopt a complete program of motor vehicle emission controls. The report explains that the amendment is intended to ratify and strengthen the preexisting California waiver provision and to affirm the underlying intent of that provision, that is, to afford California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare.[23]

E. Burden and Standard of Proof

As the U.S. Court of Appeals for the DC Circuit has made clear in *MEMA I,* opponents of a California waiver request bear the burden of showing that the statutory criteria for a denial of the request have been met:

> [T]he language of the statute and its legislative history indicate that California's regulations, and California's determinations that they must comply with the statute, when presented to the Administrator are presumed to satisfy the waiver requirements and that the burden of proving otherwise is on whoever attacks them. California must present its regulations and findings at the hearing and thereafter the parties opposing the waiver request bear the burden of persuading the Administrator that the waiver request should be denied.[24]

The Administrator's burden, on the other hand, is to make a reasonable evaluation of the information in the record in coming to the waiver decision. As the court in *MEMA I* stated: ''here, too, if the Administrator ignores evidence demonstrating that the waiver should not be granted, or if he seeks to overcome that evidence with unsupported assumptions of his own, he runs the risk of having his waiver decision set aside as 'arbitrary and

[13] H. Rep. No. 728, 90th Cong., 1st Sess. 21 (1967).

[14] S. Rep. No. 403, 90th Cong., 1st Sess. 32 (1967).

[15] *See Engine Manufacturers Association* v. *EPA,* 88 F.3d 1075, 1087 (D.C. Cir. 1996): ''. . . EPA was within the bounds of permissible construction in analogizing § 209(e) on nonroad sources to § 209(a) on motor vehicles.''

[16] *See* EPA's Final 209(e) rulemaking at 59 FR 36969, 36983 (July 20, 1994).

[17] ''Waiver of Application of Clean Air Act to California State Standards,'' 36 FR 17458 (Aug. 31, 1971). Note that the more stringent standard expressed here, in 1971, was superseded by the 1977 amendments to section 209, which established that California must determine that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. In the 1990 amendments to section 209, Congress established section 209(e) and similar language in section 209(e)(1)(i) pertaining to California's nonroad emission standards which California must determine to be, in the aggregate, at least as protective of public health and welfare as applicable federal standards.

[18] *See, e.g., Motor and Equip. Mfrs Assoc.* v. *EPA,* 627 F.2d 1095 (D.C. Cir. 1979) (''*MEMA I*'').

[19] *See* ''California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waiver of Federal Preemption,'' 46 FR 36742 (July 15, 1981).

[20] 40 FR 23102, 23103–23104 (May 28, 1975).

[21] *Id. at* 23104; 58 FR 4166 (January 13, 1993).

[22] *MEMA I,* 627 F.2d at 1110 (*citing* H.R. Rep. No. 294, 95th Cong., 1st Sess. 301–302 (1977)).

[23] *Id.*

[24] *MEMA I,* at 1121.

capricious.'' '' [25] Therefore, the Administrator's burden is to act ''reasonably.'' [26]

With regard to the standard of proof, the court in *MEMA I* explained that the Administrator's role in a section 209 proceeding is to:

> [. . .]consider all evidence that passes the threshold test of materiality and * * * thereafter assess such material evidence against a standard of proof to determine whether the parties favoring a denial of the waiver have shown that the factual circumstances exist in which Congress intended a denial of the waiver.[27]

In that decision, the court considered the standards of proof under section 209 for the two findings related to granting a waiver for an ''accompanying enforcement procedure.'' Those findings involve: (1) Whether the enforcement procedures impact California's prior protectiveness determination for the associated standards, and (2) whether the procedures are consistent with section 202(a). The principles set forth by the court, however, are similarly applicable to an EPA review of a request for a waiver of preemption for a standard. The court instructed that ''the standard of proof must take account of the nature of the risk of error involved in any given decision, and it therefore varies with the finding involved. We need not decide how this standard operates in every waiver decision.'' [28]

With regard to the protectiveness finding, the court upheld the Administrator's position that, to deny a waiver, there must be ''clear and compelling evidence'' to show that proposed enforcement procedures undermine the protectiveness of California's standards.[29] The court noted that this standard of proof also accords with the congressional intent to provide California with the broadest possible discretion in setting regulations it finds protective of the public health and welfare.[30]

With respect to the consistency finding, the court did not articulate a standard of proof applicable to all proceedings, but found that the opponents of the waiver were unable to meet their burden of proof even if the standard were a mere preponderance of the evidence. Although *MEMA I* did not explicitly consider what the standards of proof would be under section 209 concerning a waiver request for ''standards,'' as compared to a waiver request for accompanying enforcement procedures, there is nothing in the opinion to suggest that the court's analysis would not apply with equal force to such determinations. EPA's past waiver decisions have consistently made clear that: ''[E]ven in the two areas concededly reserved for Federal judgment by this legislation—the existence of 'compelling and extraordinary' conditions and whether the standards are technologically feasible—Congress intended that the standards of EPA review of the State decision to be a narrow one.'' [31]

F. EPA's Administrative Process in Consideration of California's Request for Authorization of the 2008 Amendments

The CAA directs EPA to offer an opportunity for public hearing on authorization requests from California. On August 19, 2013, EPA published a **Federal Register** notice announcing an opportunity for written comment and offering a public hearing on California's request for authorization of the 2008 amendments.[32] The request for comments specifically included, but was not limited to, the following issues.

First, EPA requested comment on whether the 2008 amendments for which CARB requested a within-the-scope determination should be considered under a within-the-scope analysis. We specifically requested comment on whether those amendments, each individually assessed, (1) undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable federal standards, (2) affect the consistency of California's requirement with section 209 of the Act, or (3) raise any other new issue affecting EPA's previous authorization determinations.

Second, EPA requested comment on whether those amendments would satisfy the criteria for full authorization if they do not meet the criteria for within-the-scope analysis.

Third, EPA sought comment on whether the amendments establishing new emission standards for which CARB requested full authorization satisfy the full authorization criteria. We specifically requested comment on whether: (1) California's protectiveness determination for these amendments (*i.e.,* that California standards will be, in the aggregate, as protective of public health and welfare as applicable federal standards) is arbitrary and capricious, (2) California does not need such standards to meet compelling and extraordinary conditions, or (3) the California standards and accompanying enforcement procedures are not consistent with section 209 of the Act.

EPA received no written comments in response to its request, and received no request for a public hearing. Consequently, EPA did not hold a public hearing.

II. Discussion

A. Within-the-Scope Analysis

CARB's request sought confirmation that 10 of the 2008 amendments fall within the scope of prior marine SI authorizations. EPA can confirm that amended regulations are within the scope of previously granted authorizations if three conditions are met. First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect the consistency of the Marine SI regulations with section 209. Third, the amendments must not raise any ''new issues'' affecting the prior authorization. If EPA determines that the amendments do not meet the requirements for a within-the-scope confirmation, we then consider whether the amendments satisfy the criteria for full authorization.

As described previously, EPA specifically invited comment on the appropriateness of California's request for within-the-scope versus full authorization treatment for 10 of the 2008 amendments. We received no comment on this issue.

We conducted our analysis by evaluating each of the 10 amendments against each within-the-scope criterion. The discussion below briefly summarizes the amendments and then presents our analysis. To avoid repetition, we present a single explanation when the same analysis and evaluation applies to multiple amendments, due to their similarity in design or impact. The amendments fall into three broad categories: (1) Changes that correct errors or clarify the existing regulation; (2) changes that add new compliance flexibility for marine SI manufacturers; and (3) changes that modify or adjust emission standards or requirements.

1. Amendments That Correct Errors or Clarify the Existing Regulation

Two amendments fall into this first category. The Aftermarket Exemption

[25] *Id.* at 1126.

[26] *Id.* at 1126.

[27] *Id.* at 1122.

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *See, e.g.,* ''California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption,'' 40 FR 23102 (May 28, 1975), at 23103.

[32] 78 FR 50412 (August 19, 2013).

Procedures Clarification Amendment (aftermarket exemptions amendment) corrects a cross-referencing error for SD/I parts manufacturers. When California adopted emission standards for SD/I engines in 2001, a corresponding adjustment to the aftermarket exemption procedures did not occur. The 2008 amendments correct this error by removing the exclusion of eligibility for an aftermarket exemption for SD/I parts. The change thus aligns provisions covering emission standards, aftermarket exemptions, and exemption applicability for SD/I engines.

The Replacement Engine Provisions Amendment (replacement engines amendment) addresses a practical problem that resulted from California's previous requirement that new SD/I replacement engines comply with current model year emission standards. The requirement unintentionally necessitated use of a catalyst-equipped engine to replace the engine in an older model boat, even if the boat was not properly designed to accommodate or support a catalyst-equipped engine. The replacement engines amendment requires the installation of the cleanest available engine in a boat without unreasonable modifications when replacing an existing engine.

As described above, California's aftermarket exemption amendment corrects a cross-referencing error by clarifying that the aftermarket parts exemption applicable to other off-road categories also applies and is available to SD/I manufacturers. The replacement engine provisions amendment addresses a conflict in the previous regulations that unintentionally established infeasible requirements for some SD/I engine replacements. These amendments simply clarify and codify the intent of the Marine SI regulations EPA previously authorized. The modifications therefore do not change the basis for California's previous protectiveness determination, which EPA in its earlier authorization found not to be arbitrary or capricious. Based on the record associated with this request, EPA cannot find that the aftermarket exemption procedures or replacement engine amendments undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable federal standards.

EPA similarly finds that the aftermarket parts and replacement engines provisions do not affect consistency with section 209 of the Act. These two amendments do not broaden applicability of the Marine SI regulations to preempted vehicle or engine categories under sections 209(a) or 209(e)(1). The aftermarket parts amendment involves correction of a cross-referencing error in California's law that has no bearing on technological feasibility, cost, or test procedures. The replacement engines amendment also has no bearing on test procedures and indeed provides clarification to ensure that the replacement engine provisions under the Marine SI regulations do not present problems with technological feasibility or cost. In light of the information available to us we cannot find these two amendments to be inconsistent with section 202(a) of the Act.

Finally, EPA must evaluate whether California's aftermarket parts amendment or engine replacement amendment raise new issues affecting previously granted authorizations. These amendments do not change provisions of the previously authorized regulations, other than to correct administrative oversights in the regulations that unintentionally limited implementation flexibility for SD/I manufacturers. Therefore, we do not find that the amendments impose new concerns or affect the bases upon which EPA granted the previous authorization. EPA cannot find that CARB's aftermarket exemptions or engine replacement amendments raise new issues and consequently cannot deny CARB's request based on this criterion.

For all the reasons set forth above, EPA confirms that California's aftermarket exemptions and replacement engine amendments are within the scope of the existing authorization.

2. Amendments That Add New Compliance Options, Flexibility, or Assistance

California requested within-the-scope confirmation for six amendments that either broaden availability of compliance assistance or provide flexibility by establishing new options for manufacturers to demonstrate compliance with the Marine SI regulations.

The Compliance Assistance for All Spark-Ignition Marine Engines Amendment (compliance assistance amendment) gives California's Executive Officer discretion to issue additional compliance assistance in cases of extreme hardship for which the engine discontinuation allowance may not be completely adequate. This assistance would not be automatically available. Rather, assistance would depend on an evaluation of whether the manufacturer seeking such assistance demonstrated that the cause of the hardship was beyond its control, that the manufacturer had already attempted to resolve the situation by exercising all existing regulatory provisions, and that the manufacturer had proposed an effective, implementable and enforceable plan to prevent any net increase in emissions.

The Optional Fifth Tier Added to Environmental Label Program Amendment (environmental label amendment) enables manufacturers to certify marine SI engines to a new, more stringent tier of voluntary emission standards and thereby become eligible for a new five-star emissions rating. The previously authorized regulations provided for a four-tier environmental label program.

The Optional Loaded Test Cycle for High Performance Engines Amendment (HPE test cycle amendment) establishes a new testing option for manufacturers certifying high performance (>373kW) SD/I engines. The new, optional HPE test cycle is similar to the steady-state test cycle that California's previously authorized Marine SI regulations designate for HPE certification testing. But instead of measuring emissions at a ''no load'' idle, the test is run at a 15-percent load (''loaded idle''). High performance engines typically operate at loaded idle since much of their operation occurs in ''no-wake'' zones near docks and swimming areas where the speed limit is five mile per hour. CARB states that the loaded idle operation is therefore more representative of HPE operation than ''no load'' idle operation.

The Optional Portable Emissions Measurement System (PEMS) for High Performance Engines Amendment (PEMS amendment) provides another new testing option for certification of certain high performance SD/I engines. This amendment allows manufacturers that produce no more than 75 engines per year nationally to use PEMS equipment to conduct certification testing. Eligible PEMS units must comply with the same specifications and verifications as the laboratory instrumentation described in the marine SI engine test procedures, but with added flexibility per California's incorporation of the provisions for portable measurement systems set forth in federal regulations.[33]

The Optional Assigned Deterioration Factors (DF) for High Performance Engines Amendment (assigned DF amendment) adds an option for manufacturers to use assigned DFs to demonstrate at the time of certification that an engine will meet the full useful

[33] *See* 40 CFR 1065.901 through 1065.940.

life standards. Emissions deterioration over a HPE's useful life is expected to be relatively small considering an engine's 50-hour or 150-hour rebuild frequency. California states that the assignment of reasonable deterioration factors provides HPE manufacturers a cost effective and low-risk alternative to the traditional method of determining deterioration factors.

The Optional Engine Discontinuation Allowance for SD/I Engines Amendment (engine discontinuation allowance amendment) establishes an optional flexibility that allows manufacturers to certify one engine family per year to current emission certification levels if certifying one or more other SD/I engine families to more stringent standards to make up for the emissions deficit. This provision addresses a compliance obstacle that arose after CARB adopted its 2005 marine regulations. Engine marinizers (manufacturers who modify existing automobile engines to operate in a marine environment) encountered the unanticipated discontinuation of engines by base engine suppliers and lacked the time necessary to develop reliable emission control systems for the engines that replace them. California states that the engine discontinuation allowance amendment offers a solution by providing marinizers a flexible alternative in limited situations when a currently compliant engine is no longer available, without a negative impact on emissions.

EPA again applied the three-prong test for a within-the-scope confirmation to the six amendments summarized above.

First, California asserts that the six amendments, and indeed all of the 2008 amendments, either reduce emissions or are emissions neutral. These six amendments in particular provide new, voluntary flexibilities meant only to enhance the marine SI industry's ability to comply with CARB's previously authorized regulations. Our analysis found no reason to conclude that the expanded compliance options would reduce the protectiveness of California's Marine SI regulations, or change the basis for California's previous protectiveness determination, which EPA in its earlier authorization found not to be arbitrary or capricious. EPA received no comment on this issue. Therefore, based on the record associated with this request, EPA cannot find that the compliance assistance, environmental label, HPE test cycle, PEMS, assigned DF, or engine discontinuation allowance amendments undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable federal standards,

Second, EPA must evaluate whether any of the six amendments render California's Marine SI regulations inconsistent with section 209 of the Act. Our review again finds that none of the six amendments broadens, or attempts to broaden, the applicability of the Marine SI regulations to cover either motor vehicles or nonroad engines expressly preempted under section 209(a) or section 209(e)(1). Similarly, the amendments, all voluntary and designed to provide flexibility, do not present technologically infeasible requirements relative to lead time or consistency with federal testing requirements.

For the foregoing reasons we find that the six amendments discussed in this section satisfy the second criterion for within-the-scope confirmation.

Finally, under the third prong of a within-the-scope analysis, EPA evaluates whether any of the six amendments constitutes a new issue affecting the prior authorization. These six amendments either promote the use of existing compliance flexibilities or create a new flexibility to assist manufacturers in achieving compliance with California's standards. They do not establish new requirements or obligations. As such, EPA cannot find that the amendments constitute any new issues that would affect our prior authorization of California's Marine SI regulations, and cannot deny CARB's request based on this third within-the-scope criterion.

For all the reasons set forth above, EPA confirms that California's compliance assistance, environmental label, HPE test cycle, PEMS, assigned DF, and engine discontinuation allowance amendments are within the scope of the existing authorization.

3. Amendments That Modify or Change Emission Standards or Requirements

California also requested within-the-scope confirmation for amendments that change requirements for some marine onboard diagnostic systems and that adjust exhaust standards for some SD/I engines.

The Revised On-Board Diagnostics Marine (OBD–M) Requirements Amendment (OBD–M amendment) requires the onboard diagnostic system on all SD/I engines and boats to include a misfire monitor. Prior to the 2008 amendments, the misfire monitor requirement was conditional. The previously authorized regulations only required misfire monitoring when CARB or the certifying manufacturer determined that engine misfire would cause the catalyst to fail before the emissions durability period of the engine had elapsed. The OBD–M amendment also extends the compliance date to allow for the deployment of more sophisticated on-board computers and temporarily relaxes requirements for malfunction indicator light activation.

The Modification of Exhaust Standards for High Performance SD/I Engines Amendment (HPE exhaust standards amendment) relaxes California's total hydrocarbon and oxides of nitrogen ($HC+NO_X$) exhaust standard for 2009 and later model year high performance SD/I engines produced by small volume manufacturers.

California asserts that the OBD–M and the HPE exhaust standards amendments, like the other eight amendments presented for within-the-scope confirmation, satisfy all the criteria, including the third criterion, that the amendments do not raise any new issues affecting the prior authorization.

Beginning with the OBD–M amendment, California notes that the change from the previous conditional requirement to the mandate for misfire monitors does not represent a new requirement because all SD/I manufacturers, in practice, already voluntarily include misfire monitoring as part of their OBD–M systems. In 2006, when California adopted its original OBD–M requirements, industry believed that misfire monitors generally would not be necessary for SD/I engines certified to California's 5.0 gram per kilowatt-hour (g/kW-hr) non-methane hydrocarbon plus nitrogen oxides ($NMHC+NO_X$) standard.[34] Rather, industry contended and CARB agreed that misfire would not affect catalyst durability because marine catalysts would need to be extraordinarily robust to meet that standard and remain durable in a water environment. However, industry has since learned that special catalysts are not necessary. Instead manufacturers are using conventional catalysts in California-certified SD/I engines. These catalysts are susceptible to damage from engine misfire and manufacturers therefore are subject to the conditional misfire monitor requirement established under

[34] CARB amended its marine standards to reflect the total hydrocarbon species instead of the previous ''non-methane'' hydrocarbon species to recognize methane's role as a greenhouse gas. *See* discussion below, under full authorization analysis, and Authorization Support Document at pp. 8–9.

the previously authorized Marine SI regulations.

California maintains that there would be no difference in converting the conditional misfire monitoring program into a mandate because all manufacturers providing information to California in actuality already include a misfire monitor in their OBD–M systems.

EPA appreciates California's argument that the practical impact of the OBD–M amendment is negligible, and perhaps even nonexistent. However, we do not agree with California's view that the change from a conditional requirement to a comprehensive mandatory requirement under the OBD–M amendment ''does not mandate a new system or require appreciable hardware changes.'' [35] The possibility is arguably still present that the OBD–M amendment would require a manufacturer using a robust catalyst technology to include a misfire monitor in the OBD–M system, where previously such a requirement did not exist. If true, this would constitute a new requirement under the mandatory system that did not exist under the conditional system we previously authorized. EPA finds that the OBD–M amendment does indeed present a new issue and therefore cannot be confirmed as within the scope of the previous authorization. Therefore EPA considers the OBD–M amendment under the full authorization criteria, as discussed below.

The HPE exhaust standards amendment, like several of the 2008 amendments, is designed to address obstacles that manufacturers faced in attempting to comply with California's Marine SI regulations. The HPE sector involves a relatively small number of manufacturers that cumulatively sell between 200–250 new engines in California each year. The previously authorized regulations allowed manufacturers to average standard performance and high performance engine family emission levels within their product line as a means to facilitate compliance. However, manufacturers encountered technical obstacles regarding the effective use of catalytic converters on high performance engines. In addition, a competitive disadvantage existed for small volume manufacturers that did not have requisite standard engines to generate offsets for their HPEs. The HPE exhaust standards amendment responds to these concerns by relaxing the model year 2009 and later $HC+NO_X$ exhaust standard for small volume HPE manufacturers.

California states that any emissions shortfall resulting from the relaxation of standards by the HPE exhaust standards amendment will be offset by emissions reductions achieved through another provision in the 2008 amendments package. That provision establishes enhanced evaporative emissions control requirements for high performance SD/I engines. CARB requested full authorization for that amendment, as described in the following section of this document. California contends that the HPE exhaust standards amendment satisfies the criteria for within-the-scope confirmation because it does not impose new requirements and because it will not affect CARB's previous protectiveness determination, considering the emissions compensation achieved within the full set of 2008 amendments.

EPA agrees with CARB's interpretation that the HPE exhaust standards amendment does not impose any new, more stringent requirements, relative to the previously authorized regulations. EPA also agrees that the emissions impact of the relaxed $HC+NO_X$ standard will be small and may in fact be nil overall, given the compensating effect of another provision that will reduce evaporative emissions from high performance SD/I engines. However CARB expressly states that the evaporative controls amendment was established to compensate for the shortfall in emission benefits from the change in exhaust standards. Because CARB links the two amendments, and because the amendment establishing the enhanced evaporative emission controls requires full authorization, EPA cannot consider the HPE exhaust standards amendment independently. Therefore, EPA views the HPE exhaust standards amendment as presenting a new issue that precludes a within-the-scope determination.

For the OBD–M and HPE exhaust emissions standards amendments, since the ''new issue'' prong of the within-the-scope criteria is not satisfied, EPA shall consider these amendments under the full authorization criteria, and will analyze them as such.[36]

B. Full Authorization Analysis

California requested full authorization for five of its 2008 amendments, each of which is summarized below. As described in the background section of this document, the CAA directs EPA to grant authorization, after providing opportunity for public hearing, unless EPA finds that California's protectiveness determination is arbitrary and capricious, that California does not need state standards to meet compelling and extraordinary conditions, or that the California standards are inconsistent with federal standards. EPA requested but received no comment on whether the 2008 amendments satisfy those criteria.

EPA analyzed the authorization request by evaluating each of the five amendments for which California requested full authorization against each of the three authorization criteria. As explained above, we also evaluated against full authorization criteria the two amendments that EPA could not confirm to be within the scope of the previous marine SI authorization. The following discussion briefly summarizes the amendments [37] and presents our analysis. The discussion combines and analyzes amendments together for brevity and clarity as appropriate.

1. Summary of Full Authorization Amendments

California has requested full authorization for five of its 2008 amendments. We summarize these amendments below. As described in the background section of this document, the CAA directs EPA to grant authorization, after providing opportunity for public comment, unless EPA finds that California's protectiveness determination is arbitrary and capricious, that California does not need state standards to meet compelling and extraordinary conditions, or that the California standards are inconsistent with federal standards. EPA requested but received no comment on whether the 2008 amendments satisfy those criteria.

The Revised Total Hydrocarbon plus Oxides of Nitrogen Standards Amendment (revised $HC+NO_X$ standards amendment) changes California's hydrocarbon emission standard for all spark-ignition marine categories from a non-methane hydrocarbon (NMHC) standard to a total hydrocarbon standard. The previously authorized Marine SI regulations did not include the methane component of HC emissions in the standards because California, at the time, designed the regulation to control ozone, and methane does not contribute to ozone formation in the atmosphere. However,

[35] *Id.*

[36] EPA cannot find that these amendments are within the scope of the previous authorization because they failed to satisfy the ''new issue'' criterion. We must therefore proceed with a full authorization analysis; there is no need to analyze whether the other two prongs of the within-the-scope analysis are met.

[37] Summaries of the OBD–M and HPE exhaust standards amendments are provided in the within-the-scope amendments section of this document.

methane has been identified as a greenhouse gas that contributes to global warming. California therefore amended its regulations to acknowledge the state's now broader air pollution concerns and include the total hydrocarbon species in its marine SI emission standards. The amendment would also harmonize the form of California's marine SI standards with federal gasoline certification fuel standards.

The Enhanced Evaporative Emissions Controls for High Performance SD/I Engines Amendment (evaporative emissions controls amendment) calls for boats using model year 2009 and later SD/I engines to incorporate enhanced evaporative emissions controls, including evaporative canisters and low-permeation fuel tanks and hoses. California states that this amendment was intended to ''compensate'' for the shortfall in emission benefits from the change in exhaust standards for high performance SD/I engines produced by small volume manufacturers, and to keep pace with EPA's evaporative emissions regulations published on May 18, 2007.[38] The evaporative emissions controls harmonize California evaporative emissions standards with the federal standards.

The Not-to-Exceed (NTE) Limits Amendment (NTE limits amendment) harmonizes California NTE limits for outboard motors/personal watercraft (OB/PWC) and SD/I engines less than or equal to 373 kW with federal NTE requirements for the same engine categories. The NTE requirements are intended to ensure emissions control in modes of engine operation that are not fully represented by the certification test cycle.

The Revised Jet Boat [39] Engine Standards Amendment (jet boat standards amendment) enhances alignment between California and federal definitions for SD/I engines and jet boats, and requires manufacturers that were certifying jet boat engines to California's OB/PWC standards to instead certify them to the more stringent SD/I standards. The 2008 amendments include several provisions intended to help facilitate the transition to the SD/I standards. These include enabling jet boat engine families previously certified to the OB/PWC standards or certified in a combined jet boat OB/PWC family to be certified to the OB/PWC standards until 2012 and establishing a transition period between 2010 and 2012 during which certain offsets and averaging may be used to comply with $HC+NO_X$ standards.

The New Carbon Monoxide Emission Standards Amendment (CO standards amendment) California adopted as part of the 2008 package applies to OB/PWC and SD/I engines. California adopted the standards, which essentially capped CO emissions at currently measured levels, to reduce CO inhalation risk for recreational boaters. The amended California CO standards are similar in stringency to federal standards but differ slightly in program design.

2. California's Protectiveness Determination

The first criterion EPA analyzes for full authorization is whether California's protectiveness determination (that its standards, including those changed by the 2008 amendments—the OBD–M requirement, HPE exhaust standards, revised $HC+NO_X$ standards, evaporative emissions controls, NTE limits, jet boat standards, and CO standards—are, in the aggregate, at least as protective of public health and welfare as applicable federal standards) is arbitrary and capricious.

In its initial action to adopt marine SI emission regulations in 1998, CARB determined that the Marine SI regulations were in the aggregate at least as protective of public health and welfare as the applicable federal regulations.[40] In granting California authorization for the regulation, EPA affirmed that this determination was not arbitrary or capricious.[41] CARB has reiterated its protectiveness determination with regard to the 2008 amendments so EPA now evaluates that determination in light of the amended marine SI program and current federal standards.[42]

As described above, CARB states that the 2008 amendments are either emissions neutral or increase the emissions stringency of California's Marine SI regulations. Specifically, California states that the revised $HC+NO_X$ standards, NTE limits and revised jet boat engine standards harmonize with federal standards while the CO standards and HPE exhaust standards are either of equivalent stringency or more stringent than the federal requirements. The HPE exhaust standards amendment does relax California's previous requirement somewhat, but only for small volume manufacturers, and the emissions increase due to this modification is offset by requirements within the 2008 amendments for enhanced evaporative emission controls on the same high-performance SD/I engine sector. We received no comment challenging California's marine SI standards as less stringent than applicable federal standards or refuting California's protectiveness determination. Given the lack of any evidence to the contrary, we cannot find that California's protectiveness determination regarding these amendments is arbitrary or capricious.

California's OBD–M amendment requiring misfire monitoring for SD/I engines was intended to adjust and upgrade the OBD–M requirement that EPA authorized in 2007. While EPA finds that the OBD–M amendment is inappropriate for within-the-scope treatment, the modification from a conditional to a mandatory requirement increases the program's stringency, which would favor California's finding of protectiveness. There is no federal requirement for a misfire monitoring system for marine OBD systems, which lends support to California's determination that its standards are as protective, if not more so, than the federal standard. Therefore, as with the amended emission standards within the 2008 amendments, we cannot find that California's protectiveness determination regarding the OBD–M amendment is arbitrary or capricious.

3. California's Compelling and Extraordinary Conditions

California has asserted its longstanding position that the State continues to need its own nonroad engine program to meet serious air pollution problems.[43] The relevant inquiry under section 209(e)(2)(A)(ii) is whether California needs its own emission control program to meet compelling and extraordinary conditions, not whether any given standard is necessary to meet such conditions.[44] In a 2009 waiver action, EPA examined the language of section

[38] 72 FR 28098, Control of Emissions from Nonroad Spark-Ignition Engines and Equipment.

[39] CCR Section 2441(a)(32), ''Jet Boat'' means a vessel that uses an installed internal combustion engine powering a water jet pump as its primary source of propulsion and is designed with open area for carrying passengers.

[40] *See* CARB Resolution 98–63, EPA–HQ–OAR–2013–0024–0014.

[41] 72 FR14546 (March 28, 2007).

[42] Authorization Support Document at 13.

[43] *See* Authorization Support Document at p. 15, ''In adopting Resolution 08–36 (Reference 5), the Board also confirmed CARB's longstanding position that California continues to need its own nonroad engine program to meet serious air pollution problems.''

[44] Final 209(e) Rule, 59 FR at 36982. The Administrator has recognized that even if such a standard by standard test were applied to California, it ''would not be applicable to its fullest stringency due to the degree of discretion given to California in dealing with its mobile source pollution problems.'' (41 FR 44209, 44213, (October 7, 1976); 49 FR 18887, 18892 (May 3, 1984).)

209(b)(1)(B) (which is essentially identical to the language in section 209(e)(2)(A)(ii)), and reiterated its longstanding traditional interpretation and that the better approach for analyzing the need for ''such State standards'' to meet ''compelling and extraordinary conditions'' is to review California's need for its program as a whole, for the class or category of vehicles being regulated, as opposed to its need for individual standards.[45] We have previously and consistently recognized that California meets the compelling and extraordinary criterion when granting waivers for motor vehicles under section 209(b) and authorizations for California's nonroad regulations under section 209(e) of the Act.

CARB's entire marine engine program is an important part of efforts to improve California's air quality through reductions of HC and NO_X emissions. Because of California's unique and severe air quality problems, the state continues to need more stringent standards to meet its air quality goals and satisfy its State Implementation Plan obligations. CARB's regulation of SD/I marine engines stems from its determination that these sources are significant contributors to ozone-forming emissions in California. The 2008 amendments are intended to enhance the program by clarifying and updating the regulations to align with other state and federal standards, and by increasing compliance flexibility. The Marine SI regulations also provide selective enforcement auditing, in-use compliance testing, consumer labeling to identify emissions performance relative to other marine SI engines, and a defects warranty program to protect consumers against poor quality products and to ensure that engines continue to perform as designed throughout their entire useful lives. California's Marine SI regulations as a whole address California's continuing struggles with air quality.

We received no contrary evidence or comments contesting California's longstanding determination that its marine SI engine program is needed to address the state's compelling and extraordinary conditions, nor did we receive any suggestion that the program is not still necessary. Therefore, based on the record of this request and absence of comments to the contrary, EPA cannot find that California does not continue to need such state standards, including the 2008 amendments, to address the ''compelling and extraordinary conditions'' underlying the state's air pollution problems.

4. Consistency With Section 209 of the Act

The third and final prong of our full authorization review addresses consistency with section 209 of the Act, which, as discussed above, requires evaluation of consistency with sections 209(a), 209(e)(1), and 209(b)(1)(C). First, to be consistent with section 209(a), the amendments must not apply to new motor vehicles or motor vehicle engines. Second, to be consistent with section 209(e)(1) of the Act, the regulations must not attempt to regulate those vehicles and engines permanently preempted from state regulation by section 209(e)(1), including farm and construction equipment and engines, vehicles and engines below 175 horsepower, and new locomotives or locomotive engines. None of the boats or engines covered by California's Marine SI regulations fall in those categories and we received no evidence to the contrary. We therefore find the 2008 amendments are consistent with sections 209(a) and 209(e)(1).

Third, to be consistent with section 209(b)(1)(c), there must be adequate lead time to permit technological development for compliance with the amendment, and the state test procedures must not be made inconsistent with federal test procedures. The 2008 amendments for which California has requested authorization do not require development of new technologies, thus there is no consistency issue presented with regard to lead time. Furthermore, aside from the OBD–M amendment, California designed the provisions for which full authorization is being evaluated to harmonize with federal standards. There is no inconsistency with federal test procedures. Indeed, one of California's goals in amending the marine regulations was to address any potential conflict with the federal regulations that may have hindered or unnecessarily complicated compliance, including duplicative testing.

The misfire monitoring requirement for OBD–M may have created an issue with lead time since the 2008 amendments modified the conditional requirement into a mandatory requirement for SD/I manufacturers. However, as California has asserted, all manufacturers that have submitted reports to California already include misfire monitoring in their OBD–M systems. We received no comment or evidence contesting California's position that the misfire monitoring system, or any other 2008 amendment, satisfies the consistency criterion under section 209(b)(1)(c).

We therefore find that each of the 2008 amendments that we analyzed under the full authorization criteria is consistent with section 209 of the Act.

Having found that the 2008 amendments satisfy each of the criteria for full authorization, and having received no contrary evidence to contradict this finding, we cannot deny authorization of the 2008 amendments.

III. Decision

The Administrator has delegated the authority to grant California section 209(e) authorizations to the Assistant Administrator for Air and Radiation. After evaluating CARB's amendments to its Marine SI regulations described above, EPA is taking the following actions. First, EPA is granting an authorization for the following amendments: Revised Total Hydrocarbon Emission Standards; Enhanced Evaporative Emissions Controls for High Performance SD/I Engines; Modification of Exhaust Standards for High Performance SD/I Engines; Not to Exceed Limits; Revised Jet Boat Engine Standards; New Carbon Monoxide Emissions Standards; Revised On-Board Diagnostic Marine Requirements.

Second, EPA confirms that the following 2008 amendments are within the scope of the previous EPA authorizations: Aftermarket Exemption Procedures Clarification; Optional Fifth Tier Added to Environmental Label Program; Optional Loaded Test Cycle for High Performance Engines; Optional Portable Measurement Systems for High Performance Engines; Optional Assigned Deterioration Factors for High Performance Engines; Optional Engine Discontinuation Allowance for SD/I Engines; Compliance Assistance for All Spark-Ignition Marine Engines; Replacement Engine Provisions.[46]

This decision will affect persons in California and those manufacturers and/or owners/operators nationwide who must comply with California's requirements. In addition, because other states may adopt California's standards for which a section 209(e)(2)(A) authorization has been granted if certain criteria are met, this decision would also affect those states and those

[45] *See* EPA's 2009 GHG Waiver Decision wherein EPA rejected the suggested interpretation of section 209(b)(1)(B) as requiring a review of the specific need for California's new motor vehicle greenhouse gas emission standards as opposed to the traditional interpretation (need for the program as a whole) applied to local or regional air pollution problems.

[46] We believe these amendments satisfy the criteria for a within-the-scope confirmation. However, we believe these eight amendments would also merit a full authorization if reviewed under that analysis.

persons in such states. *See* CAA section 209(e)(2)(B). For these reasons, EPA determines and finds that this is a final action of national applicability, and also a final action of nationwide scope or effect for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by July 6, 2015. Judicial review of this final action may not be obtained in subsequent enforcement proceedings, pursuant to section 307(b)(2) of the Act.

IV. Statutory and Executive Order Reviews

As with past authorization and waiver decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Further, the Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

Dated: April 29, 2015.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2014–0036; FRL–9927–31–OAR]

California State Nonroad Engine Pollution Control Standards; Small Off-Road Engines Regulations; Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of decision.

SUMMARY: The Environmental Protection Agency (EPA) is confirming that the California Air Resources Board's (CARB) 2008 amendments to its Small Off-Road Engines (SORE) regulation (2008 Amendments) are within the scope of previous EPA authorizations. The 2008 Amendments modify provisions through which manufacturers may generate and use emission credits to comply with SORE emission standards, and establish an ethanol blend certification fuel option. CARB's SORE regulations apply to all small off-road engines rated at or below 19 kilowatts (kW) (25 horsepower (hp)). This decision is issued under the authority of the Clean Air Act (CAA or Act).

DATES: Petitions for review must be filed by July 6, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID EPA–HQ–OAR–2014–0036. All documents relied upon in making this decision, including those submitted to EPA by CARB, are contained in the public docket. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open to the public on all federal government working days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (email) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. An electronic version of the public docket is available through the federal government's electronic public docket and comment system. You may access EPA dockets at *http://www.regulations.gov.* After opening the *www.regulations.gov* Web site, enter EPA–HQ–OAR–2014–0036 in the ''Enter Keyword or ID'' fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality (OTAQ) maintains a Web page that contains general information on its review of California waiver and authorization requests. Included on that page are links to prior waiver **Federal Register** notices, some of which are cited in today's notice; the page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

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SUPPLEMENTARY INFORMATION:

I. Background

CARB first adopted standards and test procedures applicable to SORE in 1992. In 1993, CARB amended these regulations to delay their implementation until 1995. EPA authorized these initial SORE regulations in 1995.[1] California subsequently amended its regulations in 1994, 1995, and 1996 to clarify certification and implementation procedures, exempt military tactical equipment, and relax emissions standards for certain engines. EPA authorized these three amendment packages in 2000.[2]

In 1998, CARB amended the SORE regulation to apply to all engines rated less than 19 kW used in off-road applications. The 1998 amendments also revised the regulations to be based on engine displacement instead of whether the engine is used in a handheld or non-handheld application, delayed implementation of certain portions of the standards, and adopted new emission standards for new engines under 19 kW, consistent with the ''Compression-Ignition Engine Statement of Principles'' jointly entered into by CARB, EPA, and engine manufacturers in August 1996.[3] EPA found these amendments to be within the scope of the previously granted 1995 authorization.[4]

In 2000, CARB amended the SORE regulations by recodifying the requirements applicable to certain new compression ignition (CI) engines. EPA found this amendment to be within the scope of the previously granted SORE authorization.[5] In 2004, CARB amended its off-road CI regulations to match federal standards and exhaust emissions standards, and adopted evaporative emissions standards for spark-ignited (SI) small off-road engines rated at or below 19 kW. EPA granted full authorizations for these amendments in 2006.[6]

A. California's Authorization Request

On November 21, 2008, CARB approved three additional amendments

[1] 60 FR 37440 (July 20, 1995).

[2] 65 FR 69763 (November 20, 2000).

[3] 62 FR 200 (January 2, 1997).

[4] 65 FR. 69767 (November 20, 2000).

[5] 75 FR 8056 (February 23, 2010).

[6] 71 FR 75536 (December 15, 2006).

to its SORE regulations: [7] (1) Modification of certification emissions credits to limit their lifetime to five years, and to allow electric equipment (zero-emissions equipment or ''ZEE'') to participate in the emission credits program; (2) modification of production emissions credits; and (3) establishment of an ethanol blend certification test fuel option, each of which will be addressed in turn.[8] CARB seeks confirmation that the 2008 Amendments are within the scope of EPA's previous authorizations of CARB's SORE regulations.[9]

According to CARB, the certification emissions credits program was established in 1998 to provide manufacturers with additional flexibility in certifying engines. The certification credits program enabled manufacturers to generate credits when they certified engines that were cleaner than the SORE emission standards, and use those credits to offset emissions from ''dirtier'' engine families that could otherwise not meet the standards. CARB expected that the program would help manufacturers comply with the new emission standards, while also encouraging early introduction of cleaner technologies.[10] However, while this program gave manufacturers flexibility, it did not result in use of advanced technologies at the anticipated pace. Manufacturers accumulated large credit balances, in part because the certification emission credits did not expire. CARB states that manufacturers were able to use banked emissions credits to certify ''dirty'' engines and delay implementation of cleaner technology, instead of using catalysts and other emission control technologies to reduce emissions on the more challenging engine families. Thus, CARB found that the original design of the emissions credit program slowed rather than promoted progress toward cleaner engines.[11] CARB's amendments to the certification emissions credits within the 2008 Amendments cause the credits to expire five years after their creation. The 2008 Amendments also modify the certification emissions credit program to allow electric equipment to participate for the first time. ZEE manufacturers will be allowed to generate emissions credits for equipment that meets certain performance and design requirements. CARB anticipates this change will encourage manufacturers to develop professional-grade ZEE and allow manufacturers greater flexibility in their introduction of such equipment.[12]

CARB states that the production emissions credits, which manufacturers could convert to certification emissions credits, also contributed to an overabundance of the latter form of credits.[13] Under CARB's earlier SORE regulation, manufacturers could generate production emission credits when a production engine's emissions were below the applicable engine family emissions limit. CARB established the production credits program to help manufacturers offset compliance problems, but as of 2008, no manufacturer needed to use production credits for that purpose, using them instead to generate large certification emissions credit balances. The 2008 Amendments eliminated generation of production emission credits beginning in 2009, but allowed manufacturers to convert production emission credits to certification emission credits for an additional year.[14]

Finally, CARB's amended SORE regulations permit manufacturers the option to use a certification fuel with up to ten percent ethanol content (commonly known as E10) if the same fuel is used for certification with EPA. CARB asserts that this will enhance harmonization with EPA's nonroad [15] certification procedures, and could reduce testing costs for some manufacturers.[16]

B. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Act permanently preempts any state, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain *new* nonroad engines or vehicles.[17] For all other nonroad engines (including ''non-new'' engines), states generally are preempted from adopting and enforcing standards and other requirements relating to the control of emissions, except that section 209(e)(2)(A) of the Act requires EPA, after notice and opportunity for public hearing, to authorize California to adopt and enforce such regulations unless EPA makes one of three enumerated findings. Specifically, EPA must deny authorization if the Administrator finds that (1) California's protectiveness determination (*i.e.,* that California standards will be, in the aggregate, as protective of public health and welfare as applicable federal standards) is arbitrary and capricious, (2) California does not need such standards to meet compelling and extraordinary conditions, or (3) the California standards and accompanying enforcement procedures are not consistent with section 209 of the Act.

On July 20, 1994, EPA promulgated a rule interpreting the three criteria set forth in section 209(e)(2)(A) that EPA must consider before granting any California authorization request for nonroad engine or vehicle emission standards.[18] EPA revised these regulations in 1997.[19] As stated in the preamble to the 1994 rule, EPA historically has interpreted the consistency inquiry under the third criterion, outlined above and set forth in section 209(e)(2)(A)(iii), to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) of the Act.[20]

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests under section 209(b)(1)(C). That provision provides that the Administrator shall not grant California

[7] The specific regulatory text enacted by the 2008 amendments is set forth in California Code of Regulations (CCR), title 13, sections 2401, 2403, 2405, 2406, 2408, 2408.1 and 2409.

[8] CARB Authorization Support Document, December 2, 2013, EPA–HQ–OAR–2014–0036–0003.

[9] *Id.* at 1.

[10] *Id.* at 4.

[11] *Id.* at 6.

[12] *Id.* at 10.

[13] *Id.* at 11–12.

[14] *Id.* at 12.

[15] The federal term ''nonroad'' and the California term ''off-road'' are used interchangeably.

[16] *Id.* at 13.

[17] States are expressly preempted from adopting or attempting to enforce any standard or other requirement relating to the control of emissions from new nonroad engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower. Such express preemption under section 209(e)(1) of the Act also applies to new locomotives or new engines used in locomotives.

[18] *See* ''Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards,'' 59 FR 36969 (July 20, 1994).

[19] *See* ''Control of Air Pollution: Emission Standards for New Nonroad Compression-Ignition Engines at or Above 37 Kilowatts; Preemption of State Regulation for Nonroad Engine and Vehicle Standards; Amendments to Rules,'' 62 FR 67733 (December 30, 1997). The applicable regulations are now found in 40 CFR part 1074, subpart B, § 1074.105.

[20] *See supra* note 12. EPA has interpreted 209(b)(1)(C) in the context of section 209(b) motor vehicle waivers.

a motor vehicle waiver if she finds that California ''standards and accompanying enforcement procedures are not consistent with section 202(a)'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures will be found to be inconsistent with section 202(a) if (1) there is inadequate lead time to permit the development of the necessary technology, giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.

In light of the similar language of sections 209(b) and 209(e)(2)(A), EPA has reviewed California's requests for authorization of nonroad vehicle or engine standards under section 209(e)(2)(A) using the same principles that it has historically applied in reviewing requests for waivers of preemption for new motor vehicle or new motor vehicle engine standards under section 209(b).[21] These principles include, among other things, that EPA should limit its inquiry to the three specific authorization criteria identified in section 209(e)(2)(A),[22] and that EPA should give substantial deference to the policy judgments California has made in adopting its regulations. In previous waiver decisions, EPA has stated that Congress intended EPA's review of California's decision-making be narrow. EPA has rejected arguments that are not specified in the statute as grounds for denying a waiver:

> The law makes it clear that the waiver requests cannot be denied unless the specific findings designated in the statute can properly be made. The issue of whether a proposed California requirement is likely to result in only marginal improvement in California air quality not commensurate with its costs or is otherwise an arguably unwise exercise of regulatory power is not legally pertinent to my decision under section 209, so long as the California requirement is consistent with section 202(a) and is more stringent than applicable Federal requirements in the sense that it may result in some further reduction in air pollution in California.[23]

This principle of narrow EPA review has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit.[24] Thus, EPA's consideration of all the evidence submitted concerning an authorization decision is circumscribed by its relevance to those questions that may be considered under section 209(e)(2)(A).

C. Within-the-Scope Determinations

If California amends regulations that were previously authorized by EPA, California may ask EPA to determine that the amendments are within the scope of the earlier authorization. A within-the-scope determination for such amendments is permissible without a full authorization review if three conditions are met. First, the amended regulations must not undermine California's previous determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards. Second, the amended regulations must not affect consistency with section 209 of the Act, following the same criteria discussed above in the context of full authorizations. Third, the amended regulations must not raise any ''new issues'' affecting EPA's prior authorizations.[25]

D. Deference to California

In previous waiver decisions, EPA has recognized that the intent of Congress in creating a limited review based on the section 209(b)(1) criteria was to ensure that the federal government did not second-guess state policy choices. This has led EPA to state:

> It is worth noting * * * I would feel constrained to approve a California approach to the problem which I might also feel unable to adopt at the federal level in my own capacity as a regulator. The whole approach of the Clean Air Act is to force the development of new types of emission control technology where that is needed by compelling the industry to ''catch up'' to some degree with newly promulgated standards. Such an approach * * * may be attended with costs, in the shaped of reduced product offering, or price or fuel economy penalties, and by risks that a wider number of vehicle classes may not be able to complete their development work in time. Since a balancing of these risks and costs against the potential benefits from reduced emissions is a central policy decision for any regulatory agency under the statutory scheme outlined above, I believe I am required to give very substantial deference to California's judgments on this score.[26]

EPA has stated that the text, structure, and history of the California waiver provision clearly indicate both a congressional intent and appropriate EPA practice of leaving the decision on ''ambiguous and controversial matters of public policy'' to California's judgment.[27]

The House Committee Report explained as part of the 1977 amendments to the Clean Air Act, where Congress had the opportunity to restrict the waiver provision, it elected instead to explain California's flexibility to adopt a complete program of motor vehicle emission controls. The amendment is intended to ratify and strengthen the California waiver provision and to affirm the underlying intent of that provision, *i.e.,* to afford California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare.[28]

E. Burden and Standard of Proof

As the U.S. Court of Appeals for the D.C. Circuit has made clear in *MEMA I,* opponents of a waiver request by California bear the burden of showing that the statutory criteria for a denial of the request have been met:

> [T]he language of the statute and its legislative history indicate that California's regulations, and California's determinations that they must comply with the statute, when presented to the Administrator are presumed to satisfy the waiver requirements and that the burden of proving otherwise is on whoever attacks them. California must present its regulations and findings at the hearing and thereafter the parties opposing the waiver request bear the burden of persuading the Administrator that the waiver request should be denied.[29]

The Administrator's burden, on the other hand, is to make a reasonable evaluation of the information in the record in coming to the waiver decision. As the court in *MEMA I* stated: ''here, too, if the Administrator ignores evidence demonstrating that the waiver should not be granted, or if he seeks to overcome that evidence with unsupported assumptions of his own, he runs the risk of having his waiver decision set aside as 'arbitrary and

[21] *See Engine Manufacturers Association* v. *EPA,* 88 F.3d 1075, 1087 (D.C. Cir. 1996): ''. . . EPA was within the bounds of permissible construction in analogizing § 209(e) on nonroad sources to § 209(a) on motor vehicles.''

[22] *See supra* note 12, at 36983.

[23] ''Waiver of Application of Clean Air Act to California State Standards,'' 36 FR 17458 (Aug. 31, 1971). Note that the more stringent standard expressed here, in 1971, was superseded by the 1977 amendments to section 209, which established that California must determine that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. In the 1990 amendments to section 209, Congress established section 209(e) and similar language in section 209(e)(1)(i) pertaining to California's nonroad emission standards which California must determine to be, in the aggregate, at least as protective of public health and welfare as applicable federal standards.

[24] *See, e.g., Motor and Equip. Mfrs Assoc.* v. *EPA,* 627 F.2d 1095 (D.C. Cir. 1979) (''*MEMA I*'').

[25] *See* ''California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waiver of Federal Preemption,'' 46 FR 36742 (July 15, 1981).

[26] 40 FR 23103–23104 (May 28, 1975); *see also* LEV I Decision Document at 64 (58 FR 4166 (January 13, 1993)).

[27] 40 FR 23104; 58 FR 4166.

[28] *MEMA I,* 627 F.2d at 1110 (citing H.R. Rep. No. 294, 95 Cong., 1st Sess. 301–02 (1977).

[29] *MEMA I, supra* note 19, at 1121.

capricious.'' '' [30] Therefore, the Administrator's burden is to act ''reasonably.'' [31]

With regard to the standard of proof, the court in *MEMA I* explained that the Administrator's role in a section 209 proceeding is to:

> [. . .]consider all evidence that passes the threshold test of materiality and * * * thereafter assess such material evidence against a standard of proof to determine whether the parties favoring a denial of the waiver have shown that the factual circumstances exist in which Congress intended a denial of the waiver.[32]

In that decision, the court considered the standards of proof under section 209 for the two findings related to granting a waiver for an ''accompanying enforcement procedure.'' Those findings involve: (1) Whether the enforcement procedures impact California's prior protectiveness determination for the associated standards, and (2) whether the procedures are consistent with section 202(a). The principles set forth by the court, however, are similarly applicable to an EPA review of a request for a waiver of preemption for a standard. The court instructed that ''the standard of proof must take account of the nature of the risk of error involved in any given decision, and it therefore varies with the finding involved. We need not decide how this standard operates in every waiver decision.'' [33]

With regard to the protectiveness finding, the court upheld the Administrator's position that, to deny a waiver, there must be ''clear and compelling evidence'' to show that proposed enforcement procedures undermine the protectiveness of California's standards.[34] The court noted that this standard of proof also accords with the congressional intent to provide California with the broadest possible discretion in setting regulations it finds protective of the public health and welfare.[35]

With respect to the consistency finding, the court did not articulate a standard of proof applicable to all proceedings, but found that the opponents of the waiver were unable to meet their burden of proof even if the standard were a mere preponderance of the evidence. Although *MEMA I* did not explicitly consider the standards of proof under section 209 concerning a waiver request for ''standards,'' as compared to a waiver request for accompanying enforcement procedures, there is nothing in the opinion to suggest that the court's analysis would not apply with equal force to such determinations. EPA's past waiver decisions have consistently made clear that: ''[E]ven in the two areas concededly reserved for Federal judgment by this legislation—the existence of 'compelling and extraordinary' conditions and whether the standards are technologically feasible—Congress intended that the standards of EPA review of the State decision to be a narrow one.'' [36]

F. EPA's Administrative Process in Consideration of California's SORE Amendment Requests for Authorization

On May 28, 2014, EPA published a **Federal Register** notice announcing its receipt of California's authorization request. In that notice, EPA invited public comment on each of the 2008 amendments and an opportunity to request a public hearing.[37]

First, EPA requested comment on the 2008 amendments, as follows: (1) Should California's 2008 SORE amendments be considered under the within-the-scope analysis, or should they be considered under the full authorization criteria?; (2) If those amendments should be considered as a within-the-scope request, do they meet the criteria for EPA to grant a within-the-scope confirmation?; and (3) If the amendments should not be considered under the within-the-scope analysis, or in the event that EPA determines they are not within the scope of the previous authorization, do they meet the criteria for making a full authorization determination?

EPA received one anonymous written comment that opposed ''any new Regulation or Rule promulgated by EPA on California State Non Road Engine Pollution Control Standards: Small off-Road Engines Regulations.'' [38] EPA is not promulgating any regulations or rules regarding California's SORE regulations, but rather is adjudicating whether or not the amendments that CARB made to its own SORE regulations are within the scope of previous authorizations granted by EPA or fulfill the criteria for a full authorization under the Clean Air Act. EPA received no requests for a public hearing. Consequently, EPA did not hold a public hearing.

II. Discussion

A. California's 2008 SORE Amendments

The 2008 amendment package contains three amendments: (1) The modification of certification emission credits and creation of ZEE certification emissions credits; (2) the modification of production emission credits; and (3) the addition of an ethanol blend certification fuel option.

1. Modification of Certification Emission Credits and Creation of ZEE Certification Emissions Credits

California's request for authorization of the amendments limiting the lifetime of certification emissions credits to five years and permitting emissions credit generation for ZEE are interrelated, and therefore will be treated together in this discussion. As explained by CARB in its 2013 authorization request, certification emissions credits under the pre-2008 regime ''continued in existence even after the engines that had generated the emission credits had been taken out of service.'' Thus, ''[i]nstead of using catalysts and other advanced technologies on the more challenging engine families, a small number of manufacturers have often been able to use banked credits to . . . delay implementation of cleaner technology.'' [39] CARB found that the certification emissions credit program achieved only mixed results in promoting the development of lower-emissions engines. Certification emissions credits were generated at an unexpectedly high rate, and, because the credits did not expire, they could be banked for an indefinite period of time. In sum, CARB determined that the program failed to meet its goal of providing incentives to create advanced, low-emissions engine technology.[40]

Similarly, CARB found that its SORE regulation, prior to the amendments, did not appropriately incentivize the creation of professional grade ZEE.[41] As a result, CARB's 2008 Amendments introduced emissions credit generation for ZEE technology. These credits must also be used within five years of generation, and cannot be used to certify engines that exceed the relevant emissions standard by more than 40 percent.[42] California requested that these amendments be treated as within

[30] *Id.* at 1126.

[31] *Id.* at 1126.

[32] *Id.* at 1122.

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *See, e.g.,* ''California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption,'' 40 FR 23102 (May 28, 1975), at 23103.

[37] *See* ''California State Nonroad Engine Pollution Control Standards; Small Off-Road Engines; Request for Within-the-Scope and Full Authorization; Opportunity for Public Hearing and Comment,'' 79 FR 30610 (May 28, 2014).

[38] *See* EPA–HQ–OAR–2014–0036–0016.

[39] 2013 Request, *supra* note 1, at 8–9.

[40] *Id.* at 7–8.

[41] *Id.* at 9–10.

[42] *Id.* at 10.

the scope of EPA's prior authorizations of the SORE program.

California asserted that the amendments met all three within-the-scope criteria, *i.e.* that the amendments: (1) Do not undermine the original protectiveness determination underlying California's SORE regulations; (2) do not affect the consistency of the SORE regulations with section 202(a); and (3) do not raise any new issues affecting the prior authorizations.[43] We received no adverse comments or evidence suggesting a within-the-scope analysis is inappropriate, or that the 2008 Amendments fail to meet any of the three criteria for within-the-scope confirmation.

In regard to the first within-the-scope criterion, California asserts that the amendment establishing a five-year restriction on certification emissions credits did not undermine the original protectiveness determination underlying California's SORE regulations because it does not modify the emissions standards applicable to engines, but rather only the credit program which is ancillary to these standards.[44] Limiting the lifespan of certification emissions credits reduces the ability of manufacturers to use banked credits from one engine family to certify another, dirtier engine family. EPA finds that because California's pre-2008 certification emissions credit program was at least as protective as the applicable federal standards, so too is the less generous certification emissions credit policy, as established by the 2008 Amendments.

EPA also finds that permitting the creation of emissions credits through ZEE technology, particularly given the five year credit expiration and limitation on the purposes for which the credits can be used, will promote advanced technology. We cannot therefore find that limiting the lifespan of certification emissions credits and extending emissions credits to ZEE products undermines the protectiveness determination that EPA found in its previous SORE authorizations not to be arbitrary and capricious.

In regard to the second within-the-scope criterion, this amendment did not attempt to regulate new motor vehicles or motor vehicles engines and so is consistent with section 209(a). It likewise did not attempt to regulate any of the permanently preempted engines or vehicles, and so is consistent with section 209(e)(1). Finally, it did not cause any technological feasibility issues for manufacturers or cause inconsistency between state and federal test procedures, per section 209(b)(1)(C). Most manufacturers have been able to meet the requirements of CARB's SORE amendments using widely available technologies, and no evidence has been offered that any manufacturer would experience significant compliance issues because the credits will be limited to five years.[45] The amendment allowing manufacturers to generate emissions credits through ZEE technology will provide additional compliance options, thus posing no barrier to compliance.

In regard to the third within-the-scope criterion, California stated that no new issues exist, and EPA has received no evidence to the contrary.[46] Limiting the lifespan of certification emissions credits and permitting the creation of credits through ZEE technology does not modify emissions requirements, but instead makes changes to the alternate means used for compliance. We therefore do not find any new issues raised by the amendments limiting the lifespan of certification emissions credits and permitting the creation of emissions credits through ZEE technology.

Having received no contrary evidence regarding these amendments, we find that California has met the three criteria for a within-the-scope authorization approval, and the modification of certification emission credits and creation of ZEE certification emissions credits amendments are confirmed as within the scope of previous EPA authorizations of California's SORE regulations.

2. Modification of Production Emissions Credits

Another California 2008 SORE amendment eliminated production emissions credits. These credits were generated when a manufacturer produced an engine whose production line test result was below the applicable engine family emission limit. Through these credits, CARB intended to permit manufacturers to ''certify engine families as well as to offset production line testing exceedances of another engine family.'' [47] CARB states that production emissions credits were implemented in anticipation of EPA's adoption of a similar program.[48] EPA ultimately decided not to implement production emissions credits. Thus elimination of this program through the 2008 Amendments will more closely harmonize California's regulations with federal standards.

The production emissions credit program permitted manufacturers to convert production emissions credits into certification emissions credits. CARB found that some manufacturers accumulated a large amount of production emissions credits and converted them into certification emissions credits.[49] This unexpectedly resulted in the continued production of engines that did not comply with otherwise applicable emissions standards.[50] CARB's 2008 Amendments eliminated the production emissions credits program, but permitted manufacturers one year to use their production credits or convert them to certification emissions credits.[51] EPA received no adverse comments or evidence contradicting California's request to consider this amendment as within the scope of previous authorizations.

In regard to the first within-the-scope criterion, California found that the elimination of production emissions credits did not undermine the original protectiveness determination regarding its SORE regulations because it increases harmony with the federal system.[52] Based on the evidence before the Agency and in the absence of any evidence to the contrary, we cannot find that California's protectiveness determination regarding the elimination of production emissions credits is arbitrary or capricious.

In regard to the second within-the-scope criterion, this amendment did not attempt to regulate new motor vehicles or motor vehicles engines, and thus is consistent with section 209(a). It similarly did not attempt to regulate any of the permanently preempted engines or vehicles, and so is consistent with section 209(e)(1). It did not cause any technological feasibility issues for manufacturers or cause inconsistency between state and federal test procedures, per section 209(b)(1)(C). CARB stated that no manufacturer has relied upon production emissions credits to comply with applicable emissions standards since 2008.[53] As no contrary evidence has been offered, we do not find the amendment is inconsistent with section 209 of the Act.

In regard to the third within-the-scope criterion, CARB stated that it was not

[43] *Id.* at 16.

[44] *Id.*

[45] *Id.* at 19.

[46] *Id.* at 20.

[47] *Id.* at 11.

[48] *Id.; see also* 64 FR 15208 (March 30, 1999) and 73 FR 59034 (October 8, 2008).

[49] 2013 Request, *supra* note 1, at 12.

[50] *Id.* at 12.

[51] *Id.*

[52] *Id.* at 11.

[53] *Id.* at 12.

aware of any new issues presented by the elimination of production emissions credits, and we have received no evidence to the contrary. We therefore do not find any new issues raised by the elimination of production emissions credits.

Having received no contrary evidence regarding this amendment, we find that California has met the three criteria for a within-the-scope authorization approval, and the modification of production emissions credits amendment is confirmed as within the scope of previous authorizations of California's SORE regulations.

3. Ethanol Blend Certification Fuel Option

Finally, one of the 2008 Amendments granted manufacturers the option to ''use a certification fuel with up to ten percent ethanol content when that same fuel is used for certification with the EPA.'' [54] EPA received no adverse comments or evidence contradicting California's request to consider this amendment as within the scope of previous authorizations.

In regard to the first within-the-scope criterion, CARB stated that this amendment would increase ''harmonization of California's SORE certification procedures with EPA's nonroad engine certification procedures, and could reduce the testing cost for some manufacturers.'' [55] Based on the record before us and in the absence of any evidence to the contrary, we cannot find that California's protectiveness determination regarding the implementation of an ethanol blend certification fuel option is arbitrary or capricious.

In regard to the second within-the-scope criterion, California found that the amendment does not affect consistency with section 209 of the Act.[56] This amendment does not regulate emissions from new motor vehicles or new motor vehicle engines, and thus is not inconsistent with 209(a). Similarly, it did not attempt to regulate any of the permanently preempted engines or vehicles, and so is consistent with section 209(e)(1). This amendment expands rather than limits the means by which manufacturers can certify fuels, and thus poses no lead-time or technological feasibility problems. We therefore find no evidence that this amendment is inconsistent with section 209 of the Act.

In regard to the third within-the-scope criterion, California stated that the ethanol blend certification fuel option raised no new issues.[57] EPA similarly finds no new issues arising from the amendment.

Having received no contrary evidence regarding this amendment, we find that California has met the three criteria for a within-the-scope authorization approval, and the ethanol blend certification fuel option amendment is confirmed as within the scope of previous authorizations of California's SORE regulations.

III. Decision

The Administrator has delegated the authority to grant California section 209(e) authorizations to the Assistant Administrator for Air and Radiation. After evaluating the 2008 Amendments to CARB's SORE regulations described above and CARB's submissions for EPA review, EPA is taking the following actions.

First, EPA confirms that California's amendment modifying certification emissions credits and permitting emissions credit generation for ZEE is within the scope of prior authorizations. Second, EPA confirms that California's amendment eliminating production credit generation is within the scope of prior authorizations. Third, EPA confirms that California's amendment permitting certification with fuels with up to ten percent ethanol content provided that the same fuel is used for certification with EPA is within the scope of prior authorizations.

This decision will affect persons in California and those manufacturers and/or owners/operators nationwide who must comply with California's requirements. In addition, because other states may adopt California's standards for which a section 209(e)(2)(A) authorization has been granted if certain criteria are met, this decision would also affect those states and those persons in such states. See CAA section 209(e)(2)(B). For these reasons, EPA determines and finds that this is a final action of national applicability, and also a final action of nationwide scope or effect for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by July 6, 2015. Judicial review of this final action may not be obtained in subsequent enforcement proceedings, pursuant to section 307(b)(2) of the Act.

IV. Statutory and Executive Order Reviews

As with past authorization and waiver decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Further, the Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

Dated: April 29, 2015.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2015–10610 Filed 5–5–15; 8:45 am]

BILLING CODE P

[54] *Id.* at 13.

[55] *Id.*

[56] *Id.* at 17–18.

[57] *Id.* at 20.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0723]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of

information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before July 6, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0723.

Title: 47 U.S.C. 276, Public Disclosure of Network Information By Bell Operating Companies (BOCs).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3 respondents; 3 responses.

Estimated Time per Response: 120 hours.

Frequency of Response: On occasion reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 276 of the Communications Act of 1934, as amended.

Total Annual Burden: 360 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the FCC. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Under 47 U.S.C. 276(b)(1), the Bell Operating Companies (BOCs) are required to publicly disclose changes in their networks or new network services. Section 276(b)(1)(C) directs the Commission to ''prescribe a set of nonstructural safeguards for BOC payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90–623) proceeding.'' The Computer Inquiry-III network information disclosure requirements specifically state that the disclosure would occur at two different points in time. First, disclosure would occur at the make/buy point: When a BOC decides to make for itself, or procure from an unaffiliated entity, any product whose design affects or relies on the network interface. Second, a BOC would publicly disclose technical information about a new service 12 months before it is introduced. If the BOC can introduce the service within 12 months of the make/buy point, it would make a public disclosure at the make/buy point. In no event, however, would the public disclosure occur less than six months before the introduction of the service. Without provision of this information, the industry would be unable to ascertain whether the BOCs are designing new network services or changing network technical specifications to the advantage of their own payphones, or in a manner that might disadvantage BOC payphone competitors. These requirements ensure that BOCs comply with their obligations under the Telecommunications Act of 1996.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–10603 Filed 5–5–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0214]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before July 6, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Parties: Business or other for-profit entities; Not for-profit institutions; Individuals or households.

Number of Respondents and Responses: 24,558 respondents; 63,234 responses.

Estimated Time per Response: 1 hour to 104 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory

authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

Total Annual Burden: 2,375,336 hours.

Total Annual Costs: $882,236.

Privacy Act Impact Assessment: The FCC is preparing a PIA.

Nature and Extent of Confidentiality: The personally identifiable information (PII) in this information collection is in part covered by the system of records notice (SORN), FCC/MB–1, ''Ownership of Commercial Broadcast Stations,'' 74 FR 59978 (2009). The Commission is currently drafting a Privacy Impact Assessment (PIA) for the records covered by this SORN.

The FCC also prepared a system of records, FCC/MB–2, ''Broadcast Station Public Inspection Files,'' to cover the personally identifiable information (PII) that may be included in the broadcast station public inspection files. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The public and FCC use the information in the public file to evaluate information about the broadcast licensee's performance, to ensure that broadcast stations are addressing issues concerning the community which it is licensed to serve and to ensure that stations entering into time brokerage agreements comply with Commission policies pertaining to licensee control and to the Communications Act and the antitrust laws. Placing joint sales agreements in the public inspection file facilitates monitoring by the public, competitors and regulatory agencies.

Television broadcasters are required to send each cable operator in the station's market a copy of the election statement applicable to that particular cable operator. Placing these retransmission consent/must-carry elections in the public file provide public access to documentation of station's elections which are used by cable operators in negotiations with television stations and by the public to ascertain why some stations are/are not carried by the cable systems.

Maintenance of political files by broadcast stations and by cable television systems enables the public to assess money expended and time allotted to a political candidate and to ensure that equal access was afforded to other legally qualified candidates for public office.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–10602 Filed 5–5–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 15–498]

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Technological Advisory Council will hold a meeting on Thursday, June 11, 2015 in the Commission Meeting Room, from 1 p.m. to 4 p.m. at the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

DATES: Thursday, June 11, 2015.

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

FOR FURTHER INFORMATION CONTACT: Walter Johnston, Chief, Electromagnetic Compatibility Division, 202–418–0807; *Walter.Johnston@FCC.gov.*

SUPPLEMENTARY INFORMATION: At the June 11, 2015 meeting, the FCC Technological Advisory Council will discuss progress on issues involving its work program agreed to at its initial meeting on April 1, 2015. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. Meetings are also broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live/.* The public may submit written comments before the meeting to: Walter Johnston, the FCC's Designated Federal Officer for Technological Advisory Council by email: *Walter.Johnston@fcc.gov* or U.S. Postal Service Mail (Walter Johnston, Federal Communications Commission, Room 7–A224, 445 12th Street SW., Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may not be possible to fill.

Federal Communications Commission.

Julius P. Knapp,

Chief, Office of Engineering and Technology.

[FR Doc. 2015–10370 Filed 5–5–15; 8:45 am]

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FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012212–001.

Title: NYK/Grimaldi Cooperative Working Agreement.

Parties: Nippon Yusen Kaisha N.Y.K. Line (North America) Inc. and Grimaldi Deep Sea S.p.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment changes the name of Industria Armamento Meriodionale S.p.A. to Grimaldi Deep Sea S.p.A.

Agreement No.: 012279–001.

Title: Hyundai Glovis/Grimaldi Space Charter Agreement.

Parties: Hyundai Glovis Co. Ltd. and Grimaldi Deep Sea S.p.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment changes the name of party Industria Armamento Meridionale S.p.A. to Grimaldi Deep Sea S.p.A.

Agreement No.: 011574–018.

Title: Pacific Islands Discussion Agreement.

Parties: Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft KG doing business under its own name and the name Fesco Australia/New Zealand Liner Services (FANZL); Polynesia Line

Ltd.; CMA CGM SA; Compagnie Maritime Marfret, SA.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment deletes Hapag-Lloyd as a party to the agreement.

Agreement No.: 012329.

Title: CSCL/HSD Slot Exchange Agreement.

Parties: China Shipping Container Lines Co., Ltd.; China Shipping Container Lines (Hong Kong) Co., Ltd.; Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft KG.

Filing Party: Brett M. Esber, Esq.; Blank Rome; Watergate 600 New Hampshire Avenue NW; Washington, DC 20037.

Synopsis: The Agreement is a slot exchange agreement in the trade between ports in China (including Hong Kong), Korea, and Malaysia on the one hand, and Panama, Colombia and U.S. East Coast ports on the other hand.

By Order of the Federal Maritime Commission.

Dated: May 1, 2015.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2015–10611 Filed 5–5–15; 8:45 am]

BILLING CODE 6731–AA–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 May 21, 2015.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Gordon A. Baird,* individually and together with MPIB Holdings, LLC, Darien, Connecticut; Alvin G. Hageman, Westport Connecticut; Baird Hageman & Co., LLC, Darien, Connecticut; and Hageman 2013 Grantor Trust, c/o J. Hope O. Hageman, sole trustee, as a group acting in concert, to acquire voting shares of Independence Bancshares, Inc., and thereby indirectly acquire Independence National Bank, both in Greenville, South Carolina.

Board of Governors of the Federal Reserve System, May 1, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–10589 Filed 5–5–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the notices must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *The Desjardins Group and Fédération des Caisses Desjardins du Québec, both of Levis, Quebec, Canada; and 9210–6764 Quebec, Inc., Desjardins Financial Corporation, Inc., Fiera Holdings, Inc., Fiera Capital L.P., Fiera Capital Corporation,* all of Montreal, Quebec, Canada; to acquire voting shares of Samson Capital Advisors LLC, New York, New York, and thereby engage in financial and investment advisory activities, pursuant to sections 225.28(b)(6)(i), (b)(6)(iv), (b)(7)(iii), and (b)(8)(ii)(C).

Board of Governors of the Federal Reserve System, May 1, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–10590 Filed 5–5–15; 8:45 am]

BILLING CODE 6210–01–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 June 1, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. CapGen Capital Group III LP, and CapGen Capital Group III LLC, both in New York, New York, and *Seacoast Banking Corporation of Florida,* Stuart, Florida; to merge with Grand Bankshares, Inc., and thereby indirectly acquire Grand Bank & Trust Company of Florida, both in West Palm Beach, Florida.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community

Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *M&P Community Bancshares, Inc., 401(k) Employee Stock Ownership Plan,* Newport, Arkansas; to acquire no more than 37 percent of the voting shares of M&P Community Bancshares, Inc., and thereby indirectly acquire voting shares of Merchants & Planters Bank, both in Newport, Arkansas.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *UniBanc Corp.,* Maywood, Nebraska; to acquire 100 percent of the voting shares of Bank of Stapleton, Stapleton, Nebraska.

In connection with this application, Applicant also has applied to acquire Stapleton Investment Company, Stapleton, Nebraska, and thereby engage in general insurance activities in a town with a population of less than 5,000, pursuant to section 225.28(b)(11)(iii)(A).

Board of Governors of the Federal Reserve System, May 1, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–10591 Filed 5–5–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities: Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend, without revision, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), the Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S), and the Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019), which are currently approved information collections. The Board is publishing this proposal on behalf of the agencies. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC and the agencies should modify the reports. The Board will then submit the reports to OMB for review and approval.

DATES: Comments must be submitted on or before July 6, 2015.

ADDRESSES: Interested parties are invited to submit written comments to the agency listed below. All comments will be shared among the agencies. You may submit comments, identified by FFIEC 002, FFIEC 002S, or FFIEC 019, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include the OMB control numbers in the subject line of the message.
- *FAX:* 202–452–3819 or 202–452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.), Washington, DC 20006, between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Additional information or a copy of the collections may be requested from Mark Tokarski, Federal Reserve Board Acting Clearance Officer, 202–452–3829, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call 202–263–4869.

SUPPLEMENTARY INFORMATION:

Proposal To Extend for Three Years, Without Revision, the Following Currently Approved Collections of Information

1. Report titles: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks; Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank.

Agency form numbers: FFIEC 002; FFIEC 002S.

OMB control number: 7100–0032.

Frequency of response: Quarterly.

Affected public: U.S. branches and agencies of foreign banks.

Number of respondents: FFIEC 002—223; FFIEC 002S—49.

Estimated average time per response: FFIEC 002—25.43 hours; FFIEC 002S—6.0 hours.

Estimated total annual burden: FFIEC 002—22,684 hours; FFIEC 002S—1,176 hours.

General description of reports: These information collections are mandatory (12 U.S.C. 3105(c)(2), 1817(a)(1) and (3), and 3102(b)). Except for select sensitive items, the FFIEC 002 is not given confidential treatment; the FFIEC 002S is given confidential treatment (5 U.S.C. 552(b)(4) and (8)).

Abstract: On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file the FFIEC 002, which is a detailed report of condition with a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The FFIEC 002S is a supplement to the FFIEC 002 that collects information on assets and liabilities of any non-U.S. branch that is managed or controlled by a U.S. branch or agency of the foreign bank. Managed or controlled means that a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002S must be completed for each managed or

controlled non-U.S. branch. The FFIEC 002S must be filed quarterly along with the U.S. branch or agency's FFIEC 002. The data from both reports are used for (1) monitoring deposit and credit transactions of U.S. residents; (2) monitoring the impact of policy changes; (3) analyzing structural issues concerning foreign bank activity in U.S. markets; (4) understanding flows of banking funds and indebtedness of developing countries in connection with data collected by the International Monetary Fund and the Bank for International Settlements that are used in economic analysis; and (5) assisting in the supervision of U.S. offices of foreign banks. The Federal Reserve System collects and processes these reports on behalf of all three agencies. No changes are proposed to the FFIEC 002 and FFIEC 002S reporting forms or instructions.

2. Report title: Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.

Agency form number: FFIEC 019.

OMB control number: 7100–0213.

Frequency of response: Quarterly.

Affected public: U.S. branches and agencies of foreign banks.

Number of respondents: 167.

Estimated average time per response: 10 hours.

Estimated total annual burden: 6,680 hours.

General description of report: This information collection is mandatory (12 U.S.C. 3906 for all agencies); 12 U.S.C. 3105 and 3108 for the Board; 12 U.S.C. 1817 and 1820 for the FDIC; and 12 U.S.C. 161 for the OCC. This information collection is given confidential treatment under the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Abstract: All individual U.S. branches and agencies of foreign banks that have more than $30 million in direct claims on residents of foreign countries must file the FFIEC 019 report quarterly. Currently, all respondents report adjusted exposure amounts to the five largest countries having at least $20 million in total adjusted exposure. The agencies collect this data to monitor the extent to which such branches and agencies are pursuing prudent country risk diversification policies and limiting potential liquidity pressures. No changes are proposed to the FFIEC 019 reporting form or instructions.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collections, 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 information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record.

Board of Governors of the Federal Reserve System, May 1, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–10600 Filed 5–5–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–15–0978; Docket No. CDC–2015–0030]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the proposed information collection for the *Emerging Infections Program.* The Emerging Infections Programs (EIPs) are population-based centers of excellence established through a network of state health departments collaborating with academic institutions; local health departments; public health and clinical laboratories; infection control professionals; and healthcare providers. EIPs assist in local, state, and national efforts to prevent, control, and monitor the public health impact of infectious diseases through population-based surveillance.

DATES: Written comments must be received on or before July 6, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0030 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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.

Proposed Project

Emerging Infections Program—(OMB Control No. 0920–0978, Expires 8/31/2016)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Emerging Infections Programs (EIPs) are population-based centers of excellence established through a network of state health departments collaborating with academic institutions; local health departments; public health and clinical laboratories; infection control professionals; and healthcare providers. EIPs assist in local, state, and national efforts to prevent, control, and monitor the public health impact of infectious diseases. Various parts of the EIP have received separate Office of Management and Budget (OMB) clearances (Active Bacterial Core Surveillance [ABCs]—OMB number 0920–0802 and All Age Influenza Hospitalization Surveillance—OMB number 0920–0852); however this request seeks to have all core EIP activities under one clearance.

Activities of the EIPs fall into the following general categories: (1) Active surveillance; (2) applied public health epidemiologic and laboratory activities; (3) implementation and evaluation of pilot prevention/intervention projects; and (4) flexible response to public health emergencies.

Activities of the EIPs are designed to: (1) Address issues that the EIP network is particularly suited to investigate; (2) maintain sufficient flexibility for emergency response and new problems as they arise; (3) develop and evaluate public health interventions to inform public health policy and treatment guidelines; (4) incorporate training as a key function; and (5) prioritize projects that lead directly to the prevention of disease.

Proposed respondents will include state health departments who may collaborate with one or more of the following: Academic institutions, local health departments, public health and clinical laboratories, infection control professionals, and healthcare providers. Frequency of reporting will be determined as cases arise.

The total estimated burden is 22,755 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Health Department	ABCs Case Report Form	10	809	20/60	2,697
	Invasive Methicillin-resistant *Staphylococcus aureus* ABCs Case Report Form.	10	609	20/60	2,030
	ABCs Invasive Pneumococcal Disease in Children Case Report Form.	10	22	10/60	37
	ABCs Non-Bacteremic Pneumococcal Disease Case Report Form.	10	100	10/60	167
	Neonatal Infection Expanded Tracking Form	10	37	20/60	123
	ABCs Legionellosis Case Report Form	10	100	20/60	333
	Campylobacter	10	637	20/60	2,123
	Cryptosporidium	10	130	10/60	217
	Cyclospora	10	3	10/60	5
	Listeria monocytogenes	10	13	20/60	43
	Salmonella	10	827	20/60	2,757
	Shiga toxin producing E. coli	10	90	20/60	300
	Shigella	10	178	10/60	297
	Vibrio	10	20	10/60	33
	Yersinia	10	16	10/60	27
	Hemolytic Uremic Syndrome	10	10	1	100
	Influenza Hospitalization Surveillance Project Case Report Form.	10	400	15/60	1,000
	Influenza Hospitalization Surveillance Project Vaccination Telephone Survey.	10	100	5/60	83
	Influenza Hospitalization Surveillance Project Vaccination Telephone Survey Consent Form.	10	100	5/60	83v
EIP site	CDI Case Report Form	10	1,650	20/60	5,500
	CDI Treatment Form	10	1,650	10/60	2,750
	Resistant Gram-Negative Bacilli Case Report Form.	10	500	20/60	1,667
Person in the community infected with *C. difficile* (CDI Cases).	Screening Form	600	1	5/60	50

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	Telephone interview	500	1	40/60	333
Total					22,728

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–10543 Filed 5–5–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15AEP; Docket No. CDC–2015–0029]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on two information collections titled ''Persistence of Ebola Virus in Body Fluids of Ebola Virus Disease (EVD) Survivors in Sierra Leone'' and ''Assessment of Public Knowledge, Attitudes, and Practices (KAPs) Relating to EVD Prevention and Medical Care in Guinea.'' The purpose of these information collections is to gather the necessary information for the CDC and the international community to begin the activities necessary to reach the goal of zero new EVD cases throughout West Africa. Once that goal is reached, the 42-day countdown to declare West Africa Ebola-free can begin. Similar requests for public comment will be published as new information collections are proposed in the effort to meet the international goal of zero new EVD cases.

DATES: Written comments must be received on or before July 6, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0029 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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.

Proposed Projects

A Study of Viral Persistence in Ebola Virus Disease (EVD) Survivors and an Assessment of Public Knowledge, Attitudes, and Practices Relating to EVD Prevention and Medical Care—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Much progress has been made in the year since the CDC first responded to the Ebola outbreak in West Africa, but the agency's efforts must continue until there are zero new cases of Ebola virus disease (EVD). As the CDC's 2014 Ebola

virus response draws closer to the international goal of zero new EVD cases in 2015, the agency must intensify its efforts to identify and prevent every potential route of human disease transmission and to understand the most current community barriers to reaching that final goal.

The first study, titled ''Persistence of Ebola Virus (EBOV) in Body Fluids of EVD Survivors in Sierra Leone,'' will be the first systematic examination of the post-recovery persistence of EBOV and the risks of transmission from a cohort of convalescent Ebola survivors during close or intimate contact. It is important to fully understand how long the virus stays active in body fluids other than blood in order to target and refine public health interventions to arrest the ongoing spread of disease.

The research study will be comprised of three modules based on the body fluids to be studied: A pilot module of adult males (semen) and two full modules: Module A of adult men and women repeating collections and questionnaires every two weeks (semen, vaginal secretions, and saliva, tears, sweat, urine, rectal swab), and Module B of lactating adult women repeating collections and questionnaires every three days (sweat and breast milk). Participants for each module will be recruited by trained study staff from Ebola treatment units (ETUs) and survivor registries. Participants will be followed up at study sites in government hospitals.

Specimens will be tested for EBOV ribonucleic acid (RNA) by reverse transcription polymerase chain reaction test (RT–PCR) in Sierra Leone at the CDC laboratory facility in Bo. All positive RT–PCR samples will be sent to CDC Atlanta for virus isolation. Each body fluid will be collected until two negative RT–PCR results are obtained. Participants will be followed until all their studied body fluids are negative. They will receive tokens of appreciation for their participation at the initial visit and again at every subsequent follow-up visit [*e.g.,* 120,000 Leones (approximately $28 US dollars) and a supply of condoms]. For Module A, men and women will be recruited in equal numbers for this study until more information on gender effects of viral persistence is available. A trained study data manager will collect test results for all participants in a laboratory results form.

Results and analyses are needed to update relevant counseling messages and recommendations from the Sierra Leone Ministry of Health (MoH), WHO, and CDC. The study will provide the most current information that is critical to the development of public health measures, such as recommendations about sexual activity, breastfeeding, and other routine activities and approaches to evaluation of survivors to determine whether they can safely resume sexual activity. These approaches in turn are expected to reduce the risk of Ebola resurgence and mitigate stigma for thousands of survivors. The information is likewise critical to reducing the risk that Ebola would be introduced in a location that has not previously been affected.

The second data collection, titled ''Assessment of Public Knowledge, Attitudes, and Practices (KAPs) Relating to EVD Prevention and Medical Care in Guinea,'' is urgently needed to inform the rapid development of an up-to-date national, evidence-based strategy for health promotion and social mobilizations to assist the Guinea MoH achieve its goal of zero new cases. This will be a nationally representative assessment of community-specific KAPs designed to reduce prevailing barriers to EVD prevention and control efforts. Despite dissemination of basic EVD prevention messages through radio, billboards, community meetings, and other means, resistance to EVD prevention and control measures continues in many communities. Some believe that EVD is transmitted by witchcraft, ''outsiders,'' or health workers. Some lack understanding or confidence in control measures. Reports of potential resistance include hiding of ill and deceased persons, unsafe burial practices, and violence against health workers.

For this effort, the CDC and the Guinea MoH will work with well-established African organizations that specialize in household health surveys and health promotion. They will collect information from representative samples of household members and community leaders living in villages and neighborhoods in eight Guinean regions (Conakry, Kindia, Boké, Mamou, Labé, Faranah, Kankan, N'zérékoré). No tokens of appreciation will be offered to participants in this assessment.

Previously, a UNICEF-funded EVD-related KAP assessment was conducted which did not address perceptions of health education activities; reasons for resistance to prevention and control efforts; or stigma and discrimination faced by EVD cases, survivors, or contacts. For this reason, the CDC Director stressed after his March 2015 Guinea visit that this new CDC-funded community KAP assessment was critical to inform international efforts to get to zero cases in Guinea.

Both information collections will be one-time efforts in these participating countries under the authority of Section 301 of the Public Health Service Act (42 U.S.C. 241).

The total burden hours requested for the research study in Sierra Leone is 2,474 hours incurred by 530 participants, and for the KAP assessment in Guinea, 5,184 hours incurred by 5,248 participants. There are no other costs to the respondent other than their time.

Estimated Burden Hours

STUDY OF THE ''PERSISTENCE OF EBOLA VIRUS (EBOV) IN BODY FLUIDS OF EVD SURVIVORS IN SIERRA LEONE''

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Pilot participants	Survivor Questionnaire	80	1	30/60	40
Pilot participants	Survivor Follow-up Questionnaire	80	12	10/60	160
Module A male participants	Survivor Questionnaire	175	1	30/60	88
Module A male participants	Survivor Follow-up Questionnaire	175	12	10/60	350
Module A female participants	Survivor Questionnaire	175	1	30/60	88
Module A female participants	Survivor Follow-up Questionnaire	175	12	10/60	350
Module B female participants	Survivor Questionnaire	100	1	30/60	50
Module B female participants	Survivor Follow-up Questionnaire	100	12	10/60	200
Data manager	Laboratory Results Form	1	6,890	10/60	1,148
Total					2,474

''ASSESSMENT OF PUBLIC KNOWLEDGE, ATTITUDES, AND PRACTICES RELATING TO EVD PREVENTION AND MEDICAL CARE IN GUINEA''

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Household Members	Information Collection Instrument—Household.	5,120	1	1	5,120
Village or Neighborhood Leaders	Information Collection Instrument—Leader.	128	1	30/60	64
Total					5,184

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–10541 Filed 5–5–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day 15–15AFJ; Docket No. CDC–2015–0027]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the proposed information collection entitled *The Green Housing Pilot Study (New Orleans).*

DATES: Written comments must be received on or before July 6, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0027 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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.

Proposed Project

The Green Housing Pilot Study (New Orleans)—New—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) is seeking a new three-year regular OMB approval for a pilot study of additional components to be tested in a single study site (New Orleans) for the Green Housing Study (OMB No. 0920–0906, Expiration Date 10/31/2017). The goal of the Green Housing pilot study (New Orleans) is to apply environmental sample collection methods and novel approaches to study exposures to various indoor pollutants (both chemical and biological agents) in children (0–12 yrs.).

The information collected will help scientists better understand time-activity patterns of young children (0–12 years) that affect exposures to

chemical and biological agents in their residential environments. This knowledge will improve estimates of exposure for children. Results from this pilot study will also inform future Green Housing Study sites and will potentially reduce participant time burden by collecting some questionnaires electronically.

This study directly supports the Healthy People 2020 Healthy Homes' health protection goal of the Centers for Disease Control and Prevention (CDC). This investigation is also consistent with CDC's Health Protection Research Agenda, which calls for research to identify the major environmental causes of disease and disability and related risk factors.

In 2011, CDC funded the first two study sites for the Green Housing Study; one location was in Boston and the other was in Cincinnati. In these two cities, renovations sponsored by the Department of Housing and Urban Development (HUD) had already been scheduled. By selecting sites in which renovations were already schedule to occur, the CDC leveraged the opportunity to collect survey and biomarker data from residents and to collect environmental measurements in homes in order to evaluate associations between green housing and health. The biomarker measurements of the children (such as those from urine, feces, toenails) reflects exposures that are in body, thus improving assessment of how environmental exposures can influence what enters the body.

The third study is in New Orleans. With the New Orleans study site, CDC and Environmental Protection Agency (EPA) investigators propose a pilot study of other sampling and analysis methodologies to improve exposure assessment for future study sites. Several objectives will be evaluated in the EPA pilot study add-on to the third study site:

(1) Identify and characterize factors affecting children's exposures to chemical ingredients from consumer products found in their everyday environment in order to support the data and modeling needs of the exposure components of EPA's national research programs;

(2) Evaluate the pilot study data metrics for incorporation in and enhancement of CDC's ability to understand the relationship between environmental exposures and asthma in green versus traditional low-income housing;

(3) Compare multimedia measurements and survey data between pre- and post-renovation time points in green and traditional low-income housing to assess exposure related changes in the residence and participants due to renovation activities.

This pilot study of additional environmental exposure assessment methodologies is only for the New Orleans study site. Each study site only has 64 households (32 green renovated homes and 32 comparison homes) so this will be the maximum number of households in this pilot study. Like the previous study sites, participants for the New Orleans study site will continue to include children with asthma, their mothers/primary caregivers living in HUD-subsidized housing that has either received a green renovation or is a comparison home (*i.e.,* no renovation). In addition, younger children (newborns through age 12 years, with a focus on newborns to age 3 years) will be enrolled for the New Orleans study site. Having a larger age range of children in the pilot study will improve the estimate of how environmental exposures inside and outside of their homes can occur during different life stages of childhood, a critical period of life when the immune system and other organ systems are still developing.

The Pilot study will be implemented by incorporating it into the Green Housing study schedule for approximately 12 months. Data collection methods proposed for the pilot include: (1) A questionnaire regarding time-activity patterns of their children which will be administered to mothers/primary caregivers (*i.e.,* the respondents), (2) collection of air, soil, dust samples from the respondent's home; and (3) collection of blood, urine, toenails clippings, and feces from the respondent's eligible children. We hypothesize that a better estimation of exposure pathways will improve exposure modeling for the current Green Housing Study site (New Orleans), future Green Housing Study sites, and future research in environmental health. Although children are considered participants (by giving biological samples and providing some clinical measurements), the respondents to all questionnaires are the mothers/primary caregivers.

The number and type of respondents that will complete the questionnaires are 64 mothers/primary caregivers of enrolled children. All health and environmental exposure information about children will be provided by their mothers/primary caregivers (*i.e.,* no children will fill out questionnaires).

There is no cost to the respondents other than their time to participate in the study. The total estimated annual burden hours for the pilot study in New Orleans study site of the Green Housing Study is 171 hrs.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Mothers/Primary Caregivers of Enrolled Children.	Time/Activity Questionnaire	64	4	40/60	171
Total	.....	.....	.....	.....	171

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–10542 Filed 5–5–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1006]

Providing Regulatory Submissions in Electronic Format—Certain Human Pharmaceutical Product Applications and Related Submissions Using the Electronic Common Technical Document Specifications; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Certain Human Pharmaceutical Product Applications and Related Submissions Using the Electronic Common Technical Document Specifications.'' The guidance is being issued in accordance with the Food and Drug Administration Safety and Innovation Act (FDASIA), which amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to require that certain submissions under the FD&C Act and Public Health Service Act (PHS Act) be submitted in electronic format, beginning no earlier than 24 months after issuance of final guidance on that topic. The guidance outlines Electronic Common Technical Document (eCTD) specification requirements for submissions to new drug applications (NDAs), abbreviated new drug applications (ANDAs), certain biologics license applications (BLAs), and certain investigational new drug applications (INDs).

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the documents to the Division of Drug Information, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the documents.

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

FOR FURTHER INFORMATION CONTACT: Virginia Hussong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1132, Silver Spring, MD 20993, email: *virginia.hussong@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDASIA (Pub. L. 112–144), signed by the President on July 9, 2012, amended the FD&C Act to add section 745A (21 U.S.C. 379k–1), entitled ''Electronic Format for Submissions.'' Section 745A(a)(1) of the FD&C Act requires that submissions under section 505(b), (i), or (j) of the FD&C Act (21 U.S.C. 355(b), (i), or (j)) and submissions under sections 351(a) or (k) of the PHS Act (42 U.S.C. 262(a) or (k)) be submitted to FDA in electronic format no earlier than 24 months after FDA issues final guidance on that topic.

In accordance with section 745A(a)(1) of the FD&C Act, FDA is issuing this guidance, announcing its determination that submission types identified in this guidance must be submitted electronically (except for submissions that are exempted) in the format specified in this guidance.

This guidance (and the technical specification documents it incorporates by reference) describes how submissions under section 745A(a) of the FD&C Act must be organized and submitted in electronic format using eCTD specifications listed in the FDA Data Standards Catalog (*http://www.fda.gov/forindustry/datastandards/studydatastandards/default.htm*). For more information concerning how the FDA interprets section 745A(a), see the guidance for industry ''Providing Regulatory Submissions in Electronic Format—Submissions Under Section745A(a) of the Federal Food, Drug, and Cosmetic Act'' (available at *http://www.fda.gov/drugs/guidancecomplianceregulatoryinformation/guidances/default.htm*). The eCTD is an International Conference on Harmonization (ICH) format based on specifications developed by ICH and its member parties. FDA's CDER and CBER have been receiving submissions in the eCTD format since 2003, and eCTD has been the recommended format for electronic submissions to CDER and CBER since January 1, 2008. The majority of new electronic submissions are now received in eCTD format.

This guidance finalizes and replaces the previous 2013 draft guidance on eCTD specifications. This supersedes the guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Human Pharmaceutical Product Applications and Related Submissions Using the eCTD Specifications'' that was issued in June 2008. This guidance is applicable to all submissions within the scope of section 745A(a) of the FD&C Act, *i.e.,* NDAs, ANDAs, certain BLAs, and certain INDs and all subsequent submissions, including amendments, supplements, and reports, to these submission types. This guidance is not applicable to submissions for blood and blood components, including Source Plasma.

In the **Federal Register** of July 25, 2014 (79 FR 43494), FDA announced the availability of the revised draft guidance entitled ''Providing Regulatory Submissions in Electronic Format—Certain Human Pharmaceutical Product Applications and Related Submissions Using the Electronic Common Technical Document Specifications.'' The comment period on the revised draft guidance ended on September 23, 2014. We reviewed all comments received on the draft guidance and revised several sections of the guidance. The updates include:

Section I: Clarified that in addition to this guidance and existing technical specifications, more detailed technical instructions will be issued in the form of a technical conformance guide.

Section III.A: (1) Clarified which INDs and BLAs are addressed in this guidance. Specifically, a footnote was added to clarify the meaning of ''certain'' in the context of BLAs and INDs and states that the guidance is not applicable to INDs for devices that are regulated by CBER as biological products under Section 351 of the PHS Act and to INDs that are noncommercial. Further, the guidance is not applicable to those devices that are regulated by CBER as biological products under Section 351 of the PHS Act. Examples are provided in this regard. (2) Clarified that FDA considers master files to be submissions to an NDA, ANDA, BLA, or IND, and therefore to fall within the scope of requirements set forth in section 745A(a). These include new drug master files (DMFs) (21 CFR 314.420), new biological product files (BPFs) (21 CFR

601.51), and any amendments to or annual reports on previously submitted DMFs or BPFs. This guidance also applies to submissions for drug/device combination products filed pursuant to section 505 of the FD&C Act or subsection (a) or (k) of section 351 of the PHS Act.

Section Technical Specification Documents Incorporated by Reference: Provides a list of documents incorporated by reference into this guidance and provides a complete listing of technical supportive files on the FDA eCTD Web page at *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/FormsSubmissionRequirements/ElectronicSubmissions/ucm153574.htm.*

We also received a comment concerning the implementation timeline for the Portable Document Format (PDF) technical specification. As discussed in the guidance for industry ''Providing Regulatory Submissions in Electronic Format—Submissions Under Section 745A(a) of the Federal Food, Drug, and Cosmetic Act,'' certain technical specifications are required no earlier than 2 years after the final guidance is published.

This guidance implements the electronic submission requirements of section 745A(a) of the FD&C Act by specifying the format for electronic submissions. All submissions submitted 24 months after the publication of this guidance must use the appropriate FDA-supported eCTD specifications for NDA, ANDA, and certain BLA submissions. Certain IND submissions must use the FDA-supported eCTD specifications for electronic submissions submitted 36 months after publication of this guidance.

In section 745A(a) of the FD&C Act, Congress granted explicit authorization to FDA to implement the statutory electronic submission requirements by specifying the format for such submissions in guidance. Because this guidance provides such requirements under section 745A(a) of the FD&C Act, indicated by the use of the words *must* or *required,* it is not subject to the usual restrictions in FDA's good guidance practice regulations, such as the requirement that guidances not establish legally enforceable responsibilities. See 21 CFR 10.115(d).

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The guidance pertains to sponsors and applicants making regulatory submissions to FDA in electronic format for NDAs, ANDAs, BLAs, INDs, master files, and advertising and promotional labeling. The information collection discussed in the guidance is contained in our IND regulations (21 CFR part 312) and approved under OMB control number 0910–0014, our NDA regulations (including ANDAs) (21 CFR part 314) and approved under OMB control number 0910–0001, and our BLA regulations (21 CFR part 601) and approved under OMB control number 0910–0338.

Sponsors and applicants have been submitting NDAs, ANDAs, BLAs, INDs, and master files electronically since 2003, and the majority of these submissions are already received in electronic format. Under section 745A(a) of the FD&C Act, sponsors and applicants are required to file most of these submissions electronically. These requirements will be phased in over 2- and 3-year periods after the issuance of this guidance.

For some sponsors and applicants, there may be new costs, including capital costs or operating and maintenance costs, which would result from the requirements under FDASIA and this guidance, because some sponsors and applicants may have to upgrade eCTD specifications and/or change their method of submitting information to FDA. FDA estimates that, for some sponsors and applicants, the costs may be as follows:

- eCTD Publishing Software: $25,000 to $150,000
- Publishing Operations Support: $50,000 to $1 million
- Training: $5,000 to $50,000

III. Comments

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

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceCompliance RegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov.*

Dated: April 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–10539 Filed 5–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1245]

Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System.'' This guidance provides recommendations for sponsors of investigational new drug applications (INDs), and applicants that submit new drug applications, abbreviated new drug applications (ANDAs), and supplements to these applications for immediate-release (IR) solid oral dosage forms, and who wish to request a waiver of in vivo bioavailability (BA) and/or bioequivalence (BE) studies.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by July 6, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

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

FOR FURTHER INFORMATION CONTACT: Mehul Mehta, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–1573.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System.'' This guidance provides recommendations for sponsors and applicants who wish to request a waiver of in vivo BA and/or BE studies for IR solid oral dosage forms. These waivers are intended to apply to: (1) Subsequent in vivo BA or BE studies of formulations after the initial establishment of the in vivo BA of IR dosage forms during the IND period and (2) in vivo BE studies of IR dosage forms in ANDAs.

Regulations at 21 CFR part 320 address the requirements for BA and BE data for approval of drug applications and supplemental applications. Provision for waivers of in vivo BA/BE studies (biowaivers) under certain conditions is provided at § 320.22. This guidance updates the guidance for industry on ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System,'' published in August 2000, and explains when biowaivers can be requested for IR solid oral dosage forms based on an approach termed the Biopharmaceutics Classification System (BCS). This guidance includes biowaiver extension to BCS class 3 drug products and additional modifications, such as criteria for high permeability and high solubility.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's current thinking on waiver of in vivo bioavailability and bioequivalence studies for immediate-release solid oral dosage forms based on a BCS. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Comments

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

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 314, including §§ 314.50 and 314.94, have been approved under OMB control number 0910–0001.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: April 29, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–10479 Filed 5–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–1419]

Withdrawal of Draft Guidance Documents Published Before December 31, 2013

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of 47 draft guidance documents that published before December 31, 2013, and have never been finalized. FDA is taking this action to improve the efficiency and transparency of the guidance development process.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), if you wish to submit comments on a specific withdrawal action in this notice, submit either electronic or written comments by June 5, 2015.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

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

Instructions: All submissions received must include the Docket No. FDA–2015–N–1419 for this action. All comments received may 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* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lisa M. Helmanis, Regulations Policy and Management Staff, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3326, Silver Spring, MD 20993–0002, 301–796–9135, email: *Lisa.Helmanis.@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In September 2000, FDA codified its good guidance practices (GGPs). GGPs are FDA's policies and procedures for the development, issuance, and use of guidance documents. Level I guidance documents set forth initial interpretations of statutory or regulatory requirements, explain changes in interpretation of policies, or discuss complex scientific issues or highly controversial issues. The GGPs, generally, require that such guidances be issued in draft for public comment before they are finalized. FDA's guidance documents do not create

legally enforceable rights or responsibilities and do not legally bind the public or FDA.

A key component of the GGPs is ensuring transparency during guidance development and issuance. In 2011, as part of the Agency's Transparency Initiative, FDA reviewed and set forth best practices for facilitating early stakeholder input, efficiency, and transparency in the Agency's processes, including GGPs.

In recent years, FDA's guidance workload has increased due to requests from the public for guidance to clarify specific issues and statutorily mandated guidances. Many of these draft guidances were not finalized most often because of higher priorities and resource issues. However, over the years, because of new information, scientific developments, and emerging technologies, a number of draft guidances have become outdated and therefore, should be withdrawn.

II. Withdrawal of Guidances

FDA is withdrawing the following 47 guidance documents.

Draft guidance	Docket No.	Publication date
1. Draft Guidance for Industry: Platelet Testing and Evaluation of Platelet Substitute Products	FDA–1998–D–0680	5/20/1999
2. Draft Guidance for Industry: Precautionary Measures to Reduce the Possible Risk of Transmission of Zoonoses by Blood and Blood Products from Xenotransplantation Product Recipients and Their Intimate Contacts.	FDA–1999–D–0045	2/11/2002
3. Draft Guidance for Industry: Criteria for Safety and Efficacy Evaluation of Oxygen Therapeutics as Red Blood Cell Substitutes.	FDA–2004–D–0420	10/28/2004
4. Draft Guidance for Industry: Validation of Growth-Based Rapid Microbiological Methods for Sterility Testing of Cellular and Gene Therapy Products.	FDA–2008–D–0055	2/11/2008
5. Draft Guidance for Industry: Use of Serological Tests to Reduce the Risk of Transmission of *Trypanosoma cruzi* Infection in Whole Blood and Blood Components for Transfusion and Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps).	FDA–2009–D–0137	3/26/2009
6. Accelerated Approval Products—Submission of Promotional Materials	FDA–1999–D–0752	3/26/1999
7. Providing Regulatory Submissions in Electronic Format—Prescription Drug Advertising and Promotional Labeling.	FDA–2001–D–0169	1/1/2001
8. Comparability Protocols—Protein Drug Products and Biological Products—Chemistry, Manufacturing, and Controls Information.	FDA–2003–D–0355	9/5/2003
9. Providing Regulatory Submissions in Electronic Format—General Considerations	FDA–2003–D–0429	10/1/2003
10. ''Help-Seeking'' and Other Disease Awareness Communications by or on Behalf of Drug and Device Firms.	FDA–2004–D–0500	1/26/2004
11. Notification to FDA of Issues that May Result in a Prescription Drug or Biological Product Shortage.	FDA–2012–D–0140	2/21/2012
12. Assessing the Safety and Effectiveness of Home-Use In Vitro Diagnostic Devices: Draft Points to Consider Regarding Labeling and Premarket Submissions.	FDA–1998–N–0050	10/5/1988
13. 510(k) Submission of Lymphocyte Immunophenotyping IVDs Using Monoclonal Antibodies	FDA–1998–N–0050 FDA–2013–N–0046	9/26/1991
14. 510(k) Submission of Immunoglobulins A, G, M, D, and E Immunoglobulin System In Vitro Devices.	FDA–1998–N–0050	9/1/1992
15. Draft Guidance for Preparation of PMA Applications for Testicular Prostheses	FDA–1998–N–0050	3/16/1993
16. Emergency Resuscitator Guidance	FDA–1998–N–0050	4/14/1993
17. 510(k) Submission Requirements for Peak Flow Meters	FDA–1998–N–0050	1/3/1994
18. Reviewer Guidance on Face Masks and Shield for CPR	FDA–1998–N–0050	3/16/1994
19. Reviewer Guidance for Ventilators	FDA–1998–N–0050	7/1/1995
20. Testing MR Interaction with Aneurysm Clips	FDA–1998–N–0050	5/22/1996
21. A Primer on Medical Device Interactions with Magnetic Resonance Imaging Systems	FDA–1997–D–0423	2/7/1997
22. Review Criteria Assessment of Portable Blood Glucose Monitoring In Vitro Diagnostic Devices Using Glucose Oxidase, Dehydrogenase or Hexokinase Methodology.	FDA–2006–P–0022–0003	2/28/1997
23. Distribution and Public Availability of Premarket Approval Application Summary of Safety and Effectiveness Data Packages (P97–1).	FDA–1998–N–0050–0002	10/10/1997
24. Premarket Submissions and Labeling Recommendations for Drugs of Abuse Screening Tests	FDA–2003–D–0373	12/2/2003
25. Class II Special Controls Guidance Document: Tinnitus Masker Devices	FDA–2005–D–0085	11/8/2005
26. Class II Special Controls Guidance Document: Absorbable Hemostatic Device	FDA–2006–D–0356	10/31/2006
27. Class II Special Controls Guidance Document: Tissue Expander	FDA–2008–D–0603	12/22/2008
28. Heart Valves: Investigational Device Exemption and Premarket Approval Applications	FDA–2009–D–0559	1/20/2010
29. Class II Special Controls Guidance Document: Electroconductive Media	FDA–2009–D–0495	4/5/2010
30. Class II Special Controls Guidance Document: Cutaneous Electrode	FDA–2009–D–0495	4/5/2010
31. Class II Special Controls Guidance Document: Transcutaneous Electrical Nerve Stimulator for Pain Relief.	FDA–2009–D–0495	4/5/2010
32. Class II Special Controls Guidance Document: Transcutaneous Electrical Nerve Stimulator with Limited Output for Pain Relief.	FDA–2009–D–0495	4/5/2010
33. Class II Special Controls Guidance Document: Transcutaneous Electrical Stimulator for Aesthetic Purposes.	FDA–2009–D–0495	4/5/2010
34. Class II Special Controls Guidance Document: Transcutaneous Electrical Stimulator with Limited Output for Aesthetic Purposes.	FDA–2009–D–0495	4/5/2010
35. Class II Special Controls Guidance Document: Powered Muscle Stimulator for Rehabilitation	FDA–2009–D–0495	4/5/2010
36. Class II Special Controls Guidance Document: Powered Muscle Stimulator with Limited Output for Rehabilitation.	FDA–2009–D–0495	4/5/2010
37. Class II Special Controls Guidance Document: Powered Muscle Stimulator for Muscle Conditioning.	FDA–2009–D–0495	4/5/2010
38. Class II Special Controls Guidance Document: Powered Muscle Stimulator with Limited Output for Muscle Conditioning.	FDA–2009–D–0495	4/5/2010
39. Class II Special Controls Guidance Document: Transcutaneous Electrical Nerve Stimulator for Pain Relief Intended for Over the Counter Use.	FDA–2009–D–0495	4/5/2010

Draft guidance	Docket No.	Publication date
40. Recommended Warning for Surgeon's Gloves and Patient Examination Gloves	FDA–2011–D–0030	2/7/2011
41. Class II Special Controls Guidance Document: In Vitro Diagnostic Devices for Bacillus spp. Detection.	FDA–2011–D–0102	5/18/2011
42. Use of Antibiotic Resistance Marker Genes in Transgenic Plants	FDA–1998–N–0050	9/4/1998
43. Drugs, Biologics, and Medical Devices Derived from Bioengineered Plants for Use in Humans and Animals.	FDA–2002–D–0135	9/11/2002
44. Preliminary Timetable for the Review of Applications for Modified Risk Tobacco Products under the Federal Food, Drug, and Cosmetic Act.	FDA–2009–D–0563	11/27/2009
45. Guidance for Industry: Regulatory Procedures Manual—Chapter 9, Subchapter: Guidance Concerning Recommending Customs' Seizure and Destruction of Imported Human and Animal Food That has Not Been Reconditioned; Draft Guidance.	FDA–1998–N–0050	11/5/2002
46. Submission of Laboratory Packages By Accredited Laboratories	FDA–2008–D–0510	1/2009
47. Guidance for the Public and FDA Staff on Convening Advisory Committee Meetings	FDA–2008–D–0417	8/1/2008

Dated: April 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–10477 Filed 5–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1376]

Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices.'' This draft guidance is being issued to explain the circumstances in which it may be appropriate to leverage existing clinical data to support pediatric device indications in premarket approval applications (PMAs) and humanitarian device exemptions (HDEs). The draft guidance also describes the approach that FDA would use to determine whether extrapolation is appropriate in medical devices, and the factors that would be considered within a statistical model for extrapolation. Extrapolation may be appropriate when the course of the disease or condition and the effects of the device are sufficiently similar in adults and pediatric patients and the adult data are of high quality for borrowing. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 4, 2015.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

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: Jacqueline Francis, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Silver Spring, MD 20993–0002, 301–796–6405; or Stephen Ripley, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 520(m)(6)(E)(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j) defines pediatric device patients as persons aged 21 or younger at the time of their diagnosis or treatment (*i.e.,* from birth through the 21st year of life, up to but not including the 22d birthday). Pediatric subpopulations are defined in section 520(m)(6)(E)(ii) (and adopted by reference in section 515A(c) of the FD&C Act (21 U.S.C. 360e)) to be neonates, infants, children, and adolescents.

In an attempt to promote pediatric medical device development, CDRH published a final guidance document in 2004 entitled ''Premarket Assessment of Pediatric Medical Devices'' (Ref. 1). This 2004 document indicates that data can be extrapolated to support effectiveness and, on a limited basis, safety for premarket approval applications (PMAs) when consistent with scientific principles. Congress was aware of this 2004 document when it passed the Food and Drug Administration Amendments Act of 2007 (FDAAA). Title III of FDAAA is the Pediatric Medical Device Safety and Improvement Act (PMDSIA). The FDAAA specifically authorized the use of adult data to demonstrate pediatric effectiveness. While safety exploration is not discussed in PMDSIA, FDA believes that there are specific cases where it will be appropriate to consider extrapolation of existing clinical safety data to support or enhance evidence for pediatric indications. FDA seeks comment on the appropriateness of extrapolating from adult clinical data to support medical device safety in pediatric patients.

FDA aims to increase the availability of safe and effective pediatric devices while ensuring that the approval of these devices is based on valid scientific evidence. Extrapolation of adult data for pediatric use may benefit pediatric patients by making it possible for devices to be approved for pediatric-specific indications and labeling, even when there is little or no existing pediatric data. Extrapolation facilitates the use of available relevant data by making optimal use of what is already known about device effects in other

populations to support indications in the pediatric population. If extrapolation is found to be appropriate, FDA believes that statistical modeling and methods can be used to increase the precision of pediatric inferences.

This guidance should be used in conjunction with other device-specific guidances to help ensure that medical devices intended for use in pediatric population provide reasonable assurance of safety and effectiveness.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on extrapolation of data for pediatric uses. 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 statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1827 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485 (medical device labeling); the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078 (investigational device exemptions); the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231 (subparts A through E, premarket approval).

V. Reference

The following reference have been placed on display in the Division of Dockets Management (see **ADDRESSES**), and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site address, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA guidance entitled ''Premarket Assessment of Pediatric Medical Devices,'' March 24, 2014, available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089740.htm.*

VI. Comments

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

Dated: April 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–10482 Filed 5–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2002–D–0147 (formerly Docket No. 2002D–0449)]

Administrative Applications and the Phased Review Process; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry (GFI) #132 entitled ''Administrative Applications and the Phased Review Process.'' This guidance defines the ''phased review process'' for reviewing application-level information during the investigational period of new animal drug development, and an ''administrative'' new animal drug application (NADA) or abbreviated new animal drug application (ANADA), the content, the procedures a sponsor should follow to submit such an application, and the intended time frame for its review.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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

FOR FURTHER INFORMATION CONTACT: Katherine Weld, Center for Veterinary Medicine (HFV–108), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0846, *Katherine.Weld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 6, 2002 (67 FR 67631), FDA published the notice of availability for a draft guidance entitled ''The Administrative New Animal Drug Application Process'' giving interested persons until January 21, 2003, to comment on the draft guidance. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. The guidance was updated to clarify current processes and include information about generic new animal drugs. The guidance announced in this notice finalizes the draft guidance dated November 6, 2002.

To be legally marketed, a new animal drug must be the subject of either an approved application under section 512(b) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b), a conditional approval under section 571 of the FD&C Act (21 U.S.C. 360ccc), or an index listing under section 572 of the FD&C Act (21 U.S.C. 360ccc–1). Sections 512(b)(1) and 512(n)(1) of the FD&C Act describes the information that must be submitted to FDA, specifically the Center for

Veterinary Medicine (CVM), as part of an NADA or ANADA, respectively.

CVM encourages sponsors to submit data for review at the most appropriate and productive times in the drug development process. Rather than submitting all data for review as part of a complete application, we have found that the submission of data supporting discrete technical sections during the investigational phase of the new animal drug is the most appropriate and productive. This ''phased review'' of data submissions has created efficiencies for CVM and the animal pharmaceutical industry. These increased efficiencies have facilitated the approval of both pioneer and generic new animal drugs.

This guidance defines what an administrative (A)NADA is, defines and describes the phased review process, and briefly discusses how sponsors should submit an administrative (A)NADA and the time frame for review.

II. Significance of Guidance

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on Administrative Applications and the Phased Review Process. It does establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032. The collections of information in section 512(n)(1) of the FD&C Act have been approved under OMB control number 0910–0669.

IV. 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.*

V. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov.*

Dated: April 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–10480 Filed 5–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1378]

Bioequivalence Recommendations for Clozapine Orally Disintegrating Tablets/Oral; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Clozapine,'' for the orally disintegrating tablets (ODTs). The recommendations provide specific guidance on the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for clozapine ODTs.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on the draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by July 6, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

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

FOR FURTHER INFORMATION CONTACT: Xiaoqiu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993–0002, 301–796–5850.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry, ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. This notice announces the availability of one draft BE recommendation for clozapine ODTs.

Clozapine tablets, marketed under the name CLOZARIL, are the subject of new drug application (NDA) 19–758, held by Novartis Pharmaceuticals Corporation and approved by FDA on September 26, 1989. FazaClo ODTs were approved by FDA on February 19, 2004, under NDA 21–590, currently held by Jazz Pharmaceuticals III International LTD, based upon a finding that FazaClo ODTs were bioequivalent to CLOZARIL immediate-release tablets. FazaClo ODTs are available as yellow, orally disintegrating tablets of 12.5, 25, 100, 150, and 200 [1] milligrams (mg) of clozapine for oral administration without water. They are formulated to disintegrate once exposed to saliva and then are easily swallowed.

In June 2005, FDA published a guidance for industry entitled ''Clozapine Tablets: In Vivo Bioequivalence and In Vitro Dissolution Testing'' (Clozapine Guidance) (70 FR 35447, June 20, 2005), which replaced a 1996 product-specific bioequivalence guidance for clozapine tablets. The 2005 Clozapine Guidance recommends that ANDA applicants employ multiple-dose, steady-state studies to evaluate the

[1] FDA approved the supplemental NDA for the 150 and 200 mg strengths on July 9, 2010.

bioequivalence of clozapine products.[2] FDA recommends that such studies be performed only in patients who have not responded well to standard antipsychotic drug treatment and who have been receiving a maintenance dose of an approved clozapine product for at least 3 months. FDA is now issuing a draft guidance for industry on BE recommendations for generic clozapine that applies specifically to the ODTs.

Beckloff Associates, Inc., filed a citizen petition in December 2007, a citizen petition supplement in February 2009, and a second citizen petition in November 2010, requesting that FDA impose certain requirements for bioequivalence testing for ANDAs referencing FazaClo (clozapine) ODTs and modify the Clozapine Guidance (Docket Nos. FDA–2007–P–0188 and FDA–2010–P–0574). FDA is denying these petitions today.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on bioequivalence recommendations for clozapine. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Comments

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

III. Electronic Access

Persons with access to the Internet may obtain the documents at either *http://www.fda.gov/Drugs/GuidanceCompliance RegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

[2] The formatting of this guidance was updated in March 2011, but the content is unchanged. The March 2011 version is available at *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM249219.pdf.*

Dated: April 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–10478 Filed 5–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Selected Topics and Transfusion Medicine.

Date: June 1–2, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health; 6701 Rockledge Drive; Bethesda, MD 20892; (Virtual Meeting).

Contact Person: Bukhtiar H Shah, DVM, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 4120, MSC 7802; Bethesda, MD 20892; 301–806–7314; *shahb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Selected Topics and Transfusion Medicine.

Date: June 1–2, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health; 6701 Rockledge Drive; Bethesda, MD 20892; (Virtual Meeting).

Contact Person: Katherine M Malinda, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 4140, MSC 7814; Bethesda, MD 20892; 301–435–0912; *Katherine_Malinda@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Child Psychopathology and Developmental Disabilities.

Date: June 2–3, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health; 6701 Rockledge Drive; Bethesda, MD 20892; (Virtual Meeting).

Contact Person: Jane A. Doussard-Roosevelt, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 3184, MSC 7848; Bethesda, MD 20892; (301) 435–4445; *doussarj@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: June 3–4, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Warwick Allerton Hotel; 701 North Michigan Avenue; Chicago, IL 60611.

Contact Person: Boris P Sokolov, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 5217A, MSC 7846; Bethesda, MD 20892; 301–408–9115; *bsokolov@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Molecular and Cellular Hematology Study Section.

Date: June 3–4, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion; 4300 Military Road NW.; Washington, DC 20015.

Contact Person: Luis Espinoza, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 6183, MSC 7804; Bethesda, MD 20892; 301–495–1213; *espinozala@mail.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Historic Inns of Annapolis; 58 State Circle; Annapolis, MD 21401.

Contact Person: Dana Jeffrey Plude, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 3176, MSC 7848; Bethesda, MD 20892; (301) 435–2309; *pluded@csr.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; International and Cooperative Projects—1 Study Section.

Date: June 4, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel; 225 Powell Street; San Francisco, CA 94102.

Contact Person: Hilary D Sigmon, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 5222, MSC 7852; Bethesda, MD 20892; (301) 594–6377; *sigmonh@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group;

Psychosocial Development, Risk and Prevention Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel; 20 W Kinzie Street; Chicago, IL 60654.

Contact Person: Anna L Riley, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 3114, MSC 7759; Bethesda, MD 20892; (301) 435–2889; *rileyann@csr.nih.gov*.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Molecular Neurogenetics Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel; 405 Olive Way; Seattle, WA 98101.

Contact Person: Eugene Carstea, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 5194, MSC 7846; Bethesda, MD 20892; (301) 408–9756; *carsteae@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel; 2660 Woodley Road NW.; Washington, DC 20008.

Contact Person: Jin Huang, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 4199, MSC 7812; Bethesda, MD 20892; 301–435–1230; *jh377p@nih.gov*.

Name of Committee: Immunology Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.

Date: June 4–5, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel; 10 Thomas Circle, NW.; Washington, DC 20005.

Contact Person: Bahiru Gametchu, DVM, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 4204, MSC 7812; Bethesda, MD 20892; 301–408–9329; *gametchb@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

Date: June 4–5, 2015.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel; 2033 M Street NW.; Washington, DC 20036.

Contact Person: John Burch, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institute of Health; 6701 Rockledge Drive, Room 3213, MSC 7808; Bethesda, MD 20892; 301–408–9519; *burchjb@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: June 4–5, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 5 Hotel; 711 Eastern Avenue; Baltimore, MD 21202.

Contact Person: Kathryn M Koeller, Ph.D.; Scientific Review Officer; Center for Scientific Review; National Institutes of Health; 6701 Rockledge Drive, Room 4166, MSC 7806; Bethesda, MD 20892; 301–435–2681; *koellerk@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: *April 29, 2015.*

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–10496 Filed 5–5–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Closed Loop Technologies: Clinical Trails.

Date: June 3, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: ELENA SANOVICH, Ph.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 750, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Fellowships in Digestive Diseases and Nutrition.

Date: June 9–10, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: THOMAS A. TATHAM, Ph.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 760, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–C Conflicts.

Date: June 10, 2015.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: THOMAS A. TATHAM, Ph.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 760, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; U54 Urology Research Center Applications.

Date: July 8–9, 2015.

Time: 5:00 p.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: JASON D. HOFFERT, Ph.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 741A, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892542, 301–594–5404, *hoffertj@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 30, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–10540 Filed 5–5–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1502]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 4, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1502, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Mohave County, Arizona, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Mohave County	County Administration Building, 700 West Beale Street, Kingman, AZ 86401.
Napa County, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of American Canyon	Community Development, 4381 Broadway Street, Suite 201, American Canyon, CA 94503.
City of Napa	Public Works Department, 1600 First Street, Napa, CA 94559.

Community	Community map repository address
Unincorporated Areas of Napa County	Public Works Department, 1195 Third Street, Napa, CA 94559.
San Bernardino County, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Barstow	Engineering Department, 220 East Mountain View Street, Suite A, Barstow, CA 92311.
City of Colton	Public Works Department, 160 South Tenth Street, Colton, CA 92324.
City of Grande Terrace	City Hall, 22795 Barton Road, Grand Terrace, CA 92313.
City of Hesperia	City Hall, 9700 Seventh Avenue, Hesperia, CA 92345.
City of Highland	City Hall, 27215 Base Line Street, Highland, CA 92346.
City of Needles	City Hall, Engineering Department, 817 Third Street, Needles, CA 92363.
City of Ontario	City Hall, Engineering Department Public Counter, 303 East B Street, Ontario, CA 91764.
City of Rancho Cucamonga	City Hall, Engineering Department Plaza Level, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.
City of Redlands	City Hall, 35 Cajon Street, Redlands, CA 92373.
City of Rialto	City Hall, 150 South Palm Avenue, Rialto, CA 92376.
City of San Bernardino	City Hall, 300 North D Street, San Bernardino, CA 92418.
City of Twentynine Palms	City Hall, 6136 Adobe Road, Twentynine Palms, CA 92277.
City of Upland	City Hall, 460 North Euclid Avenue, Upland, CA 91786.
City of Victorville	City Hall, Planning Department, 14343 Civic Drive, Victorville, CA 92393.
Town of Apple Valley	Town Hall, 14955 Dale Evans Parkway, Apple Valley, CA 92307.
Unincorporated Areas of San Bernardino County	Public Works Department, Water Resources Department, 825 East Third Street, San Bernardino, CA 92415.
Solano County, California and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Benicia	Public Works Division, 250 East L Street, Benicia, CA 94510.
City of Fairfield	Public Works, Engineering Division, 1000 Webster Street, Fairfield, CA 94533.
City of Suisun City	Public Works Department, 701 Civic Center Boulevard, Suisun City, CA 94585.
City of Vallejo	Public Works, 555 Santa Clara Street, Vallejo, CA 94590.
Unincorporated Areas of Solano County	Public Works Department, 675 Texas Street, Suite 5500, Fairfield, CA 94553.
Utah County, Utah and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Alpine	City Hall, 20 North Main Street, Alpine, UT 84004.

[FR Doc. 2015–10522 Filed 5–5–15; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1510]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 4, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1510, to Luis

Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Lee County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Fort Myers	Development Department, 1825 Hendry Street, Suite 101, Fort Myers, FL 33901.
Unincorporated Areas of Prince Lee County	Development Department, 1500 Monroe Street, Second Floor, Fort Myers, FL 33901.
Prince George's County, Maryland, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Laurel	Municipal Center, 8103 Sandy Spring Road, Laurel, MD 20707.
Unincorporated Areas of Prince George's County	Prince George's County Department of Environmental Resources, 9400 Peppercorn Place, Suite 610, Largo, MD 20774.
Lycoming County, Pennsylvania (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Borough of Hughesville	Borough Office, 147 South 5th Street, Hughesville, PA 17737.
Borough of Jersey Shore	Borough Office, 232 Smith Street, Jersey Shore, PA 17740.
Borough of Montgomery	Borough Hall, 35 South Main Street, Montgomery, PA 17752.
Borough of Montoursville	Borough Hall, 617 North Loyalsock Avenue, Montoursville, PA 17754.
Borough of Muncy	Borough Hall, 14 North Washington Street, Muncy, PA 17756.
Borough of Picture Rocks	Borough Building, 113 North Main Street, Picture Rocks, PA 17762.
Borough of Salladasburg	145 Blackhorse Alley, Salladasburg, PA 17740.
Borough of South Williamsport	Borough Building, 329 West Southern Avenue, South Williamsport, PA 17702.
City of Williamsport	City Hall, 245 West 4th Street, Williamsport, PA 17701.
Township of Anthony	Anthony Township Building, 402 Dutch Hill Road, Cogan Station, PA 17725.
Township of Armstrong	Armstrong Township Building, 502 Waterdale Road, Williamsport, PA 17702.
Township of Bastress	Bastress Township Building, 518 Cold Water Town Road, Williamsport, PA 17701.

Community	Community map repository address
Township of Brady	Brady Township Building, 1986 Elimsport Road, Montgomery, PA 17752.
Township of Brown	18254 Route 414 Highway, Cedar Run, PA 17727.
Township of Cascade	Cascade Township Building, 1456 Kellyburg Road, Trout Run, PA 17771.
Township of Clinton	Clinton Township Building, 2106 State Route 54, Montgomery, PA 17752.
Township of Cogan House	Cogan House Township Building, 4609 Route 184 Highway, Trout Run, PA 17771.
Township of Cummings	Cummings Township Building, 10978 Route 44, Waterville, PA 17776.
Township of Eldred	Eldred Township Fire Company Building, 5558 Warrensville Road, Montoursville, PA 17754.
Township of Fairfield	Fairfield Township Building, 834 Fairfield Church Road, Montoursville, PA 17754.
Township of Franklin	Franklin Township Building, 61 Schoolhouse Lane, Lairdsville, PA 17742.
Township of Gamble	Gamble Township Building, 17 Beech Valley Road, Trout Run, PA 17771.
Township of Hepburn	Hepburn Township Office, 615 State Route 973 East Highway, Cogan Station, PA 17728.
Township of Jackson	Jackson Township Building, 3809 Williamson Trail, Liberty, PA 16930.
Township of Jordan	Jordan Township Building, 4298 Route 42 Highway, Unityville, PA 17774.
Township of Lewis	Lewis Township Building, 69 Main Street, Trout Run, PA 17771.
Township of Limestone	Limestone Township Building, 6253 South Route 44 Highway, Jersey Shore, PA 17740.
Township of Loyalsock	Loyalsock Township Building, 2501 East 3rd Street, Williamsport, PA 17701.
Township of Lycoming	Lycoming Township Municipal Building, 328 Dauber Road, Cogan Station, PA 17728.
Township of McHenry	McHenry Township Community Center, 145 Railroad Street, Cammal, PA 17723.
Township of McIntyre	McIntyre Township Building, 10975 Route 14, Ralston, PA 17763.
Township of McNett	McNett Township Building, 1785 Yorktown Road, Roaring Branch, PA 17765.
Township of Mifflin	Mifflin Township Building, 106 First Fork Road, Jersey Shore, PA 17740.
Township of Mill Creek	Mill Creek Township Building, 2063 Woodley Hollow Road, Montoursville, PA 17754.
Township of Moreland	Moreland Township Building, 1220 Moreland Township Road, Muncy, PA 17756.
Township of Muncy	Muncy Fire Hall, 1922 Pond Road, Pennsdale, PA 17756.
Township of Muncy Creek	Muncy Creek Township Building, 575 Route 442 Highway, Muncy, PA 17756.
Township of Old Lycoming	Old Lycoming Township Municipal Office, 1951 Green Avenue, Williamsport, PA 17701.
Township of Penn	Penn Township Building, 4600 Beaver Lake Road, Hughesville, PA 17737.
Township of Piatt	Piatt Township Building, 9687 North Route 220 Highway, Jersey Shore, PA 17740.
Township of Pine	Pine Township Building, 925 Oregon Hill Road, Morris, PA 16938.
Township of Plunketts Creek	Plunketts Creek Township Building, 179 Dunwoody Road, Williamsport, PA 17701.
Township of Porter	Porter Township Building, 5 Shaffer Lane, Jersey Shore, PA 17740.
Township of Shrewsbury	Shrewsbury Township Building, 143 Point Bethel Road, Hughesville, PA 17737.
Township of Susquehanna	Susquehanna Township Office Building, 91 East Village Drive, Williamsport, PA 17702.
Township of Upper Fairfield	Upper Fairfield Township Building, 4090 Route 87 Highway, Montoursville, PA 17754.
Township of Washington	Washington Township Building, 15973 South Route 44 Highway, Allenwood, PA 17810.
Township of Watson	Watson Township Building, 4635 North State Route, Jersey Shore, PA 17740.
Township of Wolf	Wolf Township Building, 695 Route 405 Highway, Hughesville, PA 17737.
Township of Woodward	Woodward Township Building, 4910 South Route 220 Highway, Linden, PA 17744.
San Patricio County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Aransas Pass	City Hall, 600 West Cleveland Boulevard, Aransas Pass, TX 78336.

Community	Community map repository address
City of Gregory	City Hall, 204 West 4th Street, Gregory, TX 78359.
City of Ingleside	City Hall Annex, 2665 San Angelo Street, Ingleside, TX 78362.
City of Ingleside On The Bay	Ingleside On The Bay City Hall, 475 Starlight Drive, Ingleside, TX 78362.
City of Lake City	City Hall, 132 Cox Drive, Lake City, TX 78368.
City of Lakeside	Community Center, 101 Weber Lane, Lakeside, TX 78368.
City of Mathis	City Hall, 411 East San Patricio Avenue, Mathis, TX 78368.
City of Odem	City Hall, 514 Voss Avenue, Odem, TX 78370.
City of Portland	Public Works, 1101 Moore Drive, Portland, TX 78374.
City of San Patricio	City Hall, 4516 Main Street, San Patrio, TX 78368.
City of Sinton	City Hall, 301 East Market Street, Sinton, TX 78387.
City of Taft	City Hall, 501 Green Avenue, Taft, TX 78390.
Unincorporated Areas of San Patricio County	San Patricio County Civic Center, 219 West 5th Street, Sinton, TX 78387.

[FR Doc. 2015–10537 Filed 5–5–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1512]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Idaho: Ada	City Of Boise (14-10-2112P).	The Honorable David Bieter, Mayor, City of Boise, P.O. Box 500, Boise, ID 83701.	City of Boise, Planning and Development Services, City Hall, 150 North Capital Boulevard, Boise, ID 83701.	*http://www.msc.fema.gov/lomc*	August 3, 2015 ..	160002
Illinois:						
Kane	City of Aurora (15-05-0787P).	The Honorable Thomas Weisner, Mayor, City of Aurora, 44 East Downer Place, Aurora, IL 60505.	City Hall, Engineering Department, 44 East Downer Place, Aurora, IL 60505.	*http://www.msc.fema.gov/lomc*	August 6, 2015 ..	170320
Kane	(Unincorporated Areas) (15–05–0787P).	The Honorable Christopher Lauzen, Kane County Chairman, Kane County Government Center, 719 South Batavia Avenue, Building A Geneva, IL 60134.	Kane Village Hall, Main Street, P.O. Box 167, Kane, IL 62054.	*http://www.msc.fema.gov/lomc*	August 6, 2015 ..	170896
Massachusetts: Plymouth.	Town Of Hingham (15-01-0904P).	Ms. Irma Lauter Chair, Board of Selectman Town Hall 210 Central Street Hingham, MA 02043.	Town Hall 210 Central Street Hingham, MA 02043.	*http://www.msc.fema.gov/lomc*	August 14, 2015	250268
Michigan: Macomb	Township of Washington (14-05-8670P).	Mr. Dan O'Leary Township Supervisor, Township of Washington 57900 Van Dyke Road Washington, MI 48094.	57900 Van Dyke Avenue Washington, MI 48094.	*http://www.msc.fema.gov/lomc*	August 3, 2015 ..	260447
Minnesota: Clay	City Of Moorhead (15-05-0455P).	The Honorable Del Rae Williams, Mayor, City of Moorhead, Moorhead City Hall, 500 Center Avenue, Moorhead, MN 56561.	500 Center Avenue Moorhead, MN 56561.	*http://www.msc.fema.gov/lomc*	August 14, 2015	275244
Missouri:						
Jefferson	City of De Soto (15–07–0329P).	The Honorable Werner Stichling, Mayor, City of De Soto, 17 Boyd Street, De Soto, MO 63020.	17 Boyd Street, De Soto, MO 63020.	*http://www.msc.fema.gov/lomc*	August 7, 2015 ..	295263
Jefferson	(Unincorporated Areas) (15–07–0329P).	The Honorable Ken Waller, Jefferson County Executive, Jefferson County Administration Center, 729 Maple Street, Suite G30 Hillsboro, MO 63050.	300 Main Street, P.O. Box 100, Hillsboro, MO 63050.	*http://www.msc.fema.gov/lomc*	August 7, 2015 ..	290808
Virginia: Fairfax	City Of Fairfax (15-03-0545P).	The Honorable Scott Silverthorne, Mayor, City of Fairfax, Fairfax City Hall, 10455 Amstrong Street, Room 316 Fairfax, VA 22030.	10455 Amstrong Street, Room 200, Fairfax, VA 22030.	*http://www.msc.fema.gov/lomc*	August 7, 2015 ..	515524

[FR Doc. 2015–10533 Filed 5–5–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2015–0010; OMB No. 1660–0070]

Agency Information Collection Activities: Proposed Collection; Comment Request, National Fire Department Census

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, 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 a proposed extension, without change, of a currently approved collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the use of a form to collect data for the development and continuation of the National Fire Department Census.

DATES: Comments must be submitted on or before July 6, 2015.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2015–0010. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (202) 212–4701.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it

public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gayle Kelch, Statistician, United States Fire Administration, National Fire Data Center at (301) 447–1154 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 212–4701 or email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Public Law 93–498 provides for the gathering and analyzing of data as deemed useful and applicable for fire departments. The U.S. Fire Administration (USFA) receives many requests from fire service organizations and the general public for information related to fire departments, including total number of departments, number of stations per department, population protected, and number of firefighters. The USFA also has a need for this information to guide programmatic decisions, and produce mailing lists for USFA publications. Recommendations for the creation of the fire department census database came out of a Blue Ribbon Panel's review of the USFA. The report included a review of the structure, mission, and funding of the USFA, future policies, programmatic needs, course development and delivery, and the role of the USFA to reflect changes in the fire service. As a result of those recommendations, the USFA is working to identify all fire departments in the United States to develop a database that will include information related to demographics, capabilities, and activities of fire departments Nationwide.

In the fall of 2001, information was collected from 16,000 fire departments. Since the first year of the collection, an additional 11,150 departments have registered with the census for a total of 27,150 fire departments. This leaves an estimated 2,850 departments still to respond. Additionally, about 5,430 current census registered departments are contacted by USFA each year and are asked to provide updates to any previously submitted information.

Collection of Information

Title: National Fire Department Census.

Type of Information Collection: Extension, without change, of a currently approved collection.

OMB Number: 1660–0070.

Form Titles and Numbers: FEMA Form 070–0–0–1, National Fire Department Census.

Abstract: This collection seeks to identify fire departments in the United States to compile and update a database related to their demographics, capabilities, and activities. The database is used to guide programmatic decisions and provide information to the public and the fire service.

Affected Public: State, Local, or Tribal Government.

Estimated Total Annual Burden Hours: 2,093 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
State, Local, or Tribal (Career).	National Fire Department Census/FEMA Form 070–0–0–1.	422	1	422	.4167	176	32.49	$5,718
State, Local, or Tribal (Volunteer).	National Fire Department Census/FEMA Form 070–0–0-.	2,428	1	2,428	0.4167	1,012	0.00	0
State, Local, or Tribal (Career).	National Fire Department Census/FEMA Form (Update).	804	1	804	.1667	134	32.49	4,354
State, Local, or Tribal (Volunteer).	National Fire Department Census/FEMA Form (Update).	4,626	1	4,626	.1667	771	0.00	0
Total		8,280		8,280		2,093		10,072

Estimated Cost: The estimated annual cost to respondents for the hour burden is $10,072. The estimated annual cost to respondents operations and maintenance costs for technical services is $0. There are no annual start-up or capital costs. The cost to the Federal government is $88,866.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Janice P Waller,

Acting Director, Records Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015–10525 Filed 5–5–15; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1470]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or

regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 4, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1470, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Adams County, Colorado, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Adams County	4430 South Adams County Parkway, Brighton, CO 80601.
Arapahoe County, Colorado, and Incorporated Area	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Aurora	15151 East Alameda Parkway, Suite 3200, Aurora, CO 80012.
City of Centennial	7437 South Fairplay Street, Centennial, CO 80112.
City of Greenwood Village	6060 South Quebec Street, Greenwood Village, CO 80111.
Unincorporated Areas of Arapahoe County	6924 South Lima Street, Centennial, CO 80112.
Douglas County, Colorado, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Lone Tree	9222 Teddy Lane, Lone Tree, CO 80124.
Unincorporated Areas of Douglas County	100 3rd Street, Castle Rock, CO 80104.

[FR Doc. 2015–10524 Filed 5–5–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of June 16, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.* The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Sacramento County, California, and Incorporated Areas Docket No.: FEMA–B–1440	
City of Sacramento	Department of Utilities, Engineering and Water Resources Division, 1395 35th Avenue, Sacramento, CA 95822.
Unincorporated Areas of Sacramento County	Municipal Services Agency, Department of Water Resources, 827 7th Street, Suite 301, Sacramento, CA 95814.
Sutter County, California, and Incorporated Areas Docket No.: FEMA–B–1440	
Unincorporated Areas of Sutter County	Sutter County Water Resources Division, 1130 Civic Center Boulevard, Suite F, Yuba City, CA 95993.

[FR Doc. 2015–10536 Filed 5–5–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1508]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The

FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Date: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama:						
Madison	City of Huntsville (15–04–0198P).	The Honorable Tommy Battle, Mayor, City of Huntsville, 308 Fountain Circle, Huntsville, AL 35801.	Engineering Department, 308 Fountain Circle, Huntsville, AL 35801.	*http://www.msc.fema.gov/lomc*	Jul. 6, 2015	010153
Madison	Unincorporated areas of Madison County (15–04–0198P).	The Honorable Dale W. Strong, Chairman, Madison County Commission, 100 Northside Square, Huntsville, AL 35801.	Madison County Engineering Building, 266–C Shields Road, Huntsville, AL 35811.	*http://www.msc.fema.gov/lomc*	Jul. 6, 201	010151
California:						
Colusa	City of Williams (14–09–4496P).	The Honorable John J. Troughton, Jr., Mayor, City of Williams, P.O. Box 310, Williams, CA 95987.	City Hall, 810 E Street, Williams, CA 95987.	*http://www.msc.fema.gov/lomc*	Jul. 2, 2015	060024
Colusa	Unincorporated areas of Colusa County (14–09–4438P).	The Honorable Mark D. Marshall, Chairman, Colusa County Board of Supervisors, 547 Market Street, Suite 102, Colusa, CA 95932.	Colusa County Department of Public Works, 1215 Market Street, Colusa, CA 95932.	*http://www.msc.fema.gov/lomc*	Jul. 2, 2015	060022
Colusa	Unincorporated areas of Colusa County (14–09–4496P).	The Honorable Mark D. Marshall, Chairman, Colusa County Board of Supervisors, 547 Market Street, Suite 102, Colusa, CA 95932.	Colusa County Department of Public Works, 1215 Market Street, Colusa, CA 95932.	*http://www.msc.fema.gov/lomc*	Jul. 2, 2015	060022

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Riverside	Unincorporated areas of Riverside County (15–09–0813P).	The Honorable Marion Ashley, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	*http://www.msc.fema.gov/lomc*	Jun. 8, 2015	060245
San Diego	Unincorporated areas of San Diego County (14–09–4435P).	The Honorable Dianne Jacob, Chair, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, CA 92101.	San Diego County Department of Public Works, Flood Control District, 5510 Overland Avenue, Suite 401, San Diego, CA 92123.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	06028
Colorado:						
Denver	City and County of Denver (15–08–0320P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	08004
Denver	City and County of Denver (15–08–0321P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	080046
Douglas	Unincorporated areas of Douglas County (14–08–0892P).	The Honorable Jill Repella, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Public, Works Department,, Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	*http://www.msc.fema.gov/lomc*	Jun. 12, 201	08004
Florida:						
Alachua	Unincorporated areas of Alachua County (15–04–0356P).	The Honorable Lee Pinkoson, Chairman, Alachua County Board of Commissioners, P.O. Box 5547, Gainesville, FL 32627.	Alachua County Public Works Department, 5620 Northwest 120th Lane, Gainesville, FL 32653.	*http://www.msc.fema.gov/lomc*	Jul. 3, 201	12000
Charlotte	Unincorporated areas of Charlotte County (15–04–1137P).	The Honorable Bill Truex, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	12006
Collier	City of Marco Island (15–04–1069P).	The Honorable Larry Sacher, Chairman, City of Marco Island Council, 50 Bald Eagle Drive, Marco Island, FL 34145.	City Hall, 50 Bald Eagle Drive, Marco Island, FL 34145.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	12042
Collier	Unincorporated areas of Collier County (14–04–A504P).	The Honorable Tom Henning, Chairman, Collier County Board of Commissioners, 3299 Tamiami Trail East, Suite 303, Naples, FL 34112.	Collier County Administrative Building, 3301 East Tamiami Trail, Building F, 1st Floor, Naples, FL 34112.	*http://www.msc.fema.gov/lomc*	May 12, 201	12006
Marion	City of Ocala (14–04–6358P).	The Honorable Kent Guinn, Mayor, City of Ocala, 110 Southeast Watula Avenue, Ocala, FL 34471.	Engineering Department, 405 Southeast Osceola Avenue, Ocala, FL 34478.	*http://www.msc.fema.gov/lomc*	Jun. 25, 201	120330
Monroe	City of Key West (14–04–A505P).	The Honorable Craig Cates, Mayor, City of Key West, 3126 Flagler Avenue, Key West, FL 33040.	Planning Department, 605A Simonton Street, Key West, FL 33040.	*http://www.msc.fema.gov/lomc*	Jun. 5, 201	12016
Pinellas	City of Clearwater (14–04–A506P).	The Honorable George N. Cretekos, Mayor, City of Clearwater, P.O. Box 4748, Clearwater, FL 33758.	Public Works Department, 100 South Myrtle Avenue, Suite 220, Clearwater, FL 33758.	*http://www.msc.fema.gov/lomc*	Jun. 25, 201	12509
Seminole	City of Longwood (15–04–0949P).	The Honorable John Maingot, Mayor, City of Longwood, 175 West Warren Avenue, Longwood, FL 32750.	City Hall, 175 West Warren Avenue, Longwood, FL 32750.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	12029

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Georgia: Columbia	Unincorporated areas of Columbia County (15–04–0305P).	The Honorable Ron Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Planning Services Division, 603 Ronald Reagan Drive, Building B, Evans, GA 30809.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	13005
Kentucky:.						
Kenton	City of Covington (15–04–2329P).	The Honorable Sherry Carran, Mayor, City of Covington, 20 West Pike Street, Covington, KY 41011.	City Hall, 20 West Pike Street, Covington, KY 41011.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	21012
Kenton	City of Fort Wright (15–04–2329P).	The Honorable Joseph Nienaber, Jr., Mayor, City of Fort Wright, 409 Kyles Lane, Fort Wright, KY 41011.	City Hall, 409 Kyles Lane, Fort Wright, KY 41011.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	21024
New York: Suffolk	Town of Brookhaven (15–02–0307P).	The Honorable Edward P. Romaine, Town of Brookhaven Supervisor, 1 Independence Hill, Farmingville, NY 11738.	Town Hall, 1 Independence Hill, Farmingville, NY 11738.	*http://www.msc.fema.gov/lomc*	Jul. 16, 201	36533
North Carolina:						
Columbus	Unincorporated areas of Columbus County (14–04–6649P).	The Honorable Trent Burroughs, Chairman, Columbus County Board of Commissioners, 111 Washington Street, Whiteville, NC 28472.	Columbus County Planning Department, 111 Washington Street, Whiteville, NC 28472.	http://www.msc.fema.gov/lomc	May 5, 201	37030
Guilford	City of Greensboro (14–04–9100P).	The Honorable Nancy Vaughan, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	Central Library, 219 North Church Street, Greensboro, NC 27401.	*http://www.msc.fema.gov/lomc*	Jun. 26, 201	375351
Union	Town of Weddington (14–04–7777P).	The Honorable Bill Deter, Mayor, Town of Weddington, 1924 Weddington Road, Weddington, NC 28104.	Planning Department, 1924 Weddington Road, Weddington, NC 28104.	*http://www.msc.fema.gov/lomc*	Jun. 22, 201	37051
Union	Unincorporated areas of Union County (14–04–7777P).	The Honorable Richard Helms, Chairman, Union County Board of Commissioners, 500 North Main Street, Room 921, Monroe, NC 28112.	Union County Planning Department, 500 North Main Street, Monroe, NC 28112.	*http://www.msc.fema.gov/lomc*	Jun. 22, 201	37023
Wake	City of Raleigh (14–04–8341P).	The Honorable Nancy McFarlane, Mayor, City of Raleigh, P.O. Box 590, Raleigh, NC 27602.	Public Works Department, 222 West Hargett Street, Raleigh, NC 27601.	*http://www.msc.fema.gov/lomc*	Jun. 26, 201	37024
Wake	Unincorporated areas of Wake County (14–04–8341P).	The Honorable James West, Chairman, Wake County Board of Commissioners, P.O. Box 550, Raleigh, NC 27602.	Wake County Environmental Services Department, 336 Fayetteville Street, Raleigh, NC 27602.	*http://www.msc.fema.gov/lomc*	Jun. 26, 201	37036
South Carolina: Charleston.	City of Charleston (15–04–0605P).	The Honorable Joseph P. Riley, Jr., Mayor, City of Charleston, P.O. Box 652, Charleston, SC 29402.	Engineering Department, 75 Calhoun Street Division 301, Charleston, SC 29402.	*http://www.msc.fema.gov/lomc*	Jun. 19, 201	45541
Utah:						
Davis	City of Farmington (15–08–0034P).	The Honorable Jim Talbot, Mayor, City of Farmington, 160 South Main, Farmington, UT 84025.	GIS Department, 1600 South Main, Farmington, UT 84025.	*http://www.msc.fema.gov/lomc*	Jun. 26, 201	49004
Davis	City of Fruit Heights (14–08–1211P).	The Honorable Don Carroll, Mayor, City of Fruit Heights, 910 South Mountain Road, Fruit Heights, UT 84037.	City Hall, 910 South Mountain Road, Fruit Heights, UT 84307.	*http://www.msc.fema.gov/lomc*	Jun. 5, 201	49004
Davis	City of Kaysville (14–08–1178P).	The Honorable Steve A. Hiatt, Mayor, City of Kaysville, 23 East Center Street, Kaysville, UT 84037.	City Hall, 23 East Center Street, Kaysville, UT 84037.	*http://www.msc.fema.gov/lomc*	Jun. 5, 201	49004
Davis	City of Kaysville (14–08–1211P).	The Honorable Steve A. Hiatt, Mayor, City of Kaysville, 23 East Center Street, Kaysville, UT 84037.	City Hall, 23 East Center Street, Kaysville, UT 84037.	*http://www.msc.fema.gov/lomc*	Jun. 5, 201	49004

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Washington	Town of Springdale (14–08–1247P).	The Honorable Stan Smith, Mayor, Town of Springdale, 118 Lion Boulevard, Springdale, UT 84767.	Planning and Zoning Department, 118 Lion Boulevard, Springdale, UT 84767.	*http://www.msc.fema.gov/lomc*	May 22, 201	490179

[FR Doc. 2015–10535 Filed 5–5–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1503]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Idaho:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Blaine	(Unincorporated Areas) (15–10–0206P).	Mr Lawrence Schoen, Chairman, Blaine County Board of Commissioners, 206 1st Avenue South, Suite 300, Hailey, ID 83333.	Blaine County Planning and Zoning, 219 First Avenue, Suite 208, Hailey, ID 83333.	*http://www msc fema gov/lomc*	July 2, 2015	165167
Teton	City of Driggs (14–10–1657P).	The Honorable Hyrum Johnson, Driggs City Hall, P O Box Office Box 48, Driggs, ID 83422.	89N Main Street, Suite 6, Driggs, ID 83422.	*http://www msc fema gov/lomc*	July 3, 2015	160166
Teton	Teton County (14–10–1657P).	The Honorable Bill Leake, Chairman, County Commissioners, Teton County Courthouse, 150 Courthouse Drive, Driggs, ID 83422.	Bruce Nye, 89 N Main Street, Suite 6, Driggs, ID 83422.	*http://www msc fema gov/lomc*	July 3, 2015	160230
Illinois:						
Will	City of Naperville (15–05–1166P).	The Honorable A George Pradel, Mayor, City of Naperville, 400 South Eagel Street, Naperville, IL 60540.	City Hall, 400 South Eagle Street, Naperville, IL 60540.	*http://www msc fema gov/lomc*	July 2, 2015	170213
Will	Will County (15–05–1166P).	The Honorable Lawrence Walsh, Will County Executive, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use, 58 East Clinton Street, Suite 500, Joliet, IL 60432.	*http://www msc fema gov/lomc*	July 2, 2015	170695
Indiana:						
Hamilton	City of Carmel (14–05–1139P).	The Honorable James Brainard, Mayor, City of Carmel, City Hall, One Civic Square, Carmel, IN 46032.	City of Carmel Department of Community Services, One Civic Square, Carmel, IN 46032.	*http://www msc fema gov/lomc*	June 19, 2015	180081
Marion	City of Indianapolis (14–05–1139P).	The Honorable Gregory A Ballard, Mayor, City of Indianapolis, 2501 City-County Building, 200 East Washington Street, Indianapolis, IN 46204.	City-County Building, 200 East Washington Street, Indianapolis, IN 46204.	*http://www msc fema gov/lomc*	June 19, 2015	180159
Kansas:.						
Johnson	City of Overland Park (14–07–1371P).	The Honorable Carl Gerlach, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, KS 66212.	Community Map Repository, City of Overland Park, c/o Community Map Repository, 8500 Santa Fe Drive, Overland Park, KS 66212.	*http://www msc fema gov/lomc*	June 25, 2015	200174
Minnesota:.						
Hennepin	City of Brooklyn Park (14–05–9322P).	The Honorable Jeffrey Lunde, Mayor, City of Brooklyn Park, 5200 85th Avenue North, Brooklyn Park, MN 55443.	Planning and Zoning, Department, 5200 8th Avenue North, Brooklyn Park, MN 55443.	*http://www msc fema gov/lomc*	June 26, 2015	270152
Oregon:						
Baker	City of Baker (15–10–0084P).	The Honorable Kim Mosier, Mayor, City of Baker, P O Box 650, 1655 First Street, Baker, OR 97814.	City Hall, 1655 1st Street, Baker, OR 97814.	*http://www msc fema gov/lomc*	May 26, 2015	410002
Baker	(Unincorporated Areas) (15–10–0084P).	The Honorable Bill Harvey, Commission Chair, Baker County, 1995 Third Street, Baker, OR 97814.	Court House, 1995 3rd Street, Baker, OR 97814.	*http://www msc fema gov/lomc*	May 26, 2015	410001
Deschutes	(Unincorporated Areas) (15–10–0345P).	The Honorable Tom Anderson, Deschutes County Administrator, 1300 NW Wall Street, Suite 200, Bend, OR 97701.	Deschutes County Courthouse, 1164 NW Bond Street, Bend, OR 97701.	*http://www msc fema gov/lomc*	June 6, 2015	410055
Jackson	City of Medford (15–10–0236X).	The Honorable Gary Wheeler, Mayor, City of Medford, 411 West 8th Street, Medford, OR 97501.	Building Safety Department, 200 South Ivy Street, Medford, OR 97501.	*http://www msc fema gov/lomc*	June 4, 2015	410096
Tillamook	Tillamook County (14–10–1727P).	Mr Tim Josi, Board of County Commissioners, Tillamook County, 201 Laurel Avenue, Tillamook, OR 97141.	Courthouse, 201 Laurel Avenue, Tillamook, OR 97141.	*http://www msc fema gov/lomc*	June 8, 2015	410196

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Virginia: Loudoun ..	(Unincorporated Areas) (15–03–0229P).	Mr Scott K York, Chairman, Board of Supervisors, P O Box 7000, 1 Harrison Street, S E , 5th Floor, Leesburg, VA 20177.	Loudoun County Building, Building and Development Department, 1 Harrison Street, S E , Leesburg, VA 20177.	*http://www msc fema gov/lomc*	May 15, 2015	510090
Wisconsin: Outagamie.	(Unincorporated Areas) (15–05–1349P).	The Honorable Thomas M Nelson, Outagamie County Executive, County Administration Building, 410 South Walnut Street, Appleton, WI 54911.	County Administration Building, 410 South Walnut Street, Appleton, WI 54911.	*http://www msc fema gov/lomc*	June 24, 2015	550302

[FR Doc. 2015–10532 Filed 5–5–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1509]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Date: April 22, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas: Benton ..	City of Rogers (14–06–2125P).	The Honorable Greg Hines, Mayor, City of Rogers, 301 West Chestnut Street, Rogers, AR 72756.	City Hall, 301 West Chestnut Street, Rogers, AR 72756.	*http://www.msc.fema.gov/lomc*	Jul. 6, 2015	050013
Delaware: Dover ...	City of Dover (15–03–0103P).	The Honorable Robin R. Christiansen, Mayor, City of Dover, 15 Loockerman Plaza, Dover, DE 19901.	Department of Planning and Inspection, 15 Loockerman Plaza, Dover, DE 19901.	*http://www.msc.fema.gov/lomc*	Jun. 26, 2015	100006
Louisiana: Rapides	City of Alexandria (14–06–4775P).	The Honorable Jacques M. Roy, Mayor, City of Alexandria, P.O. Box 71, Alexandria, LA 71309.	City Hall, 915 3rd Street, 1st Floor, Alexandria, LA 71301.	*http://www.msc.fema.gov/lomc*	May 21, 2015	220146
New Jersey: Burlington.	Township of Medford (14–02–2411P).	Ms. Katherine Burger, Interim Manager, Township of Medford, 17 North Main Street, Medford, NJ 08055.	Municipal Center, 17 North Main Street, Medford, NJ 08055.	*http://www.msc.fema.gov/lomc*	Jun. 19, 2015	340104
New Mexico:						
Bernalillo	Unincorporated areas of Bernalillo County (14–06–0924P).	The Honorable Maggie Hart Stebbins, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	May 12, 2015	350001
Bernalillo	Unincorporated areas of Bernalillo County (14–06–0925P).	The Honorable Maggie Hart Stebbins, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	Jun. 19, 2015	350001
Santa Fe	City of Santa Fe (15–06–0598P).	The Honorable Javier M. Gonzales, Mayor, City of Santa Fe, 200 Lincoln Avenue, Santa Fe, NM 87501.	200 Lincoln Avenue, Santa Fe, NM 87501.	*http://www.msc.fema.gov/lomc*	Jun. 25, 2015	350070
Santa Fe	Unincorporated areas of Santa Fe County (15–06–0598P).	The Honorable Shannon Broderick Bulman, Santa Fe County Probate Judge, 102 Grant Avenue, Santa Fe, NM 87501.	Santa Fe County, 102 Grant Avenue, Santa Fe, NM 87501.	*http://www.msc.fema.gov/lomc*	Jun. 25, 2015	350069
Ohio:						
Franklin	City of Columbus (14–05–8003P).	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, 2nd Floor, Columbus, OH 43215.	Department of Public Utilities, Stormwater and Regulatory Management Section, 1250 Fairwood Avenue, Columbus, OH 43206.	*http://www.msc.fema.gov/lomc*	Apr. 22, 2015	390170
Franklin	City of Hilliard (14–05–8003P).	The Honorable Don Schonhardt, Mayor, City of Hilliard, 5171 Northwest Parkway, Hilliard, OH 43026.	City Hall, 3800 Municipal Way, Hilliard, OH 43026.	*http://www.msc.fema.gov/lomc*	Apr. 22, 2015	390175
Franklin	Unincorporated areas of Franklin County (14–05–8003P).	The Honorable Marilyn Brown, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, OH 43215.	Franklin County Economic Development and Planning Department, 150 South Front Street, Front Street Level, Suite 10, Columbus, OH 43215.	*http://www.msc.fema.gov/lomc*	Apr. 22, 2015	390167
Oklahoma: Tulsa ...	City of Broken Arrow (14–06–3286P).	The Honorable Craig Thurmond, Mayor, City of Broken Arrow, 220 South 1st Street, Broken Arrow, OK 74012.	City Hall, 220 South 1st Street, Broken Arrow, OK 74012.	*http://www.msc.fema.gov/lomc*	Jun. 22, 2015	400236
Pennsylvania:						
Berks	City of Reading (13–03–2114P).	The Honorable Vaughn D. Spencer, Mayor, City of Reading, 815 Washington Street, Reading, PA 19601.	Office of Zoning, Planning and Preservation, Community Development Department, 815 Washington Street, Reading, PA 19601.	*http://www.msc.fema.gov/lomc*	Jun. 26, 2015	420145
Berks	Town of Cumru (13–03–2114P).	Ms. Jeanne E. Johnston, Manager, Township of Cumru, 1775 Welsh Road, Mohnton, PA 19540.	Cumru Township Office Building, 1775 Welsh Road, Mohnton, PA 19540.	*http://www.msc.fema.gov/lomc*	Jun. 26, 2015	420130

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Texas:						
Bell	City of Temple (13–06–3510P).	The Honorable Danny Dunn, Mayor, City of Temple, 2 North Main Street, Suite 103, Temple, TX 76501.	3210 East Avenue H, Building A, Suite 107, Temple, TX 76501.	*http://www.msc.fema.gov/lomc*	Jul. 13, 2015	480034
Bexar	City of San Antonio (14–06–0780P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	May 6, 2015	480045
Bexar	City of San Antonio (14–06–3298P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Jun. 19, 2015	480045
Bexar	City of San Antonio (15–06–0882X).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	May 6, 2015	480045
Bexar	Unincorporated areas of Bexar County (14–06–4527P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc*	Jun. 19, 2015	480035
Bexar	Unincorporated areas of Bexar County (15–06–1160X).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc*	Jun. 19, 2015	480035
Caldwell	City of Martindale (13–06–3462P).	The Honorable Doyle Mosier, Mayor, City of Martindale, P.O. Box 365, Martindale, TX 78655.	409 Main Street, Martindale, TX 78655.	*http://www.msc.fema.gov/lomc*	May 15, 2015	481587
Caldwell	Unincorporated areas of Caldwell County (13–06–3462P).	The Honorable Ken Schawe, Caldwell County Judge, 110 South Main Street, Room 201, Lockhart, TX 78644.	Caldwell County, 110 South Main Street, Lockhart, TX 78644.	*http://www.msc.fema.gov/lomc*	May 15, 2015	480094
Collin	Unincorporated areas of Collin County (14–06–2017P).	The Honorable Keith Self, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	*http://www.msc.fema.gov/lomc*	Jun. 4, 2015	480130
Dallas	City of Lancaster (14–06–3046P).	The Honorable Marcus E. Knight, Mayor, City of Lancaster, P.O. Box 940, Lancaster, TX 75146.	211 North Henry Street, Lancaster, TX 75146.	*http://www.msc.fema.gov/lomc*	Jun. 1, 2015	480182
Denton	City of Frisco (14–06–3421P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	George A. Purefoy Municipal Center, 6101 Frisco Square Boulevard, 3rd Floor, Frisco, TX 75034.	*http://www.msc.fema.gov/lomc*	May 4, 2015	480134
Denton	Town of Flower Mound (14–06–4522P).	The Honorable Thomas Hayden, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Engineering Department, 1001 Cross Timbers Road, Suite 3220, Flower Mound, TX 75028.	*http://www.msc.fema.gov/lomc*	Jun. 19, 2015	480777
Denton	Town of Little Elm (14–06–3421P).	The Honorable David Hillock, Mayor, Town of Little Elm, 100 West Eldorado Parkway, Little Elm, TX 75068.	Town Hall, GIS Development Services, 100 West Eldorado Parkway, Little Elm, TX 75068.	*http://www.msc.fema.gov/lomc*	May 4, 2015	481152

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Denton	Unincorporated areas of Denton County (14–06–2414P).	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Government Center, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	*http://www.msc.fema.gov/lomc*	Jun. 24, 2015	480774
Fort Bend	City of Richmond (15–06–0769P).	The Honorable Evalyn W. Moore, Mayor, City of Richmond, 402 Morton Street, Richmond, TX 77469.	City Hall, 402 Morton Street, Richmond, TX 77469.	*http://www.msc.fema.gov/lomc*	Jul. 9, 2015	480231
Fort Bend	Pecan Grove Municipal Utility District (15–06–0769P).	Mr. Chad Howard, President, Pecan Grove Municipal Utility District, Allen Boone Humphries Robinson LLP,, 3200 Southwest Freeway, Suite 2600, Houston, TX 77027.	Pecan Grove Municipal Utility District, Jones and Carter Engineering, 6335 Gulfton Drive, Suite 200, Houston, TX 77081.	*http://www.msc.fema.gov/lomc*	Jul. 9, 2015	481486
Fort Bend	Unincorporated areas of Fort Bend County (15–06–0769P).	The Honorable Robert Hebert, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Office, 301 Jackson Street, Richmond, TX 77469.	*http://www.msc.fema.gov/lomc*	Jul. 9, 2015	480228
Guadalupe	Unincorporated areas of Guadalupe County (13–06–3462P).	The Honorable Kyle Kutscher, Guadalupe County Judge, 211 West Court Street, Seguin, TX 78155.	Guadalupe County, 2605 North Guadalupe Street, Seguin, TX 78155.	*http://www.msc.fema.gov/lomc*	May 15, 2015	480266
Harris	Unincorporated areas of Harris County (15–06–0108P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	May 18, 2015	480287
Hunt	City of Greenville (14–06–1302P).	The Honorable Steve Reid, Mayor, City of Greenville, P. O. Box 1049, Greenville, TX 75403.	Public Works Department, 2315 Johnson Street, Greenville, TX 75401.	*http://www.msc.fema.gov/lomc*	Jul. 8, 2015	485473
Tarrant	City of Fort Worth (14–06–4247P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.msc.fema.gov/lomc*	May 22, 2015	480596
Tarrant	City of Keller (14–06–4310P).	The Honorable Mark Mathews, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	Public Works Department, 1100 Bear Creek Parkway, Keller, TX 76248.	*http://www.msc.fema.gov/lomc*	Jul. 6, 2015	480602
Virginia:						
Albemarle	Unincorporated areas of Albemarle County (14–03–0864P).	Mr. Thomas C. Foley, Alebemarle County Executive, 401 McIntire Road, Charlottesville, VA 22902.	Albemarle County Department of Community Development, 401 McIntire Road, Charlottesville, VA 22902.	*http://www.msc.fema.gov/lomc*	Jun. 3, 2015	510006
Fairfax	Unincorporated areas of Fairfax County (15–03–0079P).	Mr. Edward L. Long, Jr., Fairfax County Executive, 12000 Government Center Parkway, Fairfax, VA 22035.	Fairfax County Stormwater Planning Division, 12000 Government Center Parkway, Suite 449, Fairfax, VA 22035.	*http://www.msc.fema.gov/lomc*	Jun. 5, 2015	515525
Frederick	City of Winchester (14–03–2926P).	Ms. Eden Freeman, Manager, City of Winchester, 15 North Cameron Street, Winchester, VA 22601.	Department of Public Services, Engineering Division, 15 North Cameron Street, Winchester, VA 22601.	*http://www.msc.fema.gov/lomc*	May 21, 2015	510173
Loudoun	Town of Leesburg (14–03–1706P).	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	*http://www.msc.fema.gov/lomc*	May 14, 2015	510091
Loudoun	Unincorporated areas of Loudoun County (14–03–1706P).	The Honorable Scott K. York, Chairman-at-Large, Loudoun County Board of Supervisors, P.O. Box 7000, Leesburg, VA 20177.	Loudoun County Building and Development Department, 1 Harrison Street Southeast, Leesburg, VA 20175.	*http://www.msc.fema.gov/lomc*	May 14, 2015	510090

[FR Doc. 2015–10534 Filed 5–5–15; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of identifying and travel experience information by individuals requesting redress through the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (TRIP).

DATES: Send your comments by July 6, 2015.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0044; Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they have experienced during their travel screening. These difficulties could include: (1) Denied or delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; or (3) identified for additional (secondary) screening at our Nation's transportation facilities, including airports, seaports, train stations and land borders. The TSA manages the DHS TRIP office on behalf of DHS. To request redress, individuals are asked to provide identifying information as well as details of their travel experience.

The DHS TRIP office serves as a centralized intake office for traveler requests for redress and uses the online Traveler Inquiry Form (TIF) to collect requests for redress. DHS TRIP then passes the information to the relevant DHS TRIP practitioner office(s), including components of DHS, the U.S. Department of State, and the U.S. Department of Justice, to process the request, as appropriate. Participating DHS components include the TSA, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, the National Protection and Programs Directorate's Office of Biometric Information Management, Office of Civil Rights and Civil Liberties, and the Privacy Office, along with the U.S. Department of State, Bureau of Consular Affairs, and the U.S. Department of Justice, Terrorist Screening Center. This collection serves to distinguish misidentified individuals from an individual actually on any watch list that DHS uses, to initiate the correction of erroneous information about an individual contained in government-held records, which are leading to travel difficulties, and, where appropriate, to help streamline and expedite future check-in or border crossing experiences.

DHS estimates completing the form, and gathering and submitting the information will take approximately one hour. The annual respondent population was derived from data contained within the DHS case management database and reflects the actual number of respondents for the most recent calendar year. Thus, the total estimated annual number of burden hours for passengers seeking redress, based on 19,067 annual respondents, is 19,067 hours (19,067 × 1).

Dated: April 30, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–10526 Filed 5–5–15; 8:45 am]
BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2015–N023; FXRS12610600000–156–FF06R06000]

Rocky Mountain Arsenal National Wildlife Refuge, Commerce City, CO; Draft Comprehensive Conservation Plan and Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and environmental impact statement (EIS) for the Rocky Mountain Arsenal National Wildlife Refuge (refuge). In these documents, we describe alternatives, including our proposed action alternative, to manage the refuge for the 15 years following approval of the final CCP.

DATES: To ensure consideration, please send written comments by July 6, 2015. We will hold public meetings; for information on the public meetings or to request reasonable accommodations, please see Public Meetings in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: You may submit your comments or requests for copies or more information by one of the following methods. You may request hard copies or a CD–ROM of the documents.

Email: rockymountainarsenal@fws.gov. Include ''Rocky Mountain Arsenal National Wildlife Refuge draft CCP and EIS'' in the subject line of the message.

U.S. Mail: Bernardo Garza, Planning Team Leader, U.S. Fish and Wildlife Service, Branch of Refuge Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80225–0486.

In-Person Drop-off: You may drop off comments during regular business hours at the above address, or at the refuge administrative office located at 6550 Gateway Road, Building 121, Commerce City, CO 80022.

Document Request: A copy of the draft CCP and EIS may be obtained by writing to U.S. Fish and Wildlife Service, Branch of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, CO 80228; or by download from *http://www.fws.gov/mountain-prairie/planning/ccp/co/rkm/rkm.html*.

FOR FURTHER INFORMATION CONTACT: Bernardo Garza, 303–236–4377, (phone) or *bernardo_garza@fws.gov* (email); or Toni Griffin, 303–236–4378 (phone), P.O. Box 25486, Denver Federal Center, Denver, CO 80225–0486.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice we continue the CCP process for the refuge, which we started through a notice in the **Federal Register** (78 FR 48183; August 7, 2013). This notice complies with our CCP policy to (1) advise other Federal and State agencies, Tribes, and the public of the availability of the draft CCP and EIS for this refuge and (2) to obtain comments on the information provided in the draft CCP and EIS.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each unit of the National Wildlife Refuge System (NWRS). The purpose for developing a CCP is to provide the managers of the units of the NWRS with a 15-year plan for achieving the units' purposes and contributing toward the mission of the NWRS, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including, where appropriate, opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Refuge

In 1992 Congress passed the act that established the refuge to (1) conserve and enhance populations of fish, wildlife, and plants within the refuge, including populations of waterfowl, raptors, passerines, and marsh and water birds; (2) conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing; (3) provide maximum fish and wildlife oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat; (4) provide opportunities for compatible scientific research; (5) provide opportunities for compatible environmental and land use education; (6) conserve and enhance the land and water of the refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats; (7) protect and enhance the quality of aquatic habitat within the refuge; and, (8) fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats. The first 4,930 acres of the refuge were transferred by the U.S. Army to the Service on April 21, 2004. Today the refuge encompasses nearly 16,000 acres and is home to more than 468 plant species and 350 wildlife species, including bison, deer, a wide variety of resident and migratory birds and raptors, amphibians, reptiles, fishes and insects. The refuge's habitats include short and mixed grass prairie interspersed with native shrubs, riparian corridors, lacustrine habitats on the refuge reservoirs, and woodlands planted by settlers around historic homesteads.

Public Outreach

We started the public outreach process in June 2013, including four public meetings, mailing planning updates, maintaining a project Web site, and publishing press releases. The comments we received cover topics such as connecting people to nature; improving promotions and outreach; setting clear expectations about the refuge, its programs and resources; maintaining the sense of retreat from the surrounding urban setting; collaborating with partners to improve environmental education opportunities on and off the refuge; interpreting the site's history; building new facilities and expanding refuge programs; and improving access and transportation. We have considered, evaluated, and incorporated all the comments we have received throughout the process.

CCP Alternatives We Are Considering

Our draft CCP and EIS addresses all the issues identified by our agency, our partners, and the public. We developed and evaluated four alternatives to manage the refuge and address the issues. The draft CCP and EIS has a full description of each alternative and the following is a summary of each of them.

Alternative A: No Action

Alternative A is the no-action alternative, which represents the current management of the refuge. This alternative provides the baseline against which to compare the other alternatives. Under this alternative, management activity conducted by the Service would remain the same. The Service would not develop any new management, restoration, or education programs at the refuge. Current habitat and wildlife practices would not be expanded or changed. Funding and staff levels would remain the same with little change in overall trends. Programs would follow the same direction, emphasis, and intensity as they do now. We would continue implementing the habitat restoration and management objectives set in the refuge's Habitat Management Plan and other approved plans to provide for a wide variety of resident and migratory species.

Alternative B: Traditional Refuge

This alternative focuses on providing traditional refuge visitor uses and conveying the importance of conservation, wildlife protection, and the purposes of the Refuge System. Access to the refuge would remain more limited than in alternatives C and D. Wildlife-dependent recreation and community outreach would be minimally expanded. We would continue to manage the refuge's habitat and wildlife as in Alternative A, and would reintroduce to the refuge black-footed ferrets, and self-sustaining populations of greater prairie-chicken and sharp-tailed grouse. We would maintain the same levels of access and transportation as under Alternative A, but would enhance the main refuge entrance, improve visitor services facilities, and seek to improve trail accessibility.

Alternative C: Urban Refuge

The emphasis of this alternative is to increase the visibility of the refuge within the Denver metropolitan area and to welcome many more nontraditional visitors to the refuge. Through an expanded visitor services program, an abundance of instructional programming, and widespread outreach, we would endeavor to connect more

people with nature and wildlife. In this alternative, the refuge would be made more accessible to outlying communities with the opening of additional access points and the development of enhanced transportation system. We would work with nontraditional users' trusted avenues of communication to increase outreach success. We would expand our conservation education in surrounding communities and schools, develop youth-specific outreach, and employ social marketing to broaden our agency's reach. We would manage the refuge's habitat and wildlife as in Alternative B, but the reintroduction of greater prairie-chicken and sharp-tailed grouse would be attempted regardless of whether these species' populations are likely to become self-sustaining.

Alternative D: Gateway Refuge

The emphasis of this alternative is to work with partners to increase the visibility of the refuge, the Refuge System, and other public lands in the area. There will be less visitor services programming at the refuge and efforts to engage with the public will be extended to off-site locations. We would work with Denver International Airport to improve physical connections between the refuge and the airport. The trail system within the refuge would be more extensive than under Alternative C. Working with our partners, we would manage access to the perimeter trail and promote trail linkages to the Rocky Mountain Greenway Trail and other regional trails. We would manage the refuge's habitat and wildlife as in Alternative B and we would work with neighboring landowners and state agencies to extend the range of native species.

Public Meetings

Opportunity for public input will be provided at public meetings. The specific dates and times for the public meetings are yet to be determined, but will be announced via local media and a planning update.

Reasonable Accommodations

The U.S. Fish and Wildlife Service is committed to providing access for all participants to our public meetings. Please direct all requests for sign language interpreting services, closed captioning, simultaneous translations, or other accommodation needs to Bernardo Garza, (303) 236–4377, *bernardo_garza@fws.gov,* or 800–877–8339 (TTY).

Submitting Comments and Issues for Comment

We welcome all comments on the draft CCP and EIS, particularly on how we have addressed those issues identified during the scoping process, such as (1) habitat and wildlife management, (2) reintroduction of the black-footed ferret and other native species, (3) public uses and access, (4) water resources and management, (5) partnerships, outreach and collaboration, and (6) cultural and historic resources. We consider comments substantive if they question, with reasonable basis, the accuracy of the information in the document or the adequacy of the EIS; if they present reasonable alternatives other than those presented in the draft CCP and EIS; or if they provide new or additional information relevant to the EIS.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and a final EIS.

Public 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

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508, 43 CFR part 46); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: March 16, 2015.

Matt Hogan,

Acting Regional Director, U.S. Fish and Wildlife Service, Mountain-Prairie Region.

[FR Doc. 2015–10326 Filed 5–5–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–17596]; [PX.PR113509L.00.1]

Draft General Management Plan/ Wilderness Study/Environmental Impact Statement Hawaii Volcanoes National Park, Hawaii

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) has prepared a Draft Environmental Impact Statement (DEIS) for the General Management Plan (GMP) for Hawaii Volcanoes National Park (Hawaii Volcanoes NP) in the State of Hawaii. The proposed GMP also includes a wilderness study (WS) which analyzes wilderness suitability of park lands and includes a recommendation for wilderness designation. This DEIS describes and analyzes three GMP alternatives that respond to both NPS planning requirements and to public concerns and issues identified during the scoping and public involvement process. Each alternative presents management strategies for resource protection and preservation, education and interpretation, visitor use and facilities, land protection and boundaries, and long-term operations and management of Hawaii Volcanoes NP. The potential environmental consequences of all the alternatives, and mitigation strategies, are analyzed, and the ''environmentally preferred'' alternative is identified. The wilderness study recommends wilderness designation of lands found eligible in the Kahuku Unit. This GMP will replace the 1975 Master Plan for the park.

DATES: All written comments must be postmarked or transmitted not later than July 6, 2015 of the Environmental Protection Agency's notice of filing and release of the DEIS. Upon publication of this notice, the date will be immediately posted on the park's Web site (*www.nps.gov/havo*) and on the NPS Planning, Environment, and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/havo*), and publicized via local and regional press media.

FOR FURTHER INFORMATION CONTACT: Cindy Orlando, Superintendent, Hawaii Volcanoes National Park, P.O. Box 52, Hawaii National Park, HI 96718–0052 or via telephone at (808) 985–6026.

SUPPLEMENTARY INFORMATION:

Background

A Notice of Intent announcing preparation of the DEIS and GMP was

published in the **Federal Register** on April 13, 2009. The NPS also publicized the public scoping period and invited public comment through newsletters, correspondence, press releases, public workshops, informal meetings, and the PEPC Web site. During the spring of 2009 the NPS produced an initial newsletter describing the start of the planning process and soliciting feedback on issues to be addressed in the plan (approximately 8,500 newsletters were distributed overall). A comprehensive scoping outreach effort elicited early public comment regarding issues and concerns, the nature and extent of potential environmental impacts, and possible alternatives that should be addressed in the preparation of the GMP. Agencies, organizations, governmental representatives, and Native Hawaiian organizations were sent letters of invitation to attend the public workshops or individual meetings. Press releases were distributed to local and regional news media. The project was launched on the PEPC Web site, providing access to information about the GMP and a method for taking public comments. News articles featuring the public open house meetings were written in the West Hawaii Today, Hawaii Tribune Herald, and the Kau Calendar, as well as public service announcements on local radio stations.

The NPS held seven public open house meetings on the islands of Hawaii, Oahu and Maui in April and May 2009 to provide the public with an opportunity to learn about the general management planning project and to offer comments. The meetings began with a brief welcome and introduction to the GMP planning process, and transitioned into an open house format where attendees could visit six stations featuring tabletop poster displays. A total of 95 people attended the meetings. The park also conducted several stakeholder meetings to obtain input from representatives of city, county, and federal agencies, business and community organizations, Native Hawaiian organizations, and research permit holders. Park staff also gave poster presentations at local meetings of the Kau Chamber of Commerce, Volcano Community Association, and Friends of Hawaii Volcanoes National Park. Altogether during the 2009 scoping phase, the park planning team spoke with approximately 400 people at public and stakeholder meetings and approximately 1,500 people at park and community tabling events. Correspondence received from over 130 individuals and organizations engendered approximately 1,250 specific comments. All comments were carefully reviewed and considered by the planning team to inform preparation of this GMP, and are preserved in the project administrative record.

Expanding the scope of the EIS was announced in the **Federal Register** on December 2, 2011. The EIS was expanded to include a wilderness study needed to evaluate foreseeable effects associated with possible designation of wilderness within the park. This Notice of Intent also formally extended the GMP preliminary alternatives comment period through January 2, 2012, in order to gain additional comments about wilderness and the recently evaluated wilderness-eligible lands within the Kahuku Unit.

The NPS conducted an additional round of public involvement at the draft alternatives phase of the planning process to ensure that the planning team fully comprehended the public's concerns and preferences with regard to the range of draft alternatives and to assist the planning team in refining the draft alternatives and identifying a preferred alternative. In addition, this engagement afforded opportunity for formal scoping for the wilderness study. During scoping for the wilderness study the NPS described the wilderness eligibility analysis that had been completed for the Kahuku Unit and elicited public comments specifically focused on the wilderness study.

During August 2011 the NPS produced and mailed the Draft Alternatives Newsletter to approximately 955 contacts on the GMP mailing list. The newsletter fully outlined the concepts and actions in the draft alternatives and proposed management zones, and included information on the wilderness eligibility that was completed and the wilderness study that would be included in the DEIS/GMP. The newsletter also contained a business reply questionnaire to facilitate public comments on the four draft alternatives. In addition to the planning schedule included in the Newsletter, information was distributed to local media in advance of the public meetings and articles were printed in three local papers: West Hawaii Today, Hawaii Tribune Herald, and the Kau Calendar.

The NPS held a public open house meeting and two stakeholder meetings in the park, and two additional public meetings were held in the towns of Pahoa and Naalehu. A total of 66 people participated. Overall the NPS received 72 written responses in the form of letters, emails, comment forms, and comments submitted on the PEPC Web site. A total of 709 individual comments were received. All comments received were again reviewed by the GMP planning team to inform preparation of the Draft GMP/WS. A summary of public comments on the preliminary alternatives and wilderness study was created and made available to the public in February, 2012, on the park's Web site, in PEPC, and through 830 mailers sent to the GMP project mailing list.

Proposed Plan and Alternatives

Alternative 1 (No Action Alternative)—Existing programming, facilities, staffing, and funding would generally continue at current levels to protect the values of Hawaii Volcanoes National Park. There would be no major changes in current management or visitor use. Implementation of currently approved plans would continue as funding allows. This alternative provides the baseline for evaluating actions and impacts in other alternatives.

Alternative 2 (Preferred Alternative)—Strengthens and expands opportunities to connect people with the volcanic world treasure, Hawaii Volcanoes National Park, and provide a wide range of high quality visitor experiences based on different geographic areas. Kīlauea summit would continue to be the most actively visited area of the park with the greatest concentration of services and amenities for park visitors. Along Chain of Craters Road and Mauna Loa Road, the park would strive to provide visitors with improved opportunities to experience and connect with park resources and values, including new opportunities at places like Mauna Ulu and Kealakomowaena, while dispersing use to create a less congested and more tranquil experience. At Kahuku, although visitor access and recreation opportunities would be expanded from what is currently offered, infrastructure and development would be minimal, gradually phased in over time, and remain rustic in design to allow for a primitive visitor experience.

Natural and cultural resources would continue to be managed and protected with a high degree of integrity, consistent with direction provided by existing laws and policies. The preferred alternative emphasizes the park's role as a refuge and haven for native biota, people, and cultures in a world constantly adapting to volcanic activity and island building processes. The preferred alternative would honor the Native Hawaiian people and culture by recognizing Native Hawaiian values such as malama aina (nourishing or taking care of the land) and kuleana (responsibility) and perspectives from

Native Hawaiian land management such as ahupuaa management (managing land from mauka (mountains) to makai (sea) as important concepts in park stewardship of resources. Native Hawaiian traditional ecological knowledge would be used to enhance current scientific understanding to protect park resources and provide additional interpretive and educational opportunities for visitors. Alternative 2 is also considered to be the ''environmentally preferred'' course of action.

Alternative 3—Emphasizes building new connections with the park primarily through expanded education and hands-on stewardship opportunities. Traditional visitor opportunities would continue and capacity could be expanded at some existing sites to allow for increased visitation, but new development would be very limited and a suite of management tools would be used to disperse visitors and manage congestion throughout the park. A greater focus would be placed on science and learning opportunities for visitors from mauka (mountains) to makai (sea). The park would immerse visitors in the protection and restoration of native species and ecosystems by maximizing opportunities to participate in restoration activities and additional emphasis would be placed on providing opportunities for visitors to engage in research, scientific investigation, and projects associated with natural and cultural resources management, notably in Kahuku.

Similar to Alternative 2, natural and cultural resources would continue to be managed and protected with a high degree of integrity, consistent with direction provided by existing laws and policies. This alternative also emphasizes the park's role as a refuge and haven for native biota, people, and cultures in a world constantly adapting to volcanic activity and island building processes. This alternative would honor the Native Hawaiian people and culture, by recognizing Native Hawaiian values such as malama aina and kuleana, and perspectives from Native Hawaiian land management such as ahupuaa management (managing land from mauka to makai) as important concepts in park stewardship of resources. Native Hawaiian traditional ecological knowledge would be used to enhance current scientific understanding to protect park resources and provide additional interpretive and educational opportunities for visitors.

Actions Common to All Alternatives

Many aspects of natural and cultural resources management (such as an emphasis on restoring native ecosystems, preservation of wilderness character, and continued support for research), visitor use and experience (such as providing access to the iconic places and volcanic processes), and collaboration with partners on a variety of issues (including coastal and shoreline management) are common to all alternatives. The park would continue to operate Volcano House as a concession operation for lodging, retail, and food and beverage services in all alternatives. Guidance for Kilauea Military Camp (KMC) and use of the 1877 Volcano House should conditions change also applies to all alternatives. The park would continue to provide interpretation at the Jaggar Museum, with improved exhibits, and the Hawaiian Volcano Observatory would continue to operate adjacent to Jaggar Museum. The park would also continue to implement recently approved initiatives including: *Fire Management Plan* (2007), *Crater Rim Drive Rehabilitation* (2010), *Archeological Preservation Plan for Kealakomo Ahupuaa* (2011), and *Protecting and Restoring Native Ecosystems by Managing Non-native Ungulates* (2013).

Flexibility in managing Hawaii Volcanoes National Park is necessary given the park is situated between two active volcanoes, and volcanic eruptions are possible at any time. Park management is influenced by the magnitude of individual events. Rather than provide specific recommendations in the GMP for how the park may respond to a given event, the planning team has developed some general ''adaptive management'' guidance for managers facing volcanic activity in the future, notably with respect to facilities and infrastructure in the park. This guidance is also common to all alternatives.

Finally, in 1989 a 5.5 mile segment of the historic Chain of Craters Road through the park towards Kalapana and Pahoa was buried by lava flows. Due to a change in the direction of other lava flows above this area, in 2014 the remaining access to the Pahoa area became threatened. Consequently, an unpaved emergency access route was constructed following the historic road alignment. This route is for emergency access only, in the event of access to Pahoa being cut off. Under all of the alternatives, when this route is no longer needed for emergency access, it would be used as an equestrian, biking, and hiking trail (similar in character and functionality to the Escape Road from the summit to Mauna Ulu) to provide a quality non-motorized visitor use opportunity and future emergency route without compromising natural values and avoiding the management complexity of managing a new coastal entrance to the park.

Wilderness Study

The NPS proposes wilderness designation of certain lands found eligible in the Kahuku Unit (121,015 acres) as a natural extension of the existing wilderness within the park. This proposed designation would further a conservation vision for high-elevation protection of natural and cultural resources and would create connectivity for park wilderness that would span from the summit of Mauna Loa Volcano all the way down its massive Southwest Rift. This rugged and remote environment offers outstanding opportunities for solitude and potential for high-challenge recreational hiking. Nearly all of this mauka area of Kahuku is a place where the imprint of humans is scarcely noticeable, overpowered by the vast lava expanse and aura of wildness. Consistent with NPS policy, the park would continue to manage these proposed eligible lands for their wilderness qualities prior to formal designation.

Public Review and Comment: A limited number of printed copies of the Draft GMP/WS/EIS are available for review at local public libraries, and by request to the park (address below). The document is also available on the GMP project Web site. Comments are encouraged to be submitted electronically at *http://parkplanning.nps.gov/havo.* The postage paid comment response form included in the Draft General Management Plan/Wilderness Study/EIS Newsletter #4 may be used (additional pages can be attached as necessary). Written comments can be mailed to: Superintendent, Hawaii Volcanoes National Park, P.O. Box 52, Hawaii National Park, HI 96718–0052. Comments may also be submitted at one of the open house meetings to be conducted by the NPS—complete details including dates, time, and locations will be posted on the GMP Web site (and announced via local and regional press media). In addition, a formal hearing on the wilderness study will also be held in conjunction with one of the open house meetings. The hearing will occur not later than two weeks before the conclusion of the 60 day public review and comment period.

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.

Decision Process: Following the 60 day opportunity for public review of the DEIS/WS/GMP, all comments received will be carefully considered in preparing the final document. The FEIS document is anticipated to be completed during the fall of 2015 and its availability will be announced in the **Federal Register** and via local and regional press media. As a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region; subsequently the official responsible for implementation will be the Superintendent, Hawaii Volcanoes National Park.

Dated: February 2, 2015.

Christine S. Lehnertz,

Regional Director, Pacific West Region.

[FR Doc. 2015–10528 Filed 5–5–15; 8:45 am]

BILLING CODE 4312–FF–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–18161; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before April 10, 2015. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by May 21, 2015. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 17, 2015.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ARKANSAS

Conway County

Moose Addition Neighborhood Historic District (Boundary Increase), Roughly bounded by S. St. Joseph, E. Green, S. Chestnut, E. Valley, S. Morrill & E. Church Sts., Morrilton, 15000258

West Church Street Historic District, Roughly bounded by S. Morrill, Valley, S. Cherokee & W. Church Sts., Morrilton, 15000259

Poinsett County

Tyronza Methodist Episcopal Church, South, 161 Church St., Tyronza, 15000260

Prairie County

Kocourek and Son Hardware, 110 E. Front St., Hazen, 15000257

MASSACHUSETTS

Plymouth County

Myles Standish Burial Ground, Chestnut St., Duxbury, 15000261

NEW MEXICO

Dona Ana County

Chope's Town Cafe and Bar, 16145 NM 28, La Mesa, 15000262

Otero County

Lee, Oliver, Dog Canyon Ranch, Address Restricted, Alamogordo, 15000263

Santa Fe County

San Jose Hall, 5637 NM 41, Galisteo, 15000264

NEW YORK

Cattaraugus County

Union and State Streets Historic District, Roughly 101–133 N. Union, 110–114, 116 W. State & 102, 116, 120 S. Union Sts., Olean, 15000265

Kings County

Manhattan Beach Jewish Center, 60 West End Ave., Brooklyn, 15000266

Onondaga County

Liverpool Cemetery, 225 6th St., Liverpool, 15000267

Orleans County

Stevens—Sommerfeldt House, 5482 Holley-Byron Rd., Clarendon, 15000268

OREGON

Douglas County

U.S. Army Fort Umpqua, Address Restricted, Corvallis, 15000269

Jefferson County

Cyrus, Enoch and Mary, Homestead and Orchard Site, (Crooked River National Grassland MPS) Hagman Rd., Culver, 15000270

McCoin, Julius and Sarah, Homestead and Orchard Site, (Crooked River National Grassland MPS) FS Rd. 57, Culver, 15000271

Marion County

Olallie Meadows Guard Station, 595 NW. Industrial Way, Estacada, 15000272

Wallowa County

Hoodoo Ridge Lookout, Umatilla NF, Walla Walla District, Troy, 15000273

PUERTO RICO

Adjuntas Municipality

Washington Irving Graded School, (Early 20th Century Schools in Puerto Rico MPS) Rodulfo Gonzalez St., Adjuntas, 15000274

Guanica Municipality

James Garfield Graded School, (Early 20th Century Schools in Puerto Rico MPS) Calle 65th de Infanteria, Guanica, 15000275

Sabana Grande Municipality

James Fenimore Cooper Graded School, (Early 20th Century Schools in Puerto Rico MPS) 20 San Isidro St., Sabana Grande, 15000277

VIRGINIA

Caroline County

Meadow, The, Historic District, 13111 Dawn Blvd., Doswell, 15000276

In the interest of preservation a three day comment period has been requested for a proposed move of the following property:

MASSACHUSETTS

Dukes County

Gay Head Light, (Lighthouses of Massachusetts TR) Lighthouse Rd., Aquinnah, 87001464

[FR Doc. 2015–10530 Filed 5–5–15; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection; Request for Comments for 1029–0129

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request approval for the collection of information for OSMRE's call for nominations for its Excellence in Surface Coal Mining Reclamation Awards and Abandoned Mine Land Reclamation Awards.

DATES: The Office of Management and Budget (OMB) has 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 5, 2015, to be assured of consideration.

ADDRESSES: Please send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, via email to *OIRA_Submission@omb.eop.gov,* or by facsimile to (202) 395–5806. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203—SIB, Washington, DC 20240, or by email to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.* You may also review this collection on the Internet by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: The OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSMRE has submitted a request to OMB to approve the collection of information for nominations to OSMRE's Excellence in Surface Coal Mining Reclamation Awards and Abandoned Mine Land Reclamation Awards. OSMRE will request a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has assigned this information collection control number 1029–0129. Responses are voluntary.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this information collection was published on February 19, 2015 (80 FR 8898). No comments were received. This notice provides the public with an additional 30 days to comment on the following information collection activity:

Title: Reclamation Awards—Call for Nominations.

OMB Control Number: 1029–0129.

Summary: This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) for renewed approval to collect information for our annual call for nominations for our Excellence in Surface Coal Mining Reclamation Awards and Abandoned Mine Land Reclamation Awards. Since 1986, the Office of Surface Mining has presented awards to coal mine operators who completed exemplary active reclamation. A parallel award program for abandoned mine land reclamation began in 1992. The objective is to give public recognition to those responsible for the nation's most outstanding achievement in environmentally sound surface mining and land reclamation and to encourage the exchange and transfer of successful reclamation technology. This collection request seeks a three-year term of approval.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Industry and state/tribal nominees for reclamation awards and state/tribal reviewers and judges.

Total Annual Responses: 14 active mine respondents, 11 abandoned mine land respondents, and 48 state and tribal reviewers and judges.

Total Annual Burden Hours: 1,625.

Total Annual Non-Wage Burden: $2,500.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the addresses listed in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 1, 2015.

Dennis G. Rice,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2015–10587 Filed 5–5–15; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection; Request for Comments for 1029–0059

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request approval for the collections of information for 30 CFR part 735—Grants for Program Development and Administration and Enforcement, 30 CFR part 885—Grants for Certified States and Indian Tribes, and 30 CFR part 886—State and Tribal Reclamation Grants. This collection request has been forwarded to the Office of Management and Budget (OMB) for review and approval. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 5, 2015, in order to be assured of consideration.

ADDRESSES: Please send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, via email to *OIRA_Submission@omb.eop.gov,* or by facsimile to (202) 395–5806. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203—SIB,

Washington, DC 20240, or by email to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.* You may also review this collection on the Internet by going to *http://www.reginfo.gov* (Information Collection Review, Currently Under Review, Agency is Department of the Interior, DOI–OSMRE).

SUPPLEMENTARY INFORMATION: The OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSMRE has submitted a request to OMB to renew its approval of the collections of information contained in 30 CFR part 735—Grants for Program Development and Administration and Enforcement, 30 CFR part 886—State and Tribal Reclamation Grants, and 30 CFR part 885—Grants for Certified States and Indian Tribes. OSMRE is requesting a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Responses are required to receive a benefit of grant funding. The OMB control number for 30 CFR parts 735, 885, 886 and the corresponding forms OSM–47, OSM–49, and OSM 51 that require grant submittals are currently approved under OMB control number 1029–0059.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on February 19, 2015 (80 FR 8899). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR parts 735, 885 and 886—Grants to States and Tribes.

OMB Control Number: 1029–0059.

Summary: State and Tribal reclamation and regulatory authorities are requested to provide specific budget and program information as part of the grant application and reporting processes authorized by the Surface Mining Control and Reclamation Act.

Bureau Form Numbers: OSM–47, OSM–49 and OSM–51.

Frequency of Collection: Once and annually.

Description of Respondents: State and Tribal reclamation and regulatory authorities.

Total Annual Responses: 140.

Total Annual Burden Hours: 918 hours.

Total Annual Non-Wage Cost: $0.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the addresses listed in **ADDRESSES**. Please refer to OMB control number 1029–0059 in your correspondence.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 1, 2015.

Dennis G. Rice,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2015–10582 Filed 5–5–15; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–910]

Certain Television Sets, Television Receivers, Television Tuners, and Components Thereof; Commission Determination to Review in Part a Final Initial Determination; Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination (''final ID'') issued by the presiding administrative law judge (''ALJ'') on February 27, 2015, finding no violation of section 337 of the Tariff Act of 1930, in the above-captioned investigation. The Commission has also determined to deny the motion filed on March 16, 2015, by certain respondents to reopen the record of the investigation. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 5, 2014, based on a complaint filed by Cresta Technology Corporation, of Santa Clara, California (''Cresta''). 79 *FR* 12526 (March 5, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. 1337, by reason of the infringement of certain claims from three United States patents. The notice of institution named ten respondents: Silicon Laboratories, Inc. of Austin, Texas (''Silicon Labs''); MaxLinear, Inc. of Carlsbad, California (''MaxLinear''); Samsung Electronics Co, Ltd. of Suwon, Republic of Korea and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively, ''Samsung''); VIZIO, Inc. of Irvine, California (''Vizio''); LG Electronics, Inc. of Seoul, Republic of Korea and LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey (collectively, ''LG''); and Sharp Corporation of Osaka, Japan and Sharp Electronics Corporation of Mahwah, New Jersey (collectively, ''Sharp''). The Office of Unfair Import Investigations was also named as a party.

On May 16, 2014, the ALJ issued an initial determination granting Cresta's motion to amend the complaint and notice of investigation to add six additional respondents: SIO International Inc. of Brea, California and

Hon Hai Precision Industry Co., Ltd. of New Taipei City, Taiwan (collectively, ''SIO/Hon Hai''); Top Victory Investments, Ltd. of Hong Kong and TPV International (USA), Inc. of Austin, Texas (collectively, TPV''); and Wistron Corporation of New Taipei City, Taiwan and Wistron Infocomm Technology (America) Corporation of Flower Mound, Texas (collectively, ''Wistron''). Order No. 12 (May 16, 2014), *not reviewed,* Notice (June 9, 2014).

On November 3, 2014, the ALJ granted-in-part Samsung and Vizio's motion for summary determination of noninfringement as to certain televisions containing tuners made by a third party, NXP Semiconductors N.V. Order No. 46 at 27–30 (Nov. 3, 2014), *not reviewed,* Notice (Dec. 3, 2014). On November 21, 2014, the ALJ issued granted Samsung's and Vizio's motion for summary determination that Cresta had not shown that certain Samsung televisions with NXP tuners had been imported. Order No. 58 at 4–5 (Nov. 21, 2014), *not reviewed,* Notice (Dec. 8, 2014).

On November 12. 2014, the ALJ granted Cresta's motion to partially terminate the investigation as to one asserted patent and certain asserted claims of the two other asserted patents. Order No. 50 (Nov. 12, 2014), *not reviewed,* Notice (Dec. 3, 2014). The two asserted patents still at issue in the investigation are U.S. Patent No. 7,075,585 (''the '585 patent'') and U.S. Patent No. 7,265,792 (''the '792 patent''). Claims 1–3, 10, and 12–13 of the '585 patent, and claims 1–4, 7–8, and 25–27 of the '792 patent, remain at issue in the investigation.

The presiding ALJ conducted a hearing from December 1–5, 2014. On February 27, 2015, the ALJ issued the final ID. The final ID finds that Cresta failed to satisfy the economic prong of the domestic industry requirement, 19 U.S.C. 1337(a)(2), (a)(3), for both asserted patents. To satisfy the economic prong of the domestic industry requirement, Cresta relied upon claims 1–3, 5–6, 10, 13–14, 16–19, and 21 of the '585 patent; and claims 1–4, 7, 10–12, 18–19, and 26–27 of the '792 patent. The ID finds that certain Cresta products—on their own, or combined with certain televisions into which Cresta's tuners are incorporated—practice all of the domestic-industry claims of the '585 patent, except for claim 14; as well as all of the domestic-industry claims of the '792 patent except for claim 27.

The ID finds some Silicon Labs tuners (as well as certain televisions containing them) to infringe claims 1–3 of the '585 patent, and no other asserted patent claims. The ID further finds some MaxLinear tuners (as well as certain televisions containing them) to infringe claims 1–3, 10, 12, and 13 of the '585 patent and claims 1–3, 7–8, and 25–26 of the '792 patent.

The ID finds claims 1 and 2 of the '585 patent to be invalid pursuant to 35 U.S.C. 102 (anticipation), and claim 3 of the '585 patent to be invalid pursuant to 35 U.S.C. 103 (obviousness). The ID finds all of the asserted claims of the '792 patent to be invalid pursuant to 35 U.S.C. 102 or 103.

The ALJ recommended that if a violation of section 337 is found, that a limited exclusion order and cease and desist orders issue. The ALJ recommended, however, that the implementation of such orders be delayed by twelve months in view of public interest considerations. The ALJ also recommended that there be zero bond during the period of Presidential review.

On March 16, 2015, petitions for Commission review were filed by the following parties: the Commission investigative attorney (''IA''); Cresta; the Silicon Labs respondents; and the MaxLinear respondents. On March 24, 2015, OUII and Cresta each filed a reply to the other parties' petitions. That same day, the respondents filed a reply to Cresta's petition.

The Commission's determinations to review are as follows:

1. Infringement

The Commission has determined not to review the ID's claim constructions. ID at 16–49. The Commission has determined to review the ID's infringement analysis concerning the ''signal processor'' for ''processing . . . in accordance with'' the ''format of'' the ''input RF signal'' limitation of all asserted patent claims. '585 patent col. 6 line 65—col. 7 line 2 (claim 1); '792 patent col. 10 lines 60–65 (claim 1); ID at 57–60, 72–75, 84–85 & 94. The Commission has also determined to review the ID's infringement analysis concerning the ''applies one of a plurality of finite impulse response filters . . . corresponding to a format of'' the ''input RF signal'' limitation of asserted claims 10, 12 and 13 of the '585 patent and all asserted claims of the '792 patent. '585 patent col. 7 lines 36–40; '792 patent col. 10 line 65—col. 11 line 2 (claim 1); ID at 67–68, 79–80, 85 & 93.

The Commission has also determined to review the ID's determinations concerning contributory infringement of the asserted patent claims.

Notwithstanding the foregoing review, the Commission has determined not to review the ID's exclusion of certain testimony by Alan Hendrickson. Cresta Pet. at 37. The Commission has also determined not to review the ID's findings as to Cresta's lack of evidence regarding allegedly representative products. *See* ID at 65–66, 78–79.

2. Invalidity

The Commission has determined not to review the ID's finding that that claims 1–4 and 25–26 of the '792 patent are anticipated by the '585 patent; and not to review the ID's finding that claims 1 and 2 of the '585 patent are anticipated by Boie.

The Commission has determined to review the ID's determinations that that the asserted claims are not obvious in view of the combination of Boie and VDP. The Commission has also determined to review whether claim 3 of the '585 patent is obvious in view of Boie and Kerth; whether claim 25 of the '792 patent is obvious in view of VDP alone; and whether claim 26 of the '792 patent is obvious in view of Boie and Micronas.

The Commission has determined to review the ID's findings concerning an on-sale bar that invalidates claims 1–4, 7–8, and 26–27 of the '792 patent. ID at 142–47.

The Commission has determined to review the ID's finding that claim 1 of the '585 patent is not indefinite under 35 U.S.C. 112 in view of the plural and singular use of the term ''signals.'' On review, the Commission finds that claim 1 of the '585 patent is not indefinite. The respondents have failed to demonstrate clear and convincing evidence of invalidity. The use the plural and singular for ''signal'' does not create ambiguity in the claim, and neither side's experts had difficulty ascertaining the scope of the claim.

The Commission has also determined to review the issue of whether the claims of the '792 patent are invalid under the written description requirement of 35 U.S.C. 112. On review, the Commission finds that the claims are not invalid under the written description requirement for the same reasons provided in the ID as to the '585 patent.

3. Domestic Industry

The Commission has determined to review whether Cresta proved the existence of articles protected by the patents that incorporate the XC5000A series tuner. *See* ID at 195–96. The Commission has determined not to review the ID's remaining findings concerning the technical prong of the domestic industry requirement,

including the ID's findings as to tuners other than the XC5000A series.

The Commission has also determined to review the ID's findings on the economic prong of the domestic industry requirement.

4. Other Matters

The ID recommends certain action concerning a breach of the administrative protective order in this investigation. ID at 3 n.1; *see* 19 CFR 210.34(c)(2). That recommendation is not part of the Commission review of violation of section 337, *see* 19 CFR 210.42. Accordingly, any action by the Commission will be conducted separately from review of the ID, in accordance with Commission practice concerning possible breaches of administrative protective orders. *See generally* Notice, 80 FR 1664 (Jan. 13, 2015).

On March 16, 2015, Silicon Labs moved the Commission to reopen the record to admit as evidence a January 9, 2015, response by Cresta in an *inter partes* review of the '585 patent being conducted by the U.S. Patent & Trademark Office (''PTO''). The IA and MaxLinear responded in support of the motion; Cresta responded in opposition. Silicon Labs, a party to the PTO review proceeding, waited more than two months to present the document to the Commission. Silicon Labs could have timely moved the ALJ to reopen the record. Accordingly, the Commission has determined to deny the motion.

All other issues upon which the parties petitioned for review that are not expressly recited above are not reviewed.

The parties are asked to brief the following issues with reference to the applicable law and the existing evidentiary record. For each argument presented, the parties' submissions should set forth whether and/or how that argument was presented in the proceedings before the ALJ, with citations to the record. *See* Order No. 2 11.1 (Mar. 4, 2014) (Ground Rules).

a. Cresta alleges that certain accused products practice the claim limitations under review because they can operate to receive signals according to U.S. standards (6 MHz) as well as foreign standards that operate at a bandwidth other than 6 MHz. Please explain whether Cresta demonstrated that the accused products are capable of processing signals conforming to such foreign standards without modification to the accused televisions or tuners (whether by software, firmware or hardware). *See, e.g., Finjan, Inc.* v. *Secure Computing Corp.,* 626 F.3d 1197, 1204–05 (Fed. Cir. 2010); *Silicon Graphics, Inc.* v. *ATI Technologies., Inc.,* 607 F.3d 784, 794 (Fed. Cir. 2010).

b. Please explain whether Cresta demonstrated that Silicon Labs' non-U and non-V tuners (*i.e.,* those models without a ''U'' or a ''V'') process analog and digital signals differently so as to infringe claims 1–3 of the '585 patent.

c. In connection with the Commission's consideration of the infringement analysis of the two claim limitations on review (''signal processor'' and ''applies one of a plurality of finite impulse response filters''), please provide a chart that presents the following: the accused product, including its model number(s); and for each of the two claim limitations on review whether and why the accused product does or does not practice that claim limitation under the ID's claim constructions, including citations to the evidence of record.

d. Cresta alleges the contributory infringement of certain asserted patent claims by respondents MaxLinear and Silicon Labs. Please explain whether the original and/or amended complaint filed by Cresta provided the requisite knowledge of the patents asserted in this investigation. Parties are to discuss Commission determinations (including those in Commission Inv. Nos. 337–TA–723, -744, and -770) as well as federal caselaw including, for example, *Rembrandt Social Media, LP* v. *Facebook, Inc.,* 950 F. Supp. 2d 876, 881–82 (E.D. Va. 2013) and cases discussed therein. If one or both complaints provide legally adequate knowledge, please explain whether a finding of contributory infringement requires a showing of the respondents' continued sale of infringing products after being served with the complaint, *see, e.g.,* Cresta Post-Trial Br. 53, and whether Cresta made that showing. Please also discuss on what basis, if any, other than the original or amended complaint, the respondents were provided with knowledge of the asserted patents for purposes of contributory infringement.

e. Please explain whether the accused tuners are capable of substantial noninfringing uses, including whether such accused tuners are embedded in systems on a chip, and whether that embedment prevents substantial noninfringing uses as to those embedded tuners. Please also explain whether and why, legally and factually, the following statement is pertinent to the Commission's analysis of contributory infringement in this investigation: ''Cresta is not accusing any cable or satellite TV set-top boxes in this Investigation, and my infringement findings are limited to the SoCs where Cresta has identified [an infringing] 'plurality of demodulators'. . . .'' ID at 82.

f. In connection with the Commission's analysis of invalidity of claims 10, 12, and 13 of the '585 patent, and the asserted claims of the '792 patent in view of Boie and VDP, please explain whether a programmable filter meets the limitation of ''appl[ying] one of a plurality of finite impulse response filters. . . .''

g. Should the Commission find a violation of section 337, please explain, in view of the facts of this investigation as well as Commission precedent concerning remedies, whether public-interest considerations, 19 U.S.C. 1337(d)(1), (f)(1), warrant tailoring of any remedial orders, and if so, what that tailoring should be. The parties' discussion of the public interest considerations implicated by this investigation should account for the ID's unreviewed determination that Cresta failed to provide adequate evidence as to allegedly representative products. *See* ID at 65–66, 78–79.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is

therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. The complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. The complainants are also requested to state the date that the asserted patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on May 14, 2015, and should not exceed 60 pages. Reply submissions must be filed no later than the close of business on May 23, 2015, and such replies should not exceed 40 pages. The respondents may allocate the page limits amongst themselves as they see fit. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–910'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: April 30, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–10520 Filed 5–5–15; 8:45 am]

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FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting and Hearing Notice No. 05–15]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Tuesday, May 12, 2015: 10:00 a.m.—Issuance of Proposed Decisions in claims against Libya.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2015–11037 Filed 5–4–15; 4:15 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

176th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 176th meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on May 27–29, 2015.

The three-day meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 in C5521 Room 4. The meeting will run from 9:00 a.m. to approximately 5:30 p.m. on May 27–28 and from 8:30 a.m. to 4:30 p.m. on May 29, with a one hour break for lunch each day. The purpose of the open meeting is for Advisory Council members to hear testimony from invited witnesses and to receive an update from the Employee Benefits Security Administration (EBSA). The EBSA update is scheduled for the morning of May 29, subject to change.

The Advisory Council will study the following issues: (1) Model Notices and Plan Sponsor Education on Lifetime Plan Participation, on May 27 and (2) Model Notices and Disclosures for Pension Risk Transfers, on May 28. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site, at *www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html.* In addition, the Advisory Council will hear testimony on May 29 on privacy and security matters affecting the two issues above.

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before May 20, 2015 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments in word processing or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of the email. Statements deemed relevant by the Advisory Council and received on or before May 20 will be included in the record of the meeting and made available through the EBSA Public Disclosure Room, along with witness statements. Do not include any personally identifiable information (such as name, address, or other contact

information) or confidential business information that you do not want publicly disclosed. Written statements submitted by invited witnesses will be posted on the Advisory Council page of the EBSA Web site, without change, and can be retrieved by most Internet search engines.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by May 20.

Signed at Washington, DC, this 28th day of April, 2015.

Judy Mares,

Deputy Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2015–10369 Filed 5–5–15; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for TUV Rheinland of North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV Rheinland of North America, Inc. (TUVRNA), as an NRTL. TUVRNA's expansion covers the addition of one test standard to its scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA submitted an application dated August 26, 2014 (OSHA–2007–0042, Exhibit 14–1—TUVRNA Request for Expansion), to expand its recognition to include one additional test standard. OSHA staff performed a comparability analysis and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing TUVRNA's expansion application in the **Federal Register** on January 30, 2015 (80 FR 5140). The Agency requested comments by February 17, 2015, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of TUVRNA's scope of recognition.

To obtain or review copies of all public documents pertaining to TUVRNA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2007–0042 contains all materials in the record concerning TUVRNA's recognition.

II. Final Decision and Order

OSHA staff examined TUVRNA's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant TUVRNA's scope of recognition. OSHA limits the expansion of TUVRNA's recognition to testing and certification of products for demonstration of conformance to the test standard listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
AAMI ES60601–1: 2005/(R) 2012 ..	Medical electrical equipment—Part 1: General requirements for basic safety and essential performance.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's

scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, TUVRNA must abide by the following conditions of the recognition:

1. TUVRNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. TUVRNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. TUVRNA must continue to meet the requirements for recognition, including all previously published conditions on TUVRNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of TUVRNA, subject to the limitation and conditions specified above.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on April 30, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–10550 Filed 5–5–15; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0043]

TÜV SÜD America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUVAM for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before May 21, 2015.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0043, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0043). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before May 21, 2015 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that TÜV SÜD America, Inc. (TUVAM), is applying for expansion of its current recognition as an NRTL. TUVAM requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the

requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including TUVAM, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVAM currently has three facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: 10 Centennial Drive, Peabody, Massachusetts 01960. A complete list of TUVAM's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/tuvam.html.*

II. General Background on the Application

TUVAM submitted an application dated October 6, 2014 (OSHA–2007–0043, Exhibit 15–1—TUVAM Expansion Letter and Application), to expand its recognition to include two additional test standards. In response to requests for additional information from NRTL staff, TUVAM withdrew one of the proposed test standards, reducing their request for expansion to one test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standard found in TUVAM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN TUVAM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 8750	Light Emitting Diode (LED) Equipment for Use in Lighting.

III. Preliminary Findings on the Application

TUVAM submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that TUVAM can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this additional test standard for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of TUVAM's application.

OSHA welcomes public comment as to whether TUVAM meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0043.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant TUVAM's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on April 30, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–10551 Filed 5–5–15; 8:45 am]

Billing Code 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0016]

Nemko-CCL: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for CCL, as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department

of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of Nemko-CCL (CCL) as an NRTL. CCL's expansion covers the addition of two test standards to its scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CCL submitted an application dated July 1, 2014, (OSHA–2013–0016, Exhibit 1—CCL 5453 Expansion Application) to expand its recognition to include two additional test standards. OSHA staff performed a comparability analysis and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing CCL's expansion application in the **Federal Register** on December 22, 2014 (79 FR 76391). The Agency requested comments by January 6, 2015, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of CCL's scope of recognition.

To obtain or review copies of all public documents pertaining to CCL's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2013–0006 contains all materials in the record concerning CCL's recognition.

II. Final Decision and Order

OSHA staff examined CCL's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that CCL meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant CCL's scope of recognition. OSHA limits the expansion of CCL's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CCL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
ANSI/AAMI ES60601–1: 2005/(R)2012.	Medical electric equipment-Part 1: General requirements for basic safety and essential performance.
UL 60601–1	Medical Electrical Equipment, Part 1: General Requirements for Safety.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, CCL must abide by the following conditions of the recognition:

1. CCL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. CCL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. CCL must continue to meet the requirements for recognition, including all previously published conditions on CCL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of CCL, subject to the limitation and conditions specified above.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on April 30, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–10549 Filed 5–5–15; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–040]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA gives public notice that it has submitted to OMB for approval the information collection described in this notice. We invite the public to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Submit any written comments to OMB at the address below on or before June 5, 2015.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, by mail to Office of Management and Budget; New Executive Office Building; Washington, DC 20503; by fax to 202–395–5167, or by email to *Nicholas_A._Fraser@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm by telephone at 301–837–1694 or by fax at 301–713–7409 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on February 18, 2015 (80 FR 8700 and 8701). We received one comment, noting that the word ''qualified'' (used twice on the bottom of page 1 of NA Form 17003) was used to describe an auditor's opinion. The term ''qualified'' was replaced with the word ''modified'' a couple of years ago during the accounting profession's update of standards. As a result of this comment, NARA changed the two instances of the word ''qualified'' with the word ''modified'' on NA Form 17003. We have now submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) NARA's estimate of the burden of the proposed information collection and its accuracy; (c) ways NARA could enhance the quality, utility, and clarity of the information it collects; (d) ways NARA could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses. In this notice, NARA solicits comments concerning the following information collection:

Title: Accounting System and Financial Capability Questionnaire.

OMB number: 3095–0072.

Agency form numbers: NA Form 17003.

Type of review: Regular.

Affected public: Not-for-profit institutions and state, local, or Tribal government.

Estimated number of respondents: 75.

Estimated time per response: 4 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 300.

Abstract: Pursuant to Title 2, Section 215 of the Code of Federal Regulations, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (formerly Office of Management and Budget (OMB) Circular A–110) and Office of Management and Budget Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations, grant recipients are required to maintain adequate accounting controls and systems in managing and administering Federal funds. Some of the recipients of grants from the National Historical Publications and Records Commission (NHPRC) have proven to have limited experience with managing Federal funds. This questionnaire is designed to identify those potential recipients and provide appropriate training or additional safeguards for Federal funds. Additionally, the questionnaire serves as a pre-audit function in identifying potential deficiencies and minimizing the risk of fraud, waste, abuse, or mismanagement, which we use in lieu of a more costly and time-consuming formal pre-award audit.

Dated: April 29, 2015.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2015–10495 Filed 5–5–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION (NSF)

Sunshine Act Meetings; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of certain CHANGES in the scheduling of two meetings for the transaction of National Science Board business, as noted below. The original notice was published in the **Federal Register** on April 30, 2015 (80 FR 24287).

WEBCAST INFORMATION: The link is now available.

Public meetings and public portions of meetings will be webcast. To view the meetings, go to *http://www.tvworldwide.com/events/nsf/150505* and follow the instructions.

PLENARY BOARD MEETING: The speaker has been identified.

Open Session: 11:05–11:25 a.m.

- Presentation by the recipient of the NSB 2015 Vannevar Bush Award, Dr. James Duderstadt.

PLENARY BOARD MEETING: An action has been added to the closed session.

Closed Session: 8:30–10:30 a.m.

- Awards and Agreements/CPP action items, including RCRV, NOAO, NRAO, Gemini Observatory, and NHMFL.

UPDATES: The link to the NSB's Web page for updates has been changed.

Please refer to the National Science Board Web site for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp.*

AGENCY CONTACT: Jennie Moehlmann, *jmoehlma@nsf.gov.*

PUBLIC AFFAIRS CONTACT: Nadine Lymn, *nlymn@nsf.gov.*

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2015–10961 Filed 5–4–15; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF

will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by July 6, 2015 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for Science and Technology Centers (STC): Integrative Partnerships.

OMB Number: 3145–0194.

Expiration Date of Approval: September 30, 2015.

Type of Request: Intent to seek approval to extend an information collection.

Abstract

Proposed Project: The Science and Technology Centers (STC): Integrative Partnerships Program supports innovation in the integrative conduct of research, education and knowledge transfer. Science and Technology Centers build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. STCs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society.

STCs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. STCs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

Centers selected will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, STCs will be required to develop a set of management and performance indicators for submission annually to NSF via an NSF evaluation technical assistance contractor. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the STC effort. Part of this reporting will take the form of a database which will be owned by the institution and eventually made available to an evaluation contractor. This database will capture specific information to demonstrate progress towards achieving the goals of the program. Such reporting requirements will be included in the cooperative agreement which is binding between the academic institution and the NSF.

Each Center's annual report will address the following categories of activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management and (7) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the Center has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

Use of the Information: NSF will use the information to continue funding of the Centers, and to evaluate the progress of the program.

Estimate of Burden: 100 hours per center for seventeen centers for a total of 1700 hours.

Respondents: Non-profit institutions; federal government.

Estimated Number of Responses per Report: One from each of the seventeen centers.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (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.

Dated: April 30, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–10500 Filed 5–5–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2015–0115]

Duke Energy Florida, Inc.; Crystal River Nuclear Generating Plant, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption from certain power reactor liability insurance requirements in response to a request from Duke Energy Florida, Inc. (DEF or the licensee) dated February 25, 2014, as supplemented by letter dated May 7, 2014. This exemption would permit the licensee to reduce its primary offsite liability insurance and withdraw from participation in the secondary retrospective rating pool for deferred premium charges.

DATES: May 6, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0115 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0115. 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/*

adams.html. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O–1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael D. Orenak, Office of Nuclear Reactor Regulation, telephone: 301–415–3229, email: *Michael.Orenak@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Crystal River Nuclear Generating Plant, Unit 3 (CR–3), is a decommissioning power reactor located at Red Level, Florida in Citrus County, about 5 miles south of Levy County. The site is 7.5 miles northwest of Crystal River, Florida, and 90 miles north of St. Petersburg, Florida. The CR–3 is situated on the Gulf of Mexico within the Crystal River Energy Complex. The DEF is the holder of the CR–3 Facility Operating License No. DPR–72. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

The CR–3 has been shut down since September 26, 2009, and the final removal of fuel from its reactor vessel was completed on May 28, 2011. By letter dated February 20, 2013 (ADAMS Accession No. ML13056A005), DEF submitted a certification to the NRC of permanent cessation of power operations and permanent removal of fuel from the reactor vessel. As a permanently shutdown and defueled facility, and in accordance with section 50.82(a)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR), CR–3 is no longer authorized to operate the reactor or emplace nuclear fuel into the reactor vessel. The licensee is still authorized to possess and store irradiated nuclear fuel. Irradiated fuel is currently being stored onsite in a spent fuel pool (SFP).

II. Request/Action

Pursuant to 10 CFR 140.8, ''Specific exemptions,'' DEF has requested an exemption from 10 CFR 140.11(a)(4) by letter dated February 25, 2014 (ADAMS Accession No. ML14063A502), as supplemented by letter dated May 7, 2014 (ADAMS Accession No. ML14139A007). The May 7, 2014, exemption request submittal superseded, in its entirety, the request dated February 25, 2014. The exemption from 10 CFR 140.11(a)(4) would permit the licensee to reduce the required level of primary offsite liability insurance from $375 million to $100 million, and would allow DEF to withdraw from participation in the secondary financial protection (also known as the secondary retrospective rating pool for deferred premium charges).

The regulation in 10 CFR 140.11(a)(4) requires each licensee to have and maintain financial protection. For a single unit reactor site, which has a rated capacity of 100,000 kilowatts electric or more, 10 CFR 140.11(a)(4) requires the licensee to maintain $375 million in primary financial protection. In addition, the licensee is required to participate in a secondary retrospective rating pool (secondary financial protection) that commits each licensee to additional indemnification for damages that may exceed primary insurance coverage. Participation in the secondary retrospective rating pool could potentially subject DEF to deferred premium charges up to a maximum total deferred premium of $121,255,000 with respect to any nuclear incident at any operating nuclear power plant, and up to a maximum annual deferred premium of $18,963,000 per incident.

The licensee states that the risk of an offsite radiological release is significantly lower at a nuclear power reactor that has permanently shut down and defueled, when compared to an operating power reactor. Similarly, the associated risk of offsite liability damages that require insurance indemnification is commensurately lower. Therefore, DEF is requesting an exemption from 10 CFR 140.11(a)(4), to permit a reduction in primary offsite liability insurance and to withdraw from participation in the secondary financial protection pool.

III. Discussion

Pursuant to 10 CFR 140.8, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 140, when the exemptions are authorized by law and are otherwise in the public interest.

The financial protection limits of 10 CFR 140.11(a)(4) were established to require a licensee to maintain sufficient insurance to satisfy liability claims by members of the public for personal injury, property damage, or the legal cost associated with lawsuits as the result of a nuclear accident. The insurance levels established by this regulation were derived from the risks and potential consequences of an accident at an operating reactor with a rated capacity of 100,000 kilowatts electric (or greater). During normal power reactor operations, the forced flow of water through the reactor coolant system (RCS) removes heat generated by the reactor. The RCS, operating at high temperatures and pressures, transfers this heat through the steam generator tubes converting non-radioactive feedwater to steam, which then flows to the main turbine generator to produce electricity. Many of the accident scenarios postulated for operating power reactors involve failures or malfunctions of systems that could affect the fuel in the reactor core, which in the most severe postulated accidents, would involve the release of large quantities of fission products. With the permanent cessation of reactor operations at CR–3, and the permanent removal of the fuel from the reactor core, such accidents are no longer possible. The reactor, RCS, and supporting systems no longer operate and have no function related to the storage of the irradiated fuel. Therefore, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer applicable.

During reactor decommissioning, the principal radiological risks are associated with the storage of spent fuel onsite. In its September 26, 2013, exemption request regarding offsite emergency plans (ADAMS Accession No. ML13274A584), DEF discusses both design-basis and beyond design-basis events involving irradiated fuel stored in the SFP. The licensee states that there are no possible design-basis events at CR–3 that could result in an offsite radiological release exceeding the limits established by the U.S. Environmental Protection Agency's early-phase Protective Action Guidelines of 1 rem (roentgen equivalent man) at the exclusion area boundary. The only accident that might lead to a significant radiological release at a decommissioning reactor is a zirconium fire. The zirconium fire scenario is a postulated, but highly unlikely, beyond design-basis accident scenario that involves loss of water inventory from the SFP, resulting in a significant heat-up of the spent fuel, and culminating in substantial zirconium cladding

oxidation and fuel damage. The probability of a zirconium fire scenario is related to the decay heat of the irradiated fuel stored in the SFP. Therefore, the risks from a zirconium fire scenario continue to decrease as a function of the time that CR–3 has been permanently shut down.

The licensee provided a detailed analysis of the events that could result in an offsite radiological release at CR–3 in its September 26, 2013, submittal. One of these beyond design-basis accidents involves a complete loss of SFP water inventory, where cooling of the spent fuel would be primarily accomplished by natural circulation of air through the uncovered spent fuel assemblies. The licensee's analysis of this accident shows that as of September 26, 2013, air-cooling of the spent fuel assemblies is sufficient to keep the fuel within a safe temperature range indefinitely without fuel damage or offsite radiological release. This is important because the Commission has previously authorized a lesser amount of liability insurance coverage, based on an analysis of the zirconium fire risk. In SECY–93–127, ''Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning,'' dated May 10, 1993 (ADAMS Accession No. ML12257A628), the staff outlined a policy for reducing required liability insurance coverage for decommissioning reactors. The discussions in SECY–93–127 centered primarily on the public health and safety risks associated with storing fuel in spent fuel pools. In its Staff Requirements Memorandum dated July 13, 1993 (ADAMS Accession No. ML003760936), the Commission approved a policy that would permit reductions in commercial liability insurance coverage when a licensee was able to demonstrate that the spent fuel could be air-cooled if the SFP was drained of water. Upon demonstration of this technical criterion, the Commission policy allowed decommissioning licensees to withdraw from participation in the secondary insurance protection layer, and permitted reductions in the required amount of commercial liability insurance coverage to $100 million. The staff has used this technical criterion to grant similar exemptions to other decommissioning reactor licensees (*e.g.,* Maine Yankee Atomic Power Station, published in the **Federal Register** on January 19, 1999 (64 FR 2920); Zion Nuclear Power Station, published in the **Federal Register** on December 28, 1999 (64 FR 72700), and Kewaunee Power Station, published in the **Federal Register** on March 24, 2015 (80 FR 15638)). Additional discussions of other decommissioning reactor licensees that have received exemptions to reduce their primary insurance level to $100 million are provided in SECY–96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(W) and 10 CFR 140.11,'' dated December 17, 1996 (ADAMS Accession No. ML15062A483). These prior exemptions were based on the licensee demonstrating that the SFP could be air-cooled, consistent with the technical criterion discussed above.

In SECY–00–0145, ''Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning,'' dated June 28, 2000, and SECY–01–0100, ''Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness Regulations at Decommissioning Nuclear Power Plants Storing Fuel in Spent Fuel Pools,'' dated June 4, 2001 (ADAMS Accession Nos. ML003721626 and ML011450420, respectively), the staff discussed additional information concerning SFP zirconium fire risks at decommissioning reactors and associated implications for offsite insurance. Analyzing when the spent fuel stored in the SFP is capable of air-cooling is one measure that demonstrates when the probability of a zirconium fire would be exceedingly low. However, the staff has more recently used an additional analysis that would bound an incomplete drain-down of the SFP water inventory or some other catastrophic event, such as a complete drainage of the SFP with rearrangement of spent fuel rack geometry and/or the addition of rubble to the SFP. The analysis postulates that decay heat transfer from the spent fuel via conduction, convection, or radiation would be impeded. This analysis is often referred to as an adiabatic heat-up.

The licensee's analyses referenced in its exemption request demonstrates that under conditions where the SFP water inventory has drained and only air-cooling of the stored irradiated fuel is available, there is reasonable assurance as of September 26, 2013, that the CR–3 spent fuel will remain at temperatures far below those associated with a significant radiological release. In addition, the licensee's adiabatic heat-up analyses demonstrate that as of September 26, 2103, there would be at least 10 hours after the loss of all means of cooling (both air and/or water), before the spent fuel cladding would reach a temperature where the potential for a significant offsite radiological release could occur. The licensee states that for this loss of all cooling scenario, 10 hours is sufficient time for personnel to respond with additional resources, equipment, and capability to restore cooling to the SFP, even after a non-credible, catastrophic event. As provided in a separate DEF letter dated May 7, 2014 (ADAMS Accession No. ML14139A006), the licensee reaffirmed the continuation of its makeup strategies in the event of a loss of SFP coolant inventory. The multiple strategies for providing makeup to the SFP include using existing plant systems for inventory makeup, supplying water through hoses to connections to the existing SFP piping using the diesel-driven fire service pump, and using a diesel-driven portable pump to take suction from CR–3 intake and discharge canals. These strategies will be maintained by a license condition. The licensee also stated that, considering the very low-probability of beyond design-basis accidents affecting the SFP, these diverse strategies provide defense-in-depth and time to mitigate and prevent a zirconium fire, using makeup or spray into the SFP before the onset of zirconium cladding rapid oxidation.

In the NRC safety evaluation of the licensee's request for exemptions from certain emergency planning requirements dated March 30, 2015 (ADAMS Accession No. ML15058A906), the NRC staff assessed the DEF accident analyses associated with the radiological risks from a zirconium fire at the permanently shutdown and defueled CR–3 site. The NRC staff confirmed that under conditions where cooling airflow can develop, suitably conservative calculations indicate that as of September 2013, the fuel would remain at temperatures where the cladding would be undamaged for an unlimited period. For the very unlikely beyond design-basis accident scenario where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, there will be a minimum of 10 hours from the initiation of the accident until the cladding reaches a temperature where offsite radiological release might occur. The staff finds that 10 hours is sufficient time to support deployment of mitigation equipment, consistent with plant conditions, to prevent the zirconium cladding from reaching a point of rapid oxidation.

The staff has determined that the licensee's proposed reduction in primary offsite liability coverage to a level of $100 million, and the licensee's proposed withdrawal from participation in the secondary insurance pool for offsite financial protection, are consistent with the policy established in

SECY–93–127 and subsequent insurance considerations resulting from additional zirconium fire risks, as discussed in SECY–00–0145 and SECY–01–0100. In addition, the NRC staff noted that there is a well-established precedent of granting a similar exemption to other permanently shutdown and defueled power reactors upon demonstration that the criterion of the zirconium fire risks from the irradiated fuel stored in the SFP is of negligible concern.

A. Authorized by Law

In accordance with 10 CFR 140.8, the Commission may grant exemptions from the regulations in 10 CFR part 140 as the Commission determines are authorized by law. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, Section 170, or other laws, as amended, which require licensees to maintain adequate financial protection. Therefore, the exemption is authorized by law.

B. Is Otherwise in the Public Interest

The financial protection limits of 10 CFR 140.11 were established to require licensees to maintain sufficient offsite liability insurance to ensure adequate funding for offsite liability claims, following an accident at an operating reactor. However, the regulation does not consider the reduced potential for and consequence of nuclear incidents at permanently shutdown and decommissioning reactors.

SECY–93–127, SECY–00–0145, and SECY–01–0100 provide a basis for allowing licensees of decommissioning plants to reduce their primary offsite liability insurance and to withdraw from participation in the retrospective rating pool for deferred premium charges. As discussed in these documents, once the zirconium fire concern is determined to be negligible, possible accident scenario risks at permanently shutdown and defueled reactors are greatly reduced when compared to operating reactors, and the associated potential for offsite financial liabilities from an accident are commensurately less. The licensee has analyzed, and the NRC staff has confirmed, that the possible accidents that could result in an offsite radiological risk are minimal, thereby justifying the proposed reductions in offsite liability insurance and withdrawal from participation in the secondary retrospective rating pool for deferred premium charges.

Additionally, participation in the secondary retrospective rating pool could be problematic for DEF because the licensee would incur financial liability if an extraordinary nuclear incident occurred at another nuclear power plant. Because CR–3 is permanently shut down, it does not produce revenue from electricity generation sales to cover such a liability. Therefore, such liability, if incurred, could significantly affect the financial resources available to the facility to conduct and complete radiological decontamination and decommissioning activities. Furthermore, the shared financial risk exposure to DEF is greatly disproportionate to the radiological risk posed by CR–3 when compared to operating reactors.

The reduced overall risk to the public at decommissioning power plants does not warrant DEF to carry full operating reactor insurance coverage after the requisite spent fuel-cooling period has elapsed, following final reactor shutdown. The licensee's proposed financial protection limits will maintain a level of liability insurance coverage commensurate with the risk to the public. These changes are consistent with previous NRC policy and exemptions approved for other decommissioning reactors. Thus, the underlying purpose of the regulations will not be adversely affected by the reductions in insurance coverage.

Accordingly, the NRC staff concludes that granting the exemption from 10 CFR 140.11(a)(4) is in the public interest.

C. Environmental Considerations

The NRC approval of the exemption to insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from further analysis in accordance with 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that i) there is no significant hazards consideration; ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; iv) there is no significant construction impact; v) there is no significant increase in the potential for or consequences from radiological accidents; and vi) the requirements from which an exemption is sought involve surety, insurance, or indemnity requirements.

The Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, has determined that approval of the exemption request involves no significant hazards consideration, because reducing a licensee's offsite liability requirements at CR–3 does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The exempted financial protection regulation is unrelated to the operation of CR–3. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction, so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident) or mitigation. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. The requirement for offsite liability insurance may be viewed as involving surety, insurance, or indemnity matters.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 140.8, the exemption is authorized by law, and is otherwise in the public interest. Therefore, the Commission hereby grants DEF exemption from the requirements of 10 CFR 140.11(a)(4) to permit the licensee to reduce primary offsite liability insurance to $100 million, accompanied by withdrawal from participation in the secondary insurance pool for offsite liability insurance.

The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 27th day of April, 2015.

For the Nuclear Regulatory Commission.

A. Louise Lund,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–10494 Filed 5–5–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–012 and 52–013; NRC–2008–0091]

Nuclear Innovation North America LLC; South Texas Project, Units 3 and 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Combined license application; availability.

SUMMARY: On September 20, 2007, South Texas Project Nuclear Operating Company (STPNOC) submitted to the U.S. Nuclear Regulatory Commission (NRC) an application for combined licenses (COLs) for two additional units (Units 3 and 4) at the South Texas Project (STP) Electric Generating Station site in Matagorda County near Bay City, Texas. The NRC published a notice of receipt and availability for this COL application in the **Federal Register** on December 5, 2007. In a letter dated January 19, 2011, STPNOC notified the NRC that, effective January 24, 2011, Nuclear Innovation North America LLC (NINA) became the lead applicant for STP, Units 3 and 4. This notice is being published to notify the public of the availability of the COL application for STP, Units 3 and 4.

DATES: The COL application is available on May 6, 2015.

ADDRESSES: Please refer to Docket ID NRC–2008–0091 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0091. 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Tom Tai, telephone: 301–415–8484, email: *Tom.Tai@nrc.gov;* or Luis Betancourt, telephone: 301–415–6145, email: *Luis.Betancourt@nrc.gov*. Both are staff of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On September 20, 2007, the NRC received a COL application from STPNOC, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' to construct and operate two additional units (Units 3 and 4) at the STP Electric Generating Station site in Matagorda County near Bay City, Texas. The additional units are based on the U.S. Advanced Boiling Water Reactor design, which is certified in 10 CFR part 52, appendix A. The NRC published a notice of receipt and availability for an application for a COL in the **Federal Register** on December 5, 2007 (72 FR 68597). In a letter dated January 19, 2011, STPNOC notified the NRC that, effective January 24, 2011, NINA became the lead applicant for STP, Units 3 and 4. As such, NINA assumed responsibility for the design, construction and licensing of STP, Units 3 and 4. The application is currently under review by the NRC.

An applicant may seek a COL in accordance with subpart C of 10 CFR part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79. This notice is being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

Availability of Documents

The documents identified in the following table are available to interested persons through the ADAMS Public Documents collection. A copy of the COL application is also available for public inspection at the NRC's PDR and at *http://www.nrc.gov/reactors/new-reactors/col.html*.

Document	Adams Accession No.
South Texas Project, Units 3 and 4, Combined License Application, Revision 0, September 20, 2007	ML072830407
South Texas Project, Units 3 and 4, Supplement to Combined License Application ''Safeguards Information,'' Part 8, Revision 0, September 26, 2007	ML072740461
South Texas Project, Units 3 and 4, Supplement to Combined License Application Revision 0, October 15, 2007	ML072960352
South Texas Project, Units 3 and 4, Supplement to Combined License Application Revision 0, October 18, 2007	ML072960489
South Texas Project, Units 3 and 4, Supplement to Combined License Application Revision 0, November 13, 2007	ML073200992
South Texas Project, Units 3 and 4, Supplement to Combined License Application Revision 0, November 21, 2007	ML073310616
South Texas Project, Units 3 and 4, Combined License Application, Revision 1, January 31, 2008	ML080700399
South Texas Project, Units 3 and 4, Submittal of Supplement to Combined License Application ''Safeguards Information,'' Part 8, Revision 1, January 31, 2008	ML080420090
South Texas Project, Units 3 and 4, Combined License Application, Revision 2, September 24, 2008	ML082830938
South Texas Project, Units 3 and 4, Submittal of Supplement to Combined License Application ''Safeguards Information,'' Part 8, Revision 2, September 24, 2008	ML082730700
South Texas Project, Units 3 and 4, Submittal of Combined License Application, ''Proprietary Information,'' Part 10, Revision 2, December 11, 2008	ML083530131
South Texas Project, Units 3 and 4, Combined License Application, Revision 3, September 16, 2009	ML092930393

Document	Adams Accession No.
South Texas Project, Units 3 and 4, Submittal of Supplement to Combined License Application "Safeguards Information," Part 8, Revision 3, July 15, 2010	ML102010268
South Texas Project, Units 3 and 4, Combined License Application, Revision 4, October 5, 2010	ML102861292
South Texas Project, Units 3 and 4, Submittal of Supplement to Combined License Application "Safeguards Information," Part 8, Revision 4, February 3, 2011	ML110400425
South Texas Project, Units 3 and 4, Update to Change in Lead Applicant, January 19, 2011	ML110250369
South Texas Project, Units 3 and 4, Combined License Application, Revision 5, January 26, 2011	ML110340451
South Texas Project, Units 3 and 4, Submittal of Supplement to Combined License Application "Safeguards Information," Part 8, Revision 5, August 30, 2011	ML11243A171
South Texas Project, Units 3 and 4, Combined License Application, Revision 6, August 30, 2011	ML11252A505
South Texas Project, Units 3 and 4, Combined License Application, Revision 7, February 1, 2012	ML12048A714
South Texas Project, Units 3 and 4, Combined License Application, Revision 8, September 17, 2012	ML12291A415
South Texas Project, Units 3 and 4, Combined License Application, Revision 9, April 17, 2013	ML13115A094
South Texas Project, Units 3 and 4, Combined License Application, Revision 10, October 29, 2013	ML13310A599
South Texas Project, Units 3 and 4, Combined License Application, Revision 11, October 21, 2014	ML14307A876

Dated at Rockville, Maryland, this 29th day of April 2015.

For the Nuclear Regulatory Commission.

Samuel Lee,

Chief, Licensing Branch 2, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2015–10492 Filed 5–5–15; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments; correction.

SUMMARY: OPIC published a duplicate sixty day notice in the **Federal Register** on May 1, 2015 at 80 FR 24985. This notice replaces the May 1st publication with the correct thirty day notice as required by the Paperwork Reduction Action (44 U.S.C. Chapter 35).

Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is modifying and renewing an existing previously approved information collection for OMB review and approval and requests public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 80 page 10522 on February 26, 2015. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of OPIC's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar days of publication of this Notice.

ADDRESSES: Mail all comments and requests for copies of the subject form to OPIC's Agency Submitting Officer: James Bobbitt, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527. See **SUPPLEMENTARY INFORMATION** for other information about filing.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: James Bobbitt, (202) 336–8558.

SUPPLEMENTARY INFORMATION: All mailed comments and requests for copies of the subject form should include form number OPIC–129 on both the envelope and in the subject line of the letter. Electronic comments and requests for copies of the subject form may be sent to *James.Bobbitt@opic.gov,* subject line OPIC–129.

Summary Form Under Review

Type of Request: Revision of currently approved information collection.

Title: Sponsor Disclosure Report.

Form Number: OPIC–129.

Frequency of Use: One per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 1,890 (3 hours per form).

Number of Responses: 630 per year.

Federal Cost: $64,801.80 ($51.43 × 630 × 2).

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The information provided in the OPIC–129 is used by OPIC as a part of the Character Risk Due Diligence/ background check procedure (similar to a commercial bank's Know Your Customer procedure) that it performs on each party that has a significant relationship (10% or more beneficial ownership, provision of significant credit support, significant managerial relationship) to the projects that OPIC finances. The threshold has been changed from 5% to 10% in order to make OPIC's due diligence process more efficient and less resource intensive without significantly increasing the reputational and project risks associated with OPIC transactions.

Dated: May 1, 2015.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2015–10547 Filed 5–5–15; 8:45 am]

BILLING CODE 3210–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information: Public Input on the Sustained Assessment Process of the U.S. National Climate Assessment

ACTION: Notice of Request for Information.

SUMMARY: The U.S. Global Change Research Program (USGCRP) has a legal mandate to conduct a National Climate Assessment (NCA) not less frequently than every four years. Under its current decadal strategic plan (*http://go.usa.gov/3qGU4*), USGCRP is building sustained assessment capacity to support the Nation's ability to understand, anticipate, and respond to

global change impacts and vulnerabilities. The recent Third NCA process and resulting 2014 Report (*http://nca2014.globalchange.gov/*) provide a foundation for subsequent activities and reports under the sustained assessment process. More broadly, climate assessments increasingly involve participation and leadership by state, local, and tribal governments as well as the private sector. Noting these developments in the climate assessment landscape, USGCRP seeks ideas about (1) what scientific information on climate change, impacts, and responses would be of most value to inform future assessment activities; (2) how to effectively communicate climate change assessment information; and (3) what mechanisms could be used to more effectively connect to other assessment-related efforts. Public responses to these questions will be evaluated and, if appropriate, used to inform the structure and content of USGCRP's sustained National Climate Assessment process. Updates on the sustained assessment will be posted on the NCA Web site (*http://assessment.globalchange.gov*) as they are available.

DATES: Comments will be accepted through June 15, 2015.

ADDRESSES: Comments from the public will be accepted electronically at *http://www.globalchange.gov/notices*. Instructions for submitting are on the Web site. Submitters may enter text and/or upload files in response to the three questions listed above.

If you are unable to submit comments electronically, you may submit comments by mail to: Attn: Emily Cloyd, U.S. Global Change Research Program, 1717 Pennsylvania Ave. NW., Suite 250, Washington, DC 20006.

Instructions: Response to this RFI is voluntary. Respondents need not reply to all questions. Responses to this RFI may be used by the government for program planning on a non-attribution basis. OSTP therefore requests that no business proprietary information or copyrighted information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: Emily Therese Cloyd, (202) 223–6262, *ecloyd@usgcrp.gov*, U.S. Global Change Research Program.

SUPPLEMENTARY INFORMATION: Background information, additional details, and instructions for submitting comments can be found at *www.globalchange.gov/notices.* For more information about the NCA and access to previous NCA reports and activities, please see *http://assessment.globalchange.gov.*

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2015–10352 Filed 5–5–15; 8:45 am]

BILLING CODE 3270–F5–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31590; 812–14385]

Syntax, LLC and Syntax ETF Trust; Notice of Application

April 30, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

Summary of Application: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

Applicants: Syntax ETF Trust (the ''Trust'') and Syntax, LLC (''Current Adviser'').

Filing Dates: The application was filed on November 6, 2014 and amended on April 1, 2015 and April 29, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 26, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 110 East 59th Street, 33rd Floor, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust that will be registered with the Commission under the Act as an open-end management investment company. The Trust will be organized as a series trust with multiple series, each tracking a particular index and utilizing either a replication or representative sampling strategy. The initial series will be the following Self-Indexing Funds (defined below): Syntax 900, Syntax 500, Syntax 400, Syntax Financials Products & Services, Syntax Energy Products & Services, Syntax Industrial Products & Services, Syntax Information Tools, Syntax Information Products & Services, Syntax Consumer Products & Services, Syntax Food Products & Services, and Syntax Healthcare Products & Services (the ''Initial Funds'').

2. The Current Adviser will be the investment adviser to the Initial Funds. The Current Adviser is, and any other Adviser (as defined below) will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). An Adviser may enter into sub-advisory agreements with one or more investment advisers to act

as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered or not subject to registration under the Advisers Act.

3. The principal underwriter and distributor for each of the Funds (''Distributor'') will be a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act''). The Distributor may be an affiliated person of an Adviser. The Distributor will not be an affiliate of any Exchange (defined below).

4. Applicants request that the order apply to the Initial Funds and any future series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future (''Future Funds'' and together with the Initial Funds, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Current Adviser or an entity controlling, controlled by, or under common control with the Current Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.[1]

5. Each Fund will hold certain securities, assets or other positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. Certain Funds will be based on Underlying Indexes comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities''), or, in the case of Fixed Income Funds,[2] in the Component Securities of its respective Underlying Index and TBA Transactions[3] representing Component Securities and, in the case of Foreign Funds, Component Securities and Depositary Receipts[4] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index[5] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day (as defined below), for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings before the commencement of trading of Shares on the Listing Exchange (defined below).[6] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[7] A ''Self-Indexing Fund'' is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of such person, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] ''Fixed-Income Funds'' track an Underlying Index comprised of domestic and/or foreign fixed income securities.

[3] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[6] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[7] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (as defined below), or in case of a sub-licensing agreement, the Adviser, must provide the use of the Affiliated Indexes (as defined below) and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance

Continued

respect to the Self-Indexing Funds, no Index Provider is or will be an affiliated person, or an affiliated person of an affiliated person, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

11. Applicants propose that each day that the Trust, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will also provide an additional mechanism for addressing any such potential conflicts of interest.

12. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self-Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[9]

13. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Current Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Current Adviser or an associated person (''Inside Information Policy''). Any other Adviser or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [10] and Inside Information Policy of each Adviser and Sub-Adviser, personnel of those entities with knowledge about the composition of the Portfolio Deposit [11] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

14. To the extent the Self-Indexing Funds transact with an affiliated person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, an Adviser, affiliated persons of the Adviser (''Adviser Affiliates'') and affiliated persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[12]

15. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[13] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that

on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[10] The Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[11] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing are referred to as the ''Portfolio Deposit.''

[12] *See, e.g.,* Emerging Global Advisors, et al., Investment Company Act Release Nos. 30910 (Feb. 10, 2014) (notice) and 30975 (Mar. 7, 2014) (order) and VTL Associates LLC, et al., Investment Company Act Release Nos. 30763 (Oct. 24, 2013) (notice) and 30789 (Nov. 19, 2013) (order).

[13] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[14] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[15] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[16] will be excluded from the Deposit Instruments and the Redemption Instruments;[17] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[18] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

16. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant (as defined below), the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[19] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[20]

17. Creation Units will consist of specified large aggregations of Shares (*e.g.,* 15,000 Shares), and it is expected that the initial trading price per individual Share will range from $15 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a broker-dealer (''Broker'') or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

18. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange, or other major market data provider, will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, or other widely disseminated means, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

19. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[21] The Distributor will be responsible for delivering the Fund's prospectus to

[14] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[15] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[16] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[17] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[18] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[19] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[20] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[21] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

20. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

21. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[22] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

22. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

23. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in

[22] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign Portfolio Holdings held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fourteen (14) calendar days. Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fourteen calendar days following the tender of Creation Units for redemption.[23]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen calendar days following a redemption request would adequately afford investor protection.

[23] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each, a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[24] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds' Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate

[24] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

(''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[25]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor an affiliated person of an affiliated person of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are affiliated persons of the Funds, or an affiliated person of such affiliated person of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to Applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or affiliated persons of affiliated persons of applicants to effect a transaction detrimental to the other holders of

[25] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[26] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[27] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for the Self-Indexing Fund through a transaction in which the Self-Indexing Fund could not engage directly.

B. Fund of Funds Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling,

[26] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[27] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–10586 Filed 5–5–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31589; File No. 812–14382]

TCW Direct Lending LLC, et al.; Notice of Application

April 30, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act permitting certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and under rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit a business development company (''BDC'') and certain closed end investment

companies to co-invest in portfolio companies with each other and with affiliated investment funds.

Applicants: TCW Direct Lending LLC (the ''Company''), TCW DL Fund I, L.P. (the ''Private Fund''), and TCW Asset Management Company (''TCWAMC'') on behalf of itself and its successors.[1]

Filing Dates: The application was filed on October 23, 2014 and amended on December 12, 2014 and April 6, 2015. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected herein.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 26, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: 865 S. Figueroa Street, Suite 1800, Los Angeles, CA 90017.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870 or David P. Bartels, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company, a Delaware limited liability company, is organized as a closed-end management investment company that has elected to be regulated as a BDC under Section 54(a) of the Act.[2] Applicants state that the Company seeks to generate risk-adjusted returns primarily through direct investments in senior secured loans issued to middle market companies or other companies that are engaged in various businesses. The board of directors (''Board'') of the Company is comprised of five directors, three of whom are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Non-Interested Directors'').

2. The Private Fund is organized as a limited partnership under Delaware law, and would be an investment company but for the exclusion from the definition of investment company provided by section 3(c)(7) of the Act. Applicants state that the Private Fund's investment objectives and policies are substantially similar to the Objectives and Strategies of the Company.[3]

3. TCWAMC, a California corporation, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serve as investment adviser to the Company and the Private Fund.

4. Applicants seek an order (''Order'') to permit one or more Regulated Funds[4] and/or one or more Affiliated Funds[5] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price;[6] and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[7]

5. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[8] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of Section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle

[1] The term ''successor,'' as applied to each Adviser (defined below), means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

[2] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[3] ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies, as described in the Regulated Fund's registration statement on Form 10 (or if applicable, Form N–2), other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[4] ''Regulated Fund'' means the Company and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means (a) TCWAMC and (b) any future investment adviser that controls, is controlled by or is under common control with TCWAMC and is registered as an investment adviser under the Advisers Act.

[5] ''Affiliated Fund'' means the Private Fund and any Future Affiliated Fund. ''Future Affiliated Fund'' means any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[6] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[7] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[8] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the Act.

for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

6. When considering Potential Co-Investment Transactions for any Regulated Fund, the applicable Adviser will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment as described in the application (''Available Capital''), and other pertinent factors applicable to that Regulated Fund. The Board of each Regulated Fund, including the Non-Interested Directors has (or will have prior to relying on the requested Order) determined that it is in the best interests of the Regulated Fund to participate in the Co-Investment Transaction.[9]

7. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'') [10] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

8. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than through share ownership in one of the Regulated Funds.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds could be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2.(a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to

[9] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[10] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o).

assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) the terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by Section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[11] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7.(a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

[11] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8.(a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) the amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity; then the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the maximum amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in this application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by Section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under Section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated Section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or banks having the qualifications prescribed in Section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74849; File No. SR–NYSE–2015–02]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Sections 312.03(b) and 312.04 of the NYSE Listed Company Manual To Exempt Early Stage Companies From Having To Obtain Shareholder Approval Before Issuing Shares for Cash to Related Parties, Affiliates of Related Parties or Entities in Which a Related Party has a Substantial Interest

April 30, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 16, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 312.03(b) and 312.04 of the NYSE Listed Company Manual (the ''Manual'') to exempt early stage companies from having to obtain shareholder approval before issuing shares to related parties, affiliates of related parties or entities in which a related party has a substantial interest. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Sections 312.03(b) and 312.04 of the Manual to exempt early stage companies from having to obtain shareholder approval before selling shares for cash to related parties, affiliates of related parties or entities in which a related party has a substantial interest.

The Exchange recently eliminated its Assets and Equity Test initial listing standard and replaced it with a new initial listing standard that permits companies to list on the Exchange if they demonstrate a total global market capitalization of at least $200 million (the ''Global Market Capitalization Test''). Among the stated reasons for adopting this rule change was to enable the Exchange to compete with the Nasdaq Global Market (''Nasdaq'') for the listing of early stage companies that do not yet meet the $75 million minimum assets and $50 million minimum stockholders' equity requirements that were required to list under the Exchange's Assets and Equity Test that was formerly in place.

In the Exchange's experience, many early stage companies do not yet generate revenues internally from sales. Instead, such companies are largely dependent on raising funds via financing transactions, such as an initial public offering (''IPO'') and subsequent sales of their equity securities, in order to continue operations or to finance their research or exploration activities. Early stage companies are hampered in their ability to access debt financing due to their lack of cash flows and tangible assets. It is also often difficult for them to access the public equity markets by means of firm commitment underwritten offerings, as many of them are ineligible for shelf registration. Consequently, these early stage companies frequently need to raise capital via private placement share issuances to their founders or other significant existing shareholders or their executive officers or directors. Under Section 312.03(b), any of these potential investors in private placements would generally be deemed to be a ''related party'' (''Related Party'') of the listed company.[4] Accordingly, if the private placement share issuance to any of these Related Parties exceeds either one percent of the number of shares of common stock or one percent of the voting power outstanding before the issuance, the company is required by Section 312.03(b) to obtain shareholder approval prior to the issuance.[5]

The process of obtaining shareholder approval is frequently expensive and time consuming for listed companies. It typically takes several months of advance preparation and requires companies to go through an SEC review process, mail proxy statements and hold a shareholder meeting. The delays inherent in obtaining shareholder approval can be especially troublesome for early stage companies that do not yet generate significant revenue from operations and may therefore need to raise capital quickly in order to fund their ongoing operations. Accordingly, the Exchange proposes to amend Sections 312.03(b) and 312.04 to provide early stage companies with a limited exemption to the requirements of Section 312.02(b).

The Exchange proposes to amend Section 312.04 to include a definition of an ''Early Stage Company.'' An Early Stage Company will be defined as a company that has not reported annual revenues greater than $20 million in any two consecutive fiscal years since its incorporation. Further, an Early Stage Company will lose that designation at any time after listing on the Exchange that it files an annual report with the Commission in which it reports two consecutive fiscal years in which it has revenues greater than $20 million in each year.[6] The Exchange proposes to amend Section 312.03(b) to exempt Early Stage Companies from the requirement that they obtain shareholder approval prior to a sale of securities for cash to Related Parties, affiliates of Related Parties, or entities in which a Related Party has a substantial interest, provided that the Early Stage Company's audit committee or a comparable committee comprised solely of independent directors reviews and approves all such transactions prior to their completion. Any issuance of securities that is not a sale for cash, including any issuance in connection with the acquisition of stock or assets of another company, will remain subject to the shareholder approval provisions of Section 312.03(b). Additionally, as stated in Section 312.04(a), an exemption from one provision of Section 312.03 is not a general exemption from all of Section 312.03. Therefore, notwithstanding that a transaction by an Early Stage Company may have an exemption under Section 312.03(b), the shareholder approval requirements of Sections 312.03(c) (requiring shareholder approval of issuances relating to 20% or more of the company's stock) and 312.03(d) (requiring shareholder approval of any

[4] For purposes of 312.03(b), a Related Party is defined as a director, officer or substantial security holder (*i.e.,* a holder of 5% or more of the common stock) of the company.

[5] Section 312.03 (b) requires shareholder approval of shares [sic] issuances exceeding 1% to:

(1) A Related Party;

(2) a subsidiary, affiliate or other closely-related person of a Related Party; or

(3) any company or entity in which a Related Party has a substantial direct or indirect interest.

However, if the Related Party involved in the transaction is classified as such solely because such person is a substantial security holder, and if the issuance relates to a sale of stock for cash at a price at least as great as each of the book and market value of the issuer's common stock, then shareholder approval will not be required unless the number of shares of common stock to be issued, or unless the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either 5% of the number of shares of common stock or 5% of the voting power outstanding before the issuance.

[6] A company's annual financial statements prior to listing on the Exchange will also be considered when determining if it should lose its Early Stage Company designation. For example, if a company files an annual report with the Commission one year after listing on the Exchange and such annual report shows that the company has had revenues greater than $20 million in each of two consecutive years (even if one of those years was prior to listing on the Exchange), the company will lose its Early Stage Company designation at that time.

issuance giving rise to a change of control) will still be applicable.[7]

Further, the provisions of Section 312.03(c) apply to any transaction or series of transactions. In applying Section 312.03(c), the Exchange carefully reviews issuances to determine whether they are related and should be aggregated for purposes of the rule. The Exchange analyses [sic] the relationship between separate issuances with particular care if they occur within a short period of time, are made to the same or related parties, or if there is a common use of proceeds. The Exchange would engage in this analysis with respect to any series of sales made by an Early Stage Company to a Related Party. Should the Exchange determine that it is necessary to aggregate the series of sales and, as aggregated, the total number of shares sold exceeds 19.9% of the shares outstanding, shareholder approval would be required pursuant to Section 312.03(c).

The Exchange believes that the proposed rule change will enable Early Stage Companies to raise capital in an efficient manner in order to fund their research or exploration activities or grow their business while still being sufficiently protective of shareholders. First, under the proposed rule change, a company will only be able to avail itself of the exemption if it has not reported revenues greater than $20 million in any two consecutive fiscal years since its incorporation. After listing, once a company does report revenues greater than $20 million in each of two consecutive fiscal years, it will lose its designation as an Early Stage Company and be subject to all shareholder approval requirements set forth in Section 312.03(b). Once the Early Stage Company designation is lost, it cannot be regained if the subject company later reports reduced revenues. The proposed rule change, therefore, is narrowly tailored and not designed to benefit companies whose revenues have diminished over time due to a decline in demand for their products. Further, the Exchange believes that the proposed rule change benefits shareholders of Early Stage Companies. Investors who choose to invest in Early Stage Companies are aware that the ability to raise additional capital in a flexible manner is crucial to the ultimate success of these companies. It is to the benefit of these investors, therefore, that Early Stage Companies have the ability to raise capital quickly and inexpensively. Without the exemption afforded by the proposed rule change, Early Stage Companies may not be able to raise capital or may do so on less advantageous terms to the detriment of their shareholders. Lastly, under the proposed rule, the sale of shares for cash by and [sic] Early Stage Company to a Related Party will only be exempt from the shareholder approval requirements of Section 312.03(b) to the extent such Early Stage Company's audit committee (or comparable committee comprised solely of independent directors) has reviewed and approved such transaction prior to its completion.

The Exchange notes that many Early Stage Companies have historically listed on Nasdaq or NYSE MKT. Importantly, neither Nasdaq nor NYSE MKT has a rule comparable to Section 312.03(b) requiring that listed companies obtain shareholder approval prior to 1% (or in certain cases 5%) share issuances in cash sales to a Related Party.[8] For the reasons enumerated above, the Exchange believes that Section 312.03(b)'s current requirements are particularly onerous for Early Stage Companies and could therefore discourage their listing on the Exchange. Thus, the Exchange believes the proposed rule change is necessary to enable the Exchange to compete with Nasdaq for the listing of Early Stage Companies.

The Exchange intends to allow any company falling within the proposed definition of an Early Stage Company (whether listed before or after the adoption of the Global Market Capitalization Test listing standard) to avail itself of the proposed exemption from Section 312.03(b). The Exchange believes this is appropriate given that such companies are in a similar stage of development and face the same financing challenges as any companies that will benefit from the exemption if listed subsequent to its adoption. Further, based on the Exchange's review of companies listed on the Exchange, only a small number of current listed companies would qualify for the exemption. While exempting currently listed companies that qualify as Early Stage Companies from the provisions of Section 312.03(b) removes a protection currently afforded such companies' shareholders, the Exchange believes that this lessened protection is desirable because of the overall benefit of providing these companies with necessary flexibility in raising capital. First, the Exchange believes that shareholders were likely well aware of the ongoing capital needs of such companies at the time of their initial investment. Early Stage Companies typically make ample disclosure in both their offering documents and their periodic filings, including risk factor disclosure, of their significant capital requirements and the negative consequences of being unable to meet those requirements. Therefore, shareholders of currently listed companies able to avail themselves of the Early Stage Company exemption to Section 312.03(b) will benefit from such companies having less cumbersome access to capital in order to fund their business and operations. Second, although currently listed companies that fall within the definition of Early Stage Company will be exempt from the shareholder approval requirements of Section 312.03(b), any transaction that would have required shareholder approval under such provision will still require the review and approval of such Early Stage Company's audit committee or comparable committee comprised of independent directors, thus offering an additional protection to shareholders. Lastly, the ability of an Early Stage Company to raise money via a sale of shares to a Related Party as opposed to via a public offering is likely to be more cost efficient as such company will not incur underwriting and other standard offering expenses that are incurred in the standard public offering. The greater speed with which a private sale can be executed also protects shareholders from the market risk associated with a possible share price decline during a public offering process.

The Exchange also proposes to delete obsolete text from Section 312.03 related to a limited transition period that is no longer relevant.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5)

[7] The Exchange notes that the shareholder approval requirements of Nasdaq and the NYSE MKT do not restrict the amount of stock a company can sell for cash to a Related Party provided that the price per share is at least as great as each of the book and market value of the issuer's stock. Under the Exchange's proposal, however, an issuer will only be able to sell up to 19.9% of its outstanding stock to a Related Party for cash without first obtaining shareholder approval. For sales to a Related Party equal to or greater than 20% of the issuer's common stock, such issuer will be subject to the shareholder approval provisions of Section 312.03(c).

[8] Both Nasdaq and the NYSE MKT do, however, have a rule requiring shareholder approval prior to the issuance of shares as sole or partial consideration for an acquisition of the stock or assets of another company if a Related Party has a 5% or greater interest in the company or assets to be acquired and the shares to be issued as consideration would result in an increase in shares outstanding of 5% or more.

[9] 15 U.S.C. 78f(b).

of the Act,[10] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendment is consistent with the investor protection objectives of Section 6(b)(5) because it creates a very limited exemption to the NYSE's shareholder approval requirements that would be applicable only to share issuances by a narrowly-defined category of Early Stage Companies. The Exchange believes this amendment is consistent with the protection of investors because: (i) Investors investing in Early Stage Companies do so in the knowledge that those companies do not currently generate revenue and that their ability to continue to execute their business strategy is significantly dependent on their ability to raise additional capital quickly and cheaply; and (ii) issuances that would be exempt from shareholder approval under the proposed amendment would need to be approved by an Early Stage Company's audit committee or comparable committee comprised of independent directors, mitigating the risk of any inappropriate conflict of interest in the transaction.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The proposed rule change provides a limited exemption to the shareholder approval requirements of Section 312.03(b) for Early Stage Companies. These companies frequently must conduct time-sensitive capital raises in order to continue their research or exploration activities and fund their operations. Currently, any such company listed on the Exchange may be required to engage in a costly and time consuming process of obtaining shareholder approval for certain share issuances to a related party. If the same company was listed on Nasdaq or NYSE MKT, however, it would not be required to engage in this process as neither marketplace has a comparable rule to Section 312.03(b). As such, the limited exemption proposed herein would more closely align the Exchange, Nasdaq and NYSE MKT's rule in this regard and enable the Exchange to more effectively compete for the listing of Early Stage Companies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–NYSE–2015–02 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–02 and should be submitted on or before May 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–10503 Filed 5–5–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31587; 812–14170]

Starboard Investment Trust and Foliometrix, LLC; Notice of Application

April 30, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY: Applicants request an order that would permit them to enter into and materially amend sub-advisory agreements (each, a ''Sub-Advisory Agreement'' and collectively, the ''Sub-Advisory Agreements'') without shareholder approval and that would grant relief from certain disclosure requirements.

Applicants: Starboard Investment Trust (the ''Trust'') and Foliometrix, LLC (the ''Adviser'').

DATES: *Filing Dates:* The application was filed June 21, 2013, and amended on February 27, 2014, July 3, 2014, November 26, 2014, and March 11, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 26, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: the Trust, 116 South Franklin Street, Rocky Mount, NC 27804; the Adviser, 821 Pacific Street, Omaha, NE 68108.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company. The Trust currently consists of twenty-three series (each, a ''Series'').[1]

2. The Adviser is a limited liability company organized under Oregon law. Each Adviser is or will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser serves as the investment adviser to the Series pursuant to an investment advisory agreement with the Trust (the ''Investment Management Agreement''). The Investment Management Agreement has been approved by the Trust's board of trustees (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust, the Series, or the Adviser (''Independent Board Members''), and by the shareholders of the relevant Series in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act. The terms of the Investment Management Agreement comply with section 15(a) of the Act. Applicants are not seeking any exemption from the provisions of the Act with respect to the Investment Management Agreement.

3. Under the terms of the Investment Management Agreement, the Adviser, subject to the supervision of the Board, provides continuous investment management of the assets of each Series. The Adviser periodically reviews a Series' investment policies and strategies and based on the need of a particular Series may recommend changes to the investment policies and strategies of the Series for consideration by the Board. For its services to each Series under the Investment Management Agreement, the Adviser receives an investment management fee from that Series.

4. The Investment Management Agreement provides that the Adviser may, subject to the approval of the Board, delegate portfolio management responsibilities of all or a portion of the assets of a Subadvised Series to one or more sub-advisers (each, a ''Sub-Adviser'' and collectively, the ''Sub-Advisers'').[2] If the Adviser determines to delegate portfolio management responsibilities to one or more Sub-Advisers, the Adviser will evaluate, select and recommend Sub-Advisers to manage the assets (or portion thereof) of a Subadvised Series, oversee, monitor and review the Sub-Advisers and their performance and their compliance with the Subadvised Series' investment policies and restrictions.

5. Applicants request an order to permit the Adviser, subject to the approval of the Board, including a majority of the Independent Board Members, to, without obtaining shareholder approval: (i) Select certain non-affiliated Sub-Advisers to manage all or a portion of the assets of a Series and enter into Sub-Advisory Agreements with the Sub-Advisers, and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisers.[3] The requested relief will not extend to any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust, a Subadvised Series, or the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (''Affiliated Sub-Adviser'').

6. The terms of each Sub-Advisory Agreement comply or will comply fully with the requirements of section 15(a) of the Act and have been or will be approved by the Board, including a majority of the Independent Board Members and the initial shareholder of the applicable Subadvised Series, in accordance with sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The Sub-Advisers, subject to the supervision of the Adviser and oversight of the Board, will determine the securities and other investments to be purchased or sold by a Subadvised Series and place orders with brokers or dealers that they select.

7. Subadvised Series will inform shareholders of the hiring of a new Sub-Adviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Sub-Adviser is hired for any Subadvised Series, that Subadvised Series will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [4] and (b) the

[1] Applicants request that the relief apply to the named applicants, as well as to any future Series and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that (i) is advised by the Adviser or by an entity controlling, controlled by, or under common control with the Adviser or its successor (each, also an ''Adviser''), (ii) uses the multi-manager structure described in the application, and (iii) complies with the terms and conditions set forth in the application (each, a ''Subadvised Series''). All registered open-end investment companies that currently intend to rely on the requested order are named as applicants. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. For the purpose of the requested order, ''successor'' is limited to an entity resulting from a reorganization into another jurisdiction or a change in the type of business organization. If the name of any Subadvised Series contains the name of a Sub-Adviser (as defined below), the name of the Adviser that serves as the primary adviser to the Subadvised Series, or a trademark or trade name that is owned by or publicly used to identify that Adviser, will precede the name of the Sub-Adviser.

[2] Each Sub-Adviser will be an investment adviser as defined in section 2(a)(20) of the Act and registered, or not subject to registration, under the Advisers Act.

[3] Shareholder approval will continue to be required for any other sub-adviser changes and material amendments to an existing Sub-Advisory Agreement with any affiliated sub-adviser (all such changes requiring shareholder approval referred to as ''Ineligible Sub-Adviser Changes''), except as otherwise permitted by applicable law or by rule.

[4] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) Summarize the relevant information regarding the new Sub-Adviser (except as modified to permit Aggregate Fee Disclosure (as

Subadvised Series will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. Applicants assert that in the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants state that each Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Sub-Advisory Agreements.

8. Applicants also request an order exempting the Subadvised Series from certain disclosure provisions described below that may require the Subadvised Series to disclose fees paid by the Adviser to each Sub-Adviser. Applicants seek an order to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Sub-Advisers; and (b) the aggregate fees paid to Sub-Advisers (collectively, ''Aggregate Fee Disclosure''). Any Subadvised Series that employs an Affiliated Sub-Adviser will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method of computing and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X under the Securities Act of 1933 sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statement information about investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select the Sub-Advisers who are in the best position to achieve the Subadvised Series' investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisers is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants believe that permitting the Adviser to perform the duties for which the shareholders of the Subadvised Series are paying the Adviser—the selection, supervision and evaluation of the Sub-Advisers—without incurring unnecessary delays or expenses is appropriate in the interest of the Subadvised Series' shareholders and will allow such Subadvised Series to operate more efficiently. Applicants note that the Investment Management Agreements and any Sub-Advisory Agreements with Affiliated Sub-Advisers will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

7. Applicants assert that disclosure of the individual fees that the Adviser would pay to the Sub-Advisers of Subadvised Series that operate under the multi-manager structure described in the application would not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Sub-Advisers are to inform shareholders of expenses to be charged by a particular Subadvised Series and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the advisory fee paid to the Adviser will be fully disclosed and, therefore, shareholders will know what the Subadvised Series' fees and expenses are and will be able to compare the advisory fees a Subadvised Series is charged to those of other investment companies. Applicants assert that the requested disclosure relief will benefit shareholders of the Subadvised Series because it will improve the Adviser's ability to negotiate the fees paid to Sub-Advisers. Applicants state that the Adviser may be able to negotiate rates that are below a Sub-Adviser's ''posted'' amounts if the Adviser is not required to disclose the Sub-Adviser's fees to the public.

8. For the reasons discussed above, applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions: [5]

1. Before a Subadvised Series may rely on the order requested in the application, the operation of the Subadvised Series in the manner described in the application will be approved by a majority of the Subadvised Series' outstanding voting

defined below); (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Series.

A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

[5] Applicants will only comply with conditions 7, 8, 9 and 12 if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

securities as defined in the 1940 Act, or, in the case of a new Subadvised Series whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Subadvised Series' shares to the public.

2. The prospectus for each Subadvised Series will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Subadvised Series will hold itself out to the public as employing the multi-manager structure described in the application. Each prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisers and recommend their hiring, termination and replacement.

3. The Adviser will provide general management services to a Subadvised Series, including overall supervisory responsibility for the general management and investment of the Subadvised Series' assets. Subject to review and approval of the Board, the Adviser will (a) set a Subadvised Series' overall investment strategies, (b) evaluate, select, and recommend Sub-Advisers to manage all or a portion of a Subadvised Series' assets, and (c) implement procedures reasonably designed to ensure that Sub-Advisers comply with a Subadvised Series' investment objective, policies and restrictions. Subject to review by the Board, the Adviser will (a) when appropriate, allocate and reallocate a Subadvised Series' assets among multiple Sub-Advisers; and (b) monitor and evaluate the performance of Sub-Advisers.

4. A Subadvised Series will not make any Ineligible Sub-Adviser Changes without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Series.

5. Subadvised Series will inform shareholders of the hiring of a new Sub-Adviser within 90 days after the hiring of the new Sub-Adviser pursuant to the Modified Notice and Access Procedures.

6. At all times, at least a majority of the Board will be Independent Board Members, and the selection and nomination of new or additional Independent Board Members will be placed within the discretion of the then-existing Independent Board Members.

7. Independent Legal Counsel, as defined in Rule 0–1(a)(6) under the 1940 Act, will be engaged to represent the Independent Board Members. The selection of such counsel will be within the discretion of the then- existing Independent Board Members.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per Subadvised Series basis. The information will reflect the impact on profitability of the hiring or termination of any sub-adviser during the applicable quarter.

9. Whenever a sub-adviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. Whenever a sub-adviser change is proposed for a Subadvised Series with an Affiliated Sub-Advisor, the Board, including a majority of the Independent Board Members, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Subadvised Series and its shareholders, and does not involve a conflict of interest from which the Advisor or the Affiliated Sub-Advisor derives an inappropriate advantage.

11. No trustee or officer of the Trust or a Subadvised Series, or partner, director, manager or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Sub-Adviser, except for (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

12. Each Subadvised Series will disclose the Aggregate Fee Disclosure in its registration statement.

13. Any new Sub-Advisory Agreement or any amendment to a Subadvised Series' existing Investment Management Agreement or Sub-Advisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Subadvised Series will be submitted to the Subadvised Series' shareholders for approval.

14. In the event the Commission adopts a rule under the Act providing substantially similar relief to that requested in the application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–10511 Filed 5–5–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74854; File No. SR–CBOE–2015–041]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

April 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 20, 2015, Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On, April 8 2015, the Securities and Exchange Commission (the ''Commission'') approved a proposed rule change that would amend CBOE rules to permit the listing and trading of options that overlie the MSCI EAFE Index (''MXEA options'') and the MSCI Emerging Markets Index (''MXEF options'').[3] As such, the Exchange proposes to establish fees for MXEA and MXEF, effective April 21, 2015.

First, the Exchange proposes to establish transaction fees for MXEA and MXEF. Under the proposed fees structure, Customers (''C'' origin code) will be assessed no transaction fee for MXEA and MXEF transactions. The absence of a Customer transaction fee for MXEA and MXEF options will provide greater incentives for Customers to trade MXEA and MXEF. The Exchange notes that currently another proprietary index option, XSP, is also not assessed a fee for Customer transactions.[4]

Next, the Exchange proposes to assess Clearing Trading Permit Holder proprietary (''F'' origin code) and Non-Trading Permit Holder Affiliate (''L'' origin code) MXEA and MXEF transactions $0.20 per contract for manual and Automated Improvement Mechanism (''AIM'') Agency/Primary transactions, $0.35 per contract for electronic transactions, $0.05 per contract for AIM Contra transactions and $0.25 per contract for Flex Hybrid Trading Systems (''CFLEX'') AIM Response transactions. The Exchange also proposes to count MXEA and MXEF volume towards the Clearing Trading Permit Holder Fee Cap (''Fee Cap''). This will help these market participants to reach this cap on their fees. Additionally, the Exchange recognizes that Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity and, as such, the Exchange proposes to apply the waiver of Clearing Trading Permit Holder Proprietary transaction fees for facilitation orders executed via CFLEX, in open outcry or electronically via AIM. The Exchange notes that the proposed transaction fee amounts for Clearing Trading Permit Holder proprietary and Non-Trading Permit Holder Affiliate transactions are the same for Clearing Trading Permit Holder proprietary and Non-Trading Permit Holder Affiliate transactions in all other index products except for Underlying Symbol List A.[5]

Currently, Market-Maker transactions in all products except for those listed in Underlying Symbol List A are subject to the Liquidity Provider Sliding Scale, which provides for reduced transaction fees for Market-Makers that reach certain volume thresholds in all underlying symbols excluding Underlying Symbol List A and mini-options. Similarly, the Exchange proposes to subject all Market-Maker MXEA and MXEF transactions to the Liquidity Provider Sliding Scale.

The Exchange next proposes to establish transaction fees for Broker-Dealers (''B''), Non-Trading Permit Holder Market-Makers (''N''), Professionals/Voluntary Professionals (''W'') and Joint Back-Offices (''JBOs'') (''J''). Specifically, the Exchange proposes to assess these market participants $0.25 per contract for manual transactions, $0.65 per contract for non-AIM electronic transactions, $0.20 per contract for AIM Agency/Primary transactions, and $0.05 per contract for AIM Contra transactions. Additionally for MXEA and MXEF transactions, the Exchange is proposing to assess Broker-Dealers and Non-Trading Permit Holder Market Makers $0.25 per contract for CFLEX AIM Response transactions and Professional/Voluntary Professionals and JBOs $0.30 per contract for CFLEX AIM Response transactions. The Exchange notes that the proposed MXEA and MXEF transaction fees for these market participants are also the same amounts assessed for the same market participants for other index options other than those in Underlying Symbol List A.[6]

The Exchange also proposes to assess an Index License Surcharge (''Surcharge'') for MXEA and MXEF of $0.10 per contract for all non-customer orders. The Exchange proposes to adopt the Index License Surcharge for these products in order to recoup some of the costs associated with the license for MXEA and MXEF options. Additionally, the Exchange proposes to adopt a CFLEX Surcharge Fee of $0.10 per contract for all MXEA and MXEF orders executed electronically on CFLEX, capped at $250 per trade (*i.e.,* first 2,500 contracts per trade). The CFLEX Surcharge Fee assists the Exchange in recouping the cost of developing and maintaining the CFLEX system. The Exchange notes that the CFLEX Surcharge Fee (and $250 cap) also applies to other proprietary index options, including products in Underlying Symbol List A, as well as DJX and XSP.[7] The Exchange also notes that the Complex Order Book (''COB'') Taker Surcharge will also apply to MXEA and MXEF, as it does for all products other than those in Underlying Symbol list A and mini-options.[8]

The Exchange next proposes to count MXEA and MXEF options towards the average daily volume thresholds for the CBOE Proprietary Product Sliding Scale. The CBOE Proprietary Products Sliding Scale provides that Clearing Trading Permit Holder Proprietary transaction fees and transaction fees for Non-Clearing Trading Permit Holder Affiliates in Underlying Symbol List A[9] are reduced provided a Clearing Trading Permit Holder (''Clearing TPH'') reaches certain average daily volume (''ADV'') thresholds in all underlying symbols excluding Underlying Symbol List A and mini-options on the Exchange in a month. The Exchange notes that other proprietary index products such as DJX and XSP are also included towards the qualification thresholds of the CBOE Proprietary Products Sliding Scale.

Finally, like other proprietary index products, the Exchange proposes to except MXEA and MXEF from the Volume Incentive Program,[10] the Marketing Fee,[11] and eligibility for payments under the Order Router Subsidy (ORS) and Complex Order Router Subsidy (CORS) Programs[12]. Additionally, it will be excluded from the calculation of qualifying volume for

[3] *See* Securities Exchange Act Release No. 74681 (April 8, 2015), 80 FR 71 [sic] (April 14, 2015) (SR–CBOE–2015–023).

[4] *See* CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A.

[5] *See* CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A. As of April 1, 2015, the following products are included in Underlying Symbol List A: OEX, XEO, RUT, SPX (including SPXw), SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES and binary options.

[6] *Id.*

[7] *See* CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A, CFLEX Surcharge Fee [sic] and Specified Proprietary Index Options Rate Table—Underlying Symbol List A, CFLEX Surcharge Fee.

[8] *See* CBOE Fees Schedule, COB Taker Surcharge, Footnote 35.

[9] SROs are currently excluded from the CBOE Proprietary Products Sliding Scale. *See* Exchange Fees Schedule, CBOE Proprietary Products Sliding Scale.

[10] *See* CBOE Fees Schedule, Volume Incentive Program.

[11] *See* CBOE Fees Schedule, Marketing Fee, Footnote 6.

[12] *See* CBOE Fees Schedule, Order Router Subsidy Program and Complex Order Subsidy Program, Footnotes 29 and 30.

rebates for Floor Broker Trading Permit Holder Trading Permit Fees.[13]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

Particularly, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today for other index products. The Exchange also believes that the proposed fee amounts for MXEA and MXEF orders are reasonable because the proposed fee amounts are within the range of amounts assessed for the Exchange's other index products, excluding Underlying Symbol List A.[17]

The Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to customers are intended to attract more customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. Finally, all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

The Exchange believes that it is equitable and not unfairly discriminatory to offer the Liquidity Provider Sliding Scale to Market-Makers only because Market-Makers take on obligations, such as quoting obligations, which other market participants do not have. Further, the lower fees offered to Market-Makers are intended to incent Market-Makers to quote and trade more on the Exchange, thereby providing more trading opportunities for all market participants.

Similarly, it is equitable and not unfairly discriminatory to assess lower fees to Clearing Trading Permit Holder Proprietary orders than those of other market participants (except Customers and Market-Makers) because Clearing Trading Permit Holders also have a number of obligations (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations, that other market participants do not need to take on. It should also be noted that all fee amounts described herein are intended to attract greater order flow to the Exchange in MXEA and MXEF, which should therefore serve to benefit all Exchange market participants. The Exchange also notes that the MXEA and MXEF fee amounts for each separate type of market participant will be assessed equally to all such market participants (*i.e.* all Broker-Dealer orders will be assessed the same amount, all Joint Back-Office orders will be assessed the same amount, etc.).

The Exchange believes that assessing an Index License Surcharge Fee of $0.10 per contract to MXEA and MXEF transactions is reasonable because the Surcharge helps recoup some of the costs associated with the license for MXEA and MXEF options. Additionally, the Exchange notes that the Surcharge amount is the same as, and in some cases lower than, the amount assessed as an Index License Surcharge to other index products.[18] The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the Surcharge applies. Not applying the MXEA and MXEF Index License Surcharge Fee to Customer orders is equitable and not unfairly discriminatory because this is designed to attract Customer MXEA and MXEF orders, which increases liquidity and provides greater trading opportunities to all market participants. Similarly, the Exchange believes assessing a CFLEX Surcharge Fee of $0.10 per contract for all MXEA and MXEF orders executed electronically on CFLEX and capping it at $250 (*i.e.,* first 2,500 contracts per trade) is reasonable because it is the same amount currently charged to other proprietary index products for the same transactions.[19] The proposed Surcharge is also equitable and not unfairly discriminatory because the amount will be assessed to all market participants to whom the CFLEX Surcharge applies.

Additionally, the Exchange believes that the proposal to count MXEA and MXEF fees towards the Fee Cap is reasonable because it will help Clearing Trading Permit Holders to reach this cap on their fees. The Exchange believes this is equitable and not unfairly discriminatory MXEA and MXEF fees will count towards the Fee Cap in the same manner that transaction fees for all other products excluding Underlying Symbol List A (except for binary options) count towards the Fee Cap.

The Exchange believes it's reasonable to apply the waiver of Clearing Trading Permit Holder Proprietary transaction fees for facilitation orders executed via CFLEX, in open outcry or electronically via AIM for MXEA and MXEF because it will exempt such orders from being assessed fees. The Exchange believes that this is equitable and not unfairly discriminatory because the waiver also applies to other products, including other proprietary index products (*e.g.,* DJX and XSP). Further, the Exchange recognizes that Clearing Trading Permit Holders can be an important source of liquidity when they facilitate their own customers' trading activity. Such trades add transparency and promote price discovery to the benefit of all market participants. Moreover, the exemption

[13] *See* CBOE Fees Schedule, Footnote 25.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

[17] *See* CBOE Fees Schedule, CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A.

[18] *See* CBOE Fees Schedule, CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A, Surcharge Fee Index License.

[19] *See* CBOE Fees Schedule, Index Options Rate Table—All Index Products Excluding Underlying Symbol List A, CFLEX Surcharge Fee and Specified Proprietary Index Options Rate Table—Underlying Symbol List A, CFLEX Surcharge Fee.

from fees for MXEA and MXEF facilitation orders executed in AIM, open outcry, or as a CFLEX transaction will apply to all such orders.

The Exchange believes it's reasonable to count MXEA and MXEF volume towards the average daily volume thresholds for the CBOE Proprietary Product Sliding Scale because other proprietary index products such as DJX and XSP are also included towards the qualification thresholds of the CBOE Proprietary Products Sliding Scale.[20] The Exchange believes the proposed inclusion of MXEA and MXEF in the qualifying volume is equitable and not unfairly discriminatory because it will apply to all Clearing Trading Permit Holder Proprietary MXEA and MXEF orders

Finally, excepting MXEA and MXEF from the Marketing Fee, VIP, and the ORS and CORS Programs is reasonable because other proprietary index products (*e.g.,* DJX and XSP) are also excepted from these fees and programs.[21] It seems equitable to except MXEA and MXEF from items on the Fees Schedule from which other proprietary index products are also excepted. Similarly, the Exchange believes it's reasonable to exclude MXEA and MXEF from the calculation of the qualifying volume for the Floor Broker Trading Permit Fees rebate because other proprietary index products such as DJX and XSP are also excluded.[22] The Exchange also believes the proposed exclusion of MXEA and MXEF from the qualifying calculation is equitable and not unfairly discriminatory because the exclusion will apply to all MXEA and MXEF orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances as discussed above. For example, Market-Makers have quoting obligations that other market participants do not have.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because MXEA and MXEF will be exclusively listed on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f) of Rule 19b–4 [24] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–041 on the subject line.

Paper comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE-*2015–041.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE-*2015–041* and should be submitted on or before May 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,

Secretary.

[FR Doc. 2015–10505 Filed 5–5–15; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* CBOE Fees Schedule, CBOE Proprietary Products Sliding Scale.

[21] *See* CBOE Fees Schedule, Volume Incentive Program, Marketing Fee, Footnote 6 and Order Router Subsidy Program and Complex Order Subsidy Program, Footnotes 29 and 30.

[22] *See* CBOE Fees Schedule, Footnote 25.

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74853; File No. SR–OCC–2015–006]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Concerning the Provision of Clearance and Settlement Services for Energy Futures and Options on Energy Futures

April 30, 2015.

On March 2, 2015, The Options Clearing Corporation (''OCC'') filed with

the Securities and Exchange Commission (''Commission'') the proposed rule change OCC–2015–006 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on March 20, 2015.[3] The Commission received no comments on the proposed rule change. This order approves the rule change as proposed.

I. Description

OCC is amending its rules to provide clearance and settlement services to NASDAQ Futures, Inc. (''NFX'') for certain enumerated Energy Futures contracts and options on Energy Futures. OCC further proposed to add new risk models to its System for Theoretical Analysis and Numerical Simulations (''STANS'') methodology [4] to risk manage Energy Futures contracts. OCC's STANS methodology already accommodates the margining of futures and futures options, and after adopting the models described more fully in the proposed rule change, Energy Futures contracts will be risk managed using the same methodology as futures products currently cleared and settled by OCC.[5]

Because these Energy Futures contracts and options on Energy Futures do not fall within the scope of contracts for which OCC has previously agreed to provide clearance and settlement services to NFX,[6] OCC also added a new ''Schedule C'' to its Agreement for Clearing and Settlement Services (''Clearing Agreement'') with NFX. The Schedule C to the Clearing Agreement has been approved by the Commission.[7]

Background

As proposed in its rule change OCC will clear and settle Energy Futures contracts and options on Energy Futures that are to be traded on NFX.[8] They include nine futures contracts on petrol and natural gas products, three of which will have related options contracts, along with 16 electricity futures contracts. The Energy Futures contracts are all cash-settled, and the options contracts will settle into the underlying futures contract. All of the Energy Futures contracts are ''look-alike'' products to futures products already traded on U.S. futures exchanges and cleared by other Derivatives Clearing Organizations (''DCOs'').[9]

Petrol and Natural Gas Futures Products

NFX will list petrol and natural gas Energy Futures contracts and options on petrol Energy Futures. These Energy Futures contracts are based on a variety of refined oil fuels and natural gasses that are commonly used for hedging market participants' portfolios. Specifically, NFX will list the following cash-settled petrol and natural gas Energy Futures contracts: NFX Brent Crude Financial Futures (BFQ), NFX Gasoil Financial Futures (GOQ), NFX Heating Oil Financial Futures (HOQ), NFX WTI Crude Oil Financial Futures (CLQ), NFX RBOB Gasoline Financial Futures (RBQ), NFX Henry Hub Natural Gas Financial Futures—10,000 (HHQ), NFX Henry Hub Natural Gas Financial Futures—2,500 (NNQ), NFX Henry Hub Natural Gas Penultimate Financial Futures—2,500 (NPQ) and NFX Henry Hub Natural Gas Penultimate Financial Futures—10,000 (HUQ). Further, NFX will list options on NFX WTI Crude Financial Futures (LOQ), NFX Brent Crude Financial Futures (BCQ) and the NFX Henry Hub Penultimate Financial Futures (LNQ) that settle directly into the referenced futures contract.

Electricity Futures Products

NFX will also list electricity Energy Futures contracts, which are based on electricity prices at different hubs and smaller nodes from across the United States reflecting different power distribution grids and circuits and are look-alike products to products traded on ICE Futures, U.S. and cleared by ICE Clear U.S., Inc. For each of these nodes, there is a ''peak'' and ''off-peak'' future representing prices at time periods in the day when electricity usage is high compared to when the demand on the grid is lower. The electricity Energy Futures contracts NFX selected for listing are the most popular nodes and hubs within the electricity futures market. More specifically, NFX will list the following electricity contracts, to be settled on final settlement prices based on an average regional transmission organization, independent system operator (''ISO'') published real-time or day-ahead locational marginal prices (''LMPs'') [10] for a pre-determined set of peak or off-peak hours for a contract month:

- NFX ISO–NE Massachusetts Hub Day-Ahead Off-Peak Financial Future (NOPQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the Massachusetts Hub.
- NFX ISO–NE Massachusetts Hub Day-Ahead Peak Financial Futures (NEPQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the Massachusetts Hub.
- NFX MISO Indiana Hub Real-Time Peak Financial Futures (CINQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the Indiana Hub as published by the Midcontinent Independent System Operator, Inc. (''MISO'').
- NFX MISO Indiana Hub Real-Time Off-Peak Financial Futures (CPOQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the Indiana Hub as published by MISO.
- NFX PJM AEP Dayton Hub Real-Time Peak Financial Futures (MSOQ), settling on final settlement prices based

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Release No. 74511 (March 16, 2015), 80 FR 15042 (March 20, 2015).

[4] OCC's STANS methodology is used to measure the exposure of portfolios of options, futures and cash instruments cleared and carried by OCC on behalf of its clearing member firms. STANS allows clearing institutions to measure, monitor and manage the level of risk exposure of their members' portfolios. For more information, see *www.optionsclearing.com/risk-management/margins.*

[5] OCC will compute initial margin requirements for segregated futures accounts Through the Standard Portfolio Analysis of Risk (''SPAN''®) margin calculation system without further modification, subject to OCC's collection of enhanced margin to be deposited in the segregated futures account in the event that the margin requirement as calculated under STANS would exceed the requirement calculated under SPAN. *See* Securities Exchange Act Release No. 72331 (June 5, 2014), 79 FR 33607 (June 11, 2014) (SR–OCC–2014–13). *See also* Securities Exchange Act Release No. 74268 (February 12, 2015), 80 FR 8917 (February 19, 2015) (SR–OCC–2014–24). This rule change has been approved by the Commission.

[6] NFX previously operated as a designated contract market (''DCM'') regulated by the Commodity Futures Trading Commission (''CFTC''), and OCC provided clearing and settlement services pursuant to a January 13, 2012 agreement (''Previous Agreement''). NFX became a dormant contract market and ceased operations as a DCM as of January 31, 2014, thus terminating the Previous Agreement. The CFTC later approved NFX as a DCM and the Clearing Agreement permits OCC to once again provide clearing services to NFX.

[7] *See* Securities Exchange Act Release No. 74432 (March 4, 2015), 80 FR 12652 (March 10, 2015) (SR–OCC–2015–03)(notice of filing of proposed rule change concerning execution of a clearing and settlement agreement between OCC and NFX); *See also* Securities Exchange Act Release No. 74747(April 16, 2015), 80 FR 22591 (April 22, 2015)(order approving the proposed clearing and settlement agreement between OCC and NFX).

[8] In addition to trading in the regular session, Energy Futures and options on Energy Futures will also trade during overnight trading sessions. *See* Securities Exchange Act Release No. 74241 (February 10, 2015), 80 FR 8383 (February 17, 2015) SR–OCC–2014–812.

[9] More specifically, Energy Futures contracts are look-alike products to futures products that are currently traded on the New York Mercantile Exchange, Inc. and ICE Futures, U.S., and cleared by the Chicago Mercantile Exchange Inc. and ICE Clear U.S., Inc., respectively.

[10] Locational marginal pricing reflects the value of the energy at the specific location and time it is delivered.

on average real-time hourly peak LMPs for the contract month for the AEP Dayton Hub.

• NFX PJM AEP Dayton Hub Real-Time Off-Peak Financial Futures (AODQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the AEP Dayton Hub.

• NFX PJM Northern Illinois Hub Real-Time Peak Financial Futures (PNLQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the Northern Illinois Hub.

• NFX PJM Northern Illinois Hub Real-Time Off-Peak Financial Futures (NIOQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the Northern Illinois Hub.

• NFX PJM Western Hub Day-Ahead Off-Peak Financial Futures (PJDQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the Western Hub.

• NFX PJM Western Hub Day-Ahead Peak Financial Futures (PJCQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the Western Hub.

• NFX PJM Western Hub Real-Time Off- Peak Financial Futures (OPJQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the Western Hub.

• NFX PJM Western Hub Real-Time Peak Financial Future (PJMQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the Western Hub.

• NFX CAISO NP–15 Hub Day-Ahead Off-Peak Financial Futures (ONPQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the NP–15 Hub.

• NFX CAISO NP–15 Hub Day-Ahead Peak Financial Futures (NPMQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the NP–15 Hub.

• NFX CAISO SP–15 Hub Day-Ahead Off-Peak Financial Futures (OFPQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the SP–15 Hub.

• NFX CAISO SP–15 Hub Day-Ahead Peak Financial Futures (SPMQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the SP–15 Hub.

Risk Model Changes

As noted above, the Energy Futures contracts that OCC will clear are look-alike products to energy futures traded on other futures exchanges and cleared by other DCOs. According to OCC, there is a significant amount of historical data and academic literature concerning risk models for energy futures, and OCC has used such data and literature in the development of its risk models for Energy Futures contracts. Based on its analysis of that information, OCC stated that it has identified two characteristics specific to Energy Futures contracts (compared to futures contracts already cleared, settled and risk managed by OCC) for which new risk models needed to be added to the STANS methodology: [11]

• Energy Futures prices are known to be more volatile as contracts approach delivery because of the convergence with cash-market prices and the potential for real-life trading and delivery complications of the underlying commodity. This phenomenon is known as the ''Samuelson effect,'' [12] and

• The price volatility of certain energy futures display a seasonal pattern (a/k/a ''seasonality'').

To address these characteristics, OCC designed multi-factor risk modeling capabilities that can risk model based on up to three factors: a short-run factor, a seasonal factor and a long-run factor. The short-run factor is designed to account for the Samuelson effect, which becomes more pronounced the closer the contract is to maturity (*i.e.,* delivery). The seasonal factor accounts for Energy Futures contracts that display volatility in a seasonal pattern, and the long-run factor accounts for the risk of a given Energy Future contract not addressed by either the short-run factor or the seasonal factor. Pursuant to its rule change as proposed, OCC's multi-factor models can be further categorized as either a two-factor model or three-factor model, with the two factor model consisting of a short-run and long-run factor, while the three-factor model consists of a short-run factor, a long-run factor, and a seasonality factor.

Two-Factor Model

OCC will use a two-factor risk model to compute theoretical prices for NFX Brent Crude Financial Futures contracts and NFX WTI Crude Oil Financial Futures contracts because such futures do not exhibit seasonality.[13] The two-factor risk model will derive a given Energy Future contract's price based on a long-run factor and a short-run factor. The long-run factor component captures changes to the equilibrium price (*i.e.,* the prevailing market price at a point in time) of a given Energy Future contract based on factors such as expectations of the exhaustion of existing supply, improving technology for production, the discovery of additional supply of the commodity, inflation and political and regulatory effects. Using historical data, OCC assumed that such long-run factors cause the equilibrium price for a given Energy Future contract to evolve according to a stochastic process that accounts for asymmetric skewness and excess kurtosis.[14] The short-run component captures short-run changes in demand or supply due to real-life factors such as variation in the weather or intermittent supply disruptions as well as increased volatility (*i.e.,* the Samuelson effect).[15] The short-run component of the model is mean reverting; therefore, in the absence of such short-term changes in demand or supply the long-run factor should determine the price for a given Energy Future contract. Additionally, the short-run factor is less noticeable as the tenor of the Energy Futures contract increases.

Three-Factor Model

OCC will use a three-factor risk model in order to compute theoretical prices for the remainder of the Energy Futures contracts.[16] The three-factor model uses

[11] In developing its risk models for Energy Futures, OCC stated in its proposed rule change that it had also considered a third characteristic, namely that electricity markets are known to be geographically segmented, which can cause abrupt and unanticipated changes in spot prices. However, after reviewing relevant academic literature and performing internal testing, OCC determined that adjusting its futures risk models to account for changes in the spot price of electricity was not appropriate. Securities Exchange Release No. 74511 (March 16, 2015), 80 FR 15042 (March 20, 2015). *See* Kholopova, M. (2006) ''Estimating a two-factor model for the forward curve of electricity,'' Ph.D. dissertation.

[12] *See* Samuelson, Paul A., ''Proof that Properly Anticipated Prices Fluctuate Randomly,'' Industrial Management Review, Vol. 6 (1965). OCC stated that no other futures contracts for which it provides clearance and settlement services exhibit the Samuelson effect.

[13] *See* Schwartz, E. and J. Smith (2000) ''Short-term variations and long-term dynamics in commodity prices,'' *Management Science,* vol. 46, pp. 893–911. OCC provided that the supply of Brent Crude Oil and WTI Crude Oil is not affected by seasonal variation in demand because there are low-cost transportation methods for Brent Crude Oil and WTI Crude Oil as well as the ability to store Brent Crude Oil and WTI Crude Oil.

[14] The model assumes that past price information is already incorporated into the current price and the next price movement is conditionally independent of past price movements. Additionally, the long-run factor accounts for ''fat tail'' events.

[15] This is often observed as shorter dated futures contracts exhibit greater volatility than longer dated futures contracts.

[16] OCC's proposed model is based upon recent academic literature on energy futures. *See* Mirantes, A., J. Poblacion and G. Serna (2012) ''The stochastic

Continued

the same long-run and short-fun factor components as the two-factor model and adds a seasonality factor. Using historical data, OCC asserts that Energy Futures contracts, except for Energy Futures contracts on Brent Crude Oil and WTI Crude Oil, experience seasonality.[17] To address seasonality, OCC will employ a trigonometric function,[18] which it states will capture price dynamics in different seasons.

OCC stated its belief that the proposed enhancements to STANS are appropriately designed to support the clearance and settlement of Energy Futures contracts, based on model back testing results. Moreover, OCC asserts that the Energy Futures contracts are not new or novel contracts, and that the clearance and settlement of Energy Futures contracts will not present material risk to OCC.[19]

Schedule C to the Clearing Agreement

Pursuant to approved rule change 2015–OCC–03, OCC added a Schedule C to the Clearing Agreement to support the clearance and settlement of Energy Futures contracts and options on Energy Futures. Pursuant to the Clearing Agreement between OCC and NFX, OCC has agreed to clear the specifically enumerated contracts and may agree to clear and settle additional types of contracts should both parties execute a new Schedule C to the Clearing Agreement. This was necessary because Energy Futures contracts and options on Energy Futures were not enumerated in either the Previous Agreement, or in any existing Schedule C to the Previous Agreement. The approved rule change adds this new Schedule C to allow OCC to provide for the clearance and settlement of Energy Futures contracts and options on Energy Futures.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[20] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[21] because it assures the safeguarding of securities and funds in the custody and control of OCC and permits OCC to risk manage Energy Futures contracts and options on Energy Futures through appropriate risk models as described above. Such risk models should reduce the risk that clearing members' margin assets will be insufficient in the event that OCC needs such assets to close-out the positions of a defaulted clearing member and, in turn also help protect investors and the public interest. Furthermore, the proposed rule change is also consistent with Rule 17Ad–22(b)(2) under the Act,[22] because it will allow OCC to implement risk-based models and parameters to set margin requirements for clearing members who trade Energy Futures contracts and Energy Futures Options.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[23] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–OCC–2015–006) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,

Secretary.

[FR Doc. 2015–10504 Filed 5–5–15; 8:45 am]

BILLING CODE 8011–01–P

seasonal behavior of natural gas prices,'' *European Financial Management,* vol. 18, pp. 410–443.

[17] OCC provides that this is due to the lack of low-cost transportation and limited, or no ability to store the commodity.

[18] *See* note 14 *supra.*

[19] OCC provides that cleared futures contracts account for less than two percent of its total overall volume and, in 2011, OCC cleared 1,388 contracts traded on NFX. In 2012, OCC cleared 518,360 contracts traded on NFX (NFX did not have any cleared futures contract volume in 2013 and 2014). By way of reference, OCC's average daily cleared contract volume in through February 19, 2015, is 17 million contracts.

[20] 15 U.S.C. 78s(b)(2)(C).

[21] 15 U.S.C. 78q–1(b)(3)(F).

[22] 17 CFR 240.17Ad–22(b)(2).

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14289 and #14290]

New York Disaster #NY–00159

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New York dated 04/28/2015.

Incident: Building Fire and Explosion.

Incident Period: 03/26/2015.

Effective Date: 04/28/2015.

Physical Loan Application Deadline Date: 06/29/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 01/28/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: New York.

Contiguous Counties:

New York: Bronx, Kings, Queens.

New Jersey: Bergen, Hudson.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14289 4 and for economic injury is 14290 0.

The States which received an EIDL Declaration # are New York and New Jersey.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 28, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–10523 Filed 5–5–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14291 and #14292; VIRGINIA Disaster # VA–00056]

Administrative Declaration of a Disaster for the Commonwealth of Virginia

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Virginia dated 04/28/2015.

Incident: Severe Storms and Flooding.

Incident Period: 02/14/2015 through 03/08/2015.

Effective Date: 04/28/2015.

Physical Loan Application Deadline Date: 06/29/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 01/28/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Wise.

Contiguous Counties:

Virginia: Dickenson, Lee, Norton City, Russell, Scott.

Kentucky: Harlan, Letcher, Pike.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14291 B and for economic injury is 14292 0.

The States which received an EIDL Declaration # are Virginia, Kentucky.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 28, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–10521 Filed 5–5–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Audit and Financial Management Advisory Committee (AFMAC)

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Audit and Financial Management Advisory Committee (AFMAC). The meeting will be open to the public.

DATES: The meeting will be held on Thursday, May 21, 2015, starting at 9 a.m. until approximately 11 a.m. Eastern Time.

ADDRESSES: The meeting will be held at the U.S. Small Business Administration, 409 3rd Street SW., Office of Performance Management and Chief Financial Officer Conference Room, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the AFMAC must contact Tami Perriello by fax or email, in order to be placed on the agenda. Tami Perriello, Chief Financial Officer, 409 3rd Street SW., 6th Floor, Washington, DC 20416, phone: (202) 205–6449, fax: (202) 481–6194, email: *tami.perriello@sba.gov.*

Additionally, if you need accommodations because of a disability or require additional information, please contact Donna Wood at (202) 619–1608, email: *Donna.Wood@sba.gov;* SBA, Office of Chief Financial Officer, 409 3rd Street SW., Washington, DC 20416. For more information, please visit our Web site at *http://www.sba.gov/aboutsba/sbaprograms/cfo/index.html.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the AFMAC. The AFMAC is tasked with providing recommendation and advice regarding the Agency's financial management, including the financial reporting process, systems of internal controls, audit process and process for monitoring compliance with relevant laws and regulations. The purpose of the meeting is to discuss the SBA's Financial Reporting, Audit Findings Remediation, Ongoing OIG Audits including the Information Technology Audit, FMFIA Assurance/A–123 Internal Control Program, Credit Modeling, LMAS Project Status, Performance Management, Acquisition Division Update, Improper Payments and current initiatives.

Dated: April 30, 2015.

Miguel L'Heureux,

White House Liaison.

[FR Doc. 2015–10518 Filed 5–5–15; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration (''SBA'') under Section 309 of the Small Business Investment Act of 1958, as amended, and Section 107.1900 of the Small Business Administration Rules and Regulations, SBA by this notice declares null and void the license to function as a small business investment company under the Small Business Investment Company License No. 04/04–0267 issued to EGL NatWest Equity Partners USA, L.P.

United States Small Business Administration.

Dated: April 29, 2015.

Javier E. Saade,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2015–10519 Filed 5–5–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0047]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its denial of 97 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions does not provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds ''such an exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such an exemption.'' The procedures for requesting an exemption are set forth in 49 CFR part 381.

Accordingly, FMCSA evaluated 97 individual exemption requests on their merit and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on the exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published in this notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following applicant, Douglas R. Yurek, did not have sufficient driving experience over the past three years under normal highway operating conditions.

The following 22 applicants had no experience operating a CMV:

James D. Bakken
Travis D. Bartholomy
Scott R. Beaulieu
Michael Carter
Stephen J. Cossalter
Michael T. Long-Grant
Richard J. March
Kevin L. McLeod
Christopher R. Mehaffey
Cole W. Mogannam
Marcus M. Noble
Adam J. O'Dell
Mojeed K. Okedara
Torrence R. Perry
Randall T. Petersheim
Sunni R. Ross
Stevo Saric
Richard Shadrick
Kevin Usher
Brian Washington
Trent Weatherford
John R. Weitekamp

The following 24 applicants did not have three years of experience driving a CMV on public highways with their vision deficiencies:

Paul D. Ashwood, Sr.
Juan Bekusus
Dale Carter
Ronald T. Dell, Jr.
Charles J. Dobson
Lauren D. Gay
Derk J. Gerritsen
David D. Gillis
Russell C. Gordon
Jeffrey J. Graham
Ernesto Herrera
Alan J. Horn
Peter A. Kaczor
Charles F. Kiefat
Chad W. Klein
Ronald L. Kuhle
Stephen C. Linardos
Cody N. McDonnell
Joseph McKinney
Kenneth G. McLeod
Shaun O. McMahon
Reymundo Rodriguez
Gregory D. Sheldon
Terry P. Tyler, Jr.

The following six applicants did not have three years of recent experience driving a CMV with the vision deficiency:

Darrel Tchida
Joshua H. Boatright
George Patterson
Travis D. Nye
Onoride S. Ogbotor
Gary L. Vanosdel

The following applicant, Clifton J. Barnes, did not have sufficient driving experience during the past three years under normal highway operating conditions:

The following applicant, Donald R. Lewis, Jr., had more than two commercial motor vehicle violations during the three-year period and/or application process. Each applicant is only allowed two moving violations.

The following three applicants had their CDLs suspended in relation to a moving violation during the three-year period. Applicants do not qualify for an exemption with a suspension during the three-year period:

Daryl Wojcik
Angel Marrero
Dyvon Small

The following two applicants were unable to obtain a statement from an optometrist or ophthalmologist stating that he was able to operate a commercial vehicle from a vision standpoint:

George A. Kaiser
Alejandro Huerta

The following six applicants were denied for miscellaneous/multiple reasons:

Gill T. Thompson
Anthony E. Allegra
David W. Nicholson
Billy Bailey
Robert K. Lowe, Jr.
Bayardo A. Ordenana

The following applicant, Anthony Buisseteth, did not have stable vision for the entire three-year period.

The following three applicants never submitted the documents required for a vision exemption:

Israel Resto
Edward Labounty, II
Harry Rowlinson, Jr.

The following 14 applicants met the current federal vision standards. Exemptions are not required for applicants who meet the current regulations for vision:

Robert W. Enevold
Keith E. Dugger
Marvin R. Roetcisoender
Robert Williams
Kevin L. Byrd
Dallas Lahman
Brad Koenig
Raymond Banks
Ernest F. Salas
Matthew D. Kaaz
Patrick J. McHugh
Timothy W. Carr
Savuth Pich
Elias P. Raymundo

The following applicant, Dale A. Briggs, Jr., held a medical card that was valid for less than six months.

The following nine applicants were denied because they will not be driving interstate, interstate commerce, or are not required to carry a DOT medical card:

Richard M. Schulman
Mike Nenovich
Lester Walker

Javier F. Gonzalez
Wayne G. Howard
Luis E. Abreu
Roger McGrath
William D. Greenwell
Joseph J. Gelfo

Finally, the following three applicants perform transportation for the federal government, state, or any political subdivision of the state.

Angel Rosado
Charles Severson
Roy L. March

Issued on: April 30, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–10604 Filed 5–5–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0058]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration, FMCSA, DOT.

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 42 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before June 5, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0058 using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 42 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Robert L. Adams

Mr. Adams, 44, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Adams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Adams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Steven D. Beale

Mr. Beale, 60, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beale understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beale meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Kevin N. Bigham

Mr. Bigham, 54, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bigham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bigham meets the

requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Eric B. Bratanich

Mr. Bratanich, 40, has had ITDM since 1994. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bratanich understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bratanich meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Jeffry L. Bromby

Mr. Bromby, 49, has had ITDM since 1998. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bromby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bromby meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

Nicole E. Brown

Ms. Brown, 31, has had ITDM since 1995. Her endocrinologist examined her in 2015 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Brown understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Brown meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2015 and certified that she does not have diabetic retinopathy. She holds an operator's license from Virginia.

Joel R. Currie

Mr. Currie, 21, has had ITDM since 1998. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Currie understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Currie meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Vladimir Desyatnik

Mr. Desyatnik, 64, has had ITDM since 1996. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Desyatnik understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Desyatnik meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

George C. Druzak

Mr. Druzak, 76, has had ITDM since 1995. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Druzak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Druzak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

William L. Duncan

Mr. Duncan, 60, has had ITDM since 1994. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Duncan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Duncan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Colin K. Featherston

Mr. Featherston, 25, has had ITDM since 2003. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Featherston understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Featherston meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Leland R. Frazier, Jr.

Mr. Frazier, 41, has had ITDM since 1994. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function

that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Frazier understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Frazier meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Robert C. George

Mr. George, 48, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. George understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. George meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Louis E. Graves

Mr. Graves, 55, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Graves understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Graves meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

Jeremiah D. Herbst

Mr. Herbst, 34, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Herbst understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Herbst meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Loren G. Howard

Mr. Howard, 45, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Howard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Howard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Alaska.

John A. Irwin

Mr. Irwin, 53, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Irwin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Irwin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Gregory M. Johnson

Mr. Johnson, 50, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

Calvin Jones

Mr. Jones, 55, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from North Carolina.

Marvin T. Kruse

Mr. Kruse, 52, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kruse understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kruse meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Richard L. Langdon

Mr. Langdon, 62, has had ITDM since 2008. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Langdon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Langdon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

William L. Marshall

Mr. Marshall, 56, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marshall understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marshall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Florida.

William Martin

Mr. Martin, 51, has had ITDM since 1997. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Martin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Phillip K. Miles

Mr. Miles, 60, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C CDL from Pennsylvania.

Mark R. Miller

Mr. Miller, 54, has had ITDM since 1999. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Miguel A. Morales

Mr. Morales, 52, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Morales understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morales meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

David S. Navarro

Mr. Navarro, 48, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Navarro understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Navarro meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Kevin L. Novotny

Mr. Novotny, 38, has had ITDM since 1989. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Novotny understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Novotny meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Michael D. Parsons

Mr. Parsons, 50, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Parsons understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Parsons meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Amanda K. Perez-Littleton

Ms. Perez-Littleton, 32, has had ITDM since 1992. Her endocrinologist examined her in 2015 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Perez-Littleton understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Perez-Littleton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds an operator's license from New Mexico.

Jerry L. Perry

Mr. Perry, 38, has had ITDM since 2005. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Michael J. Peterson

Mr. Peterson, 43, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Peterson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Peterson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

John S. Pitfield

Mr. Pitfield, 25, has had ITDM since 1995. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pitfield understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pitfield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

Manuel H. Plascencia

Mr. Plascencia, 52, has had ITDM since 1989. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Plascencia understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Plascencia meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Illinois.

Thomas E. Ringstaff, Jr.

Mr. Ringstaff, 51, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ringstaff understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ringstaff meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Edwin Rivera

Mr. Rivera, 64, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rivera understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rivera meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Milton E. Sullivan

Mr. Sullivan, 68, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sullivan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sullivan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Virginia.

Patrick A. Tucker

Mr. Tucker, 55, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function

that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tucker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tucker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

John E. Vee

Mr. Vee, 69, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Russell A. Wilkins

Mr. Wilkins, 44, has had ITDM since 1994. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wilkins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilkins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Virginia.

William D. Willis

Mr. Willis, 61, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Willis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Willis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Georgia.

David A. Wolff

Mr. Wolff, 48, has had ITDM since 1985. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wolff understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wolff meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from New York.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C.. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0058 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0058 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: April 30, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–10608 Filed 5–5–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0048]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 26 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before June 5, 2015. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0048 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 26 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

R.J. Bauernfeind

Mr. Bauernfeind, 61, has had a prosthetic left eye since 2009 due to amelanotic melanoma. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''Mr. Bauernfeind's vision in his right eye is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bauernfeind reported that he has driven straight trucks for 25 years, accumulating 430,300 miles. He holds an operator's license from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ralph H. Bushman

Mr. Bushman, 49, has had corneal scarring in his right eye since 2006 due to a recurrent infection. The visual acuity in his right eye is 20/250, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Given that his only deficit is to the central acuity in the right eye and this has no effect on his peripheral vision or effect on his acuity with both eyes open and he is stable, it is my opinion that Mr. Bushman has all the visual skills necessary to operate a commercial vehicle.'' Mr. Bushman reported that he has driven tractor-trailer combinations for 21 years, accumulating 2.1 million miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stephen M. Cook

Mr. Cook, 54, has complete loss of vision in his right eye due to a traumatic incident in 1989. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my professional opinion,

Stephen's vision is sufficient to operate a commercial motor vehicle.'' Mr. Cook reported that he has driven straight trucks for 36 years, accumulating 90,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roderick Croft

Mr. Croft, 39, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''In my opinion, I feel that Mr. Croft has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Croft reported that he has driven tractor-trailer combinations for 16 years, accumulating 800,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV; in one instance, he exceeded the speed limit by 20 mph; in the other instance, he exceeded the speed limit by 12 mph.

Jeffrey S. Daniel

Mr. Daniel, 44, has had a prosthetic left eye since childhood due to Coat's disease. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my opinion, Mr. Daniel has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Daniel reported that he has driven straight trucks for 18 years, accumulating 233,280 miles. He holds an operator's license from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lawrence M. Davis

Mr. Davis, 61, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my opinion Mr. Davis has sufficient vision to perform the driving tasks in a commercial vehicle.'' Mr. Davis reported that he has driven straight trucks for 27 years, accumulating 135,000 miles, and tractor-trailer combinations for 24 years, accumulating 1,200 miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bobby C. Floyd

Mr. Floyd, 55, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Based on Color vision by the the pt [*sic*] today, he is able to recognize the colors of traffic signals and devices showing red, green and amber. Also, based upon visual field testing done in the office and with best correction possible the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Floyd reported that he has driven tractor-trailer combinations for 25 years, accumulating 3.13 million miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jayme L. Gilbert

Mr. Gilbert, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''While it is true that Jayme does have reduced visual acuity in the left eye due to stable congenital amblyopia, in my professional opinion, this would have no effect on his ability to operate a commercial motor vehicle in any capacity.'' Mr. Gilbert reported that he has driven straight trucks for 35 years, accumulating 2.98 million miles. He holds a Class BM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jesse M. Greene

Mr. Greene, 69, has been pseudophakic secondary to a cataract, glaucoma, and an anisometropic amblyopic correction in his left eye due to a traumatic incident in 1985. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2014, his optometrist stated, ''It is my opinion that Mr. Greene has sufficient vision to perform the vision tasks required to operate a commercial vehicle in manner and capacity that is needed for his present job description.'' Mr. Greene reported that he has driven straight trucks for 10 years, accumulating 50,000 miles. He holds an operator's license from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David A. Hayes

Mr. Hayes, 56, has field of vision loss in his left eye due to a stroke that occurred ten years ago. The visual acuity in his right eye is 20/25, and in his left eye, 20/40. Following an examination in 2014, his ophthalmologist stated, ''Vision Program . . . Since Mr. Hayes has been driving for the past 10 years without a traffic accident, it is my opinion that he is competent to continue driving.'' Mr. Hayes reported that he has driven tractor-trailer combinations for 21 years, accumulating 2.08 million miles. He holds a Class AM CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George E. Holbrook

Mr. Holbrook, 70, has scarring in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''In my opinion he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Holbrook reported that he has driven tractor-trailer combinations for 41 years, accumulating 1.95 million miles. He holds an operator's license from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James T. Johnson, Jr.

Mr. Johnson, 39, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2015, his optometrist stated, ''Mr. Johnson has moderate refractive amblyopia OS with no visual field restriction in either eye . . . in my medical opinion, nothing in these findings would indicate a restriction to operating a commercial motor vehicle (CMV) not otherwise restricted.'' Mr. Johnson reported that he has driven tractor-trailer combinations for 3.2 years, accumulating 352,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 8 mph.

Robert W. Kleve

Mr. Kleve, 45, has had esotropia in his right eye since birth. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''Based on his stable vision and ocular health, and his previous

successful driving record, I feel he is competent to continue driving a commercial vehicle.'' Mr. Kleve reported that he has driven straight trucks for 5 years, accumulating 97,500 miles. He holds an operator's license from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bruce E. Koehn

Mr. Koehn, 31, has had strabismic amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2014, his ophthalmologist stated, ''Certifies that in his/her medical opinion, you have sufficient vision to perform the driving tasks required to operate a commercial vehicle. Safe to drive. He was safe to drive before renewal & still is safe!! Nothing has changed!!'' Mr. Koehn reported that he has driven straight trucks for 5 years, accumulating 225,000 miles, and tractor-trailer combinations for 5 years, accumulating 25,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Corey S. Kuborn

Mr. Kuborn, 50, has had esotropia and amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his ophthalmologist stated, ''In my medical opinion, Mr. Corey's vision is stable and his visual field is adequate to drive. He should be allowed to operate a commercial truck.'' Mr. Kuborn reported that he has driven straight trucks for 7 years, accumulating 101,500 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Collin C. Longacre

Mr. Longacre, 30, has hyphema in his right eye due to a traumatic incident in 2011. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Mr. Longacre is a 30-year-old male who sustained an ocular injury to the right eye in October 2011 . . . If these criteria meet the requirement for commercial driver's licensure, then I feel that he could operate a commercial vehicle.'' Mr. Longacre reported that he has driven straight trucks for 7 years, accumulating 175,000 miles. He holds a Class BM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raymond W. Meier

Mr. Meier, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/200. Following an examination in 2015, his optometrist stated, ''Based on the above information and testing it is my medical opinion that Raymond Meier has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Meier reported that he has driven straight trucks for 17 years, accumulating 153,000 miles, and tractor-trailer combinations for two years, accumulating 12,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael L. Penrod

Mr. Penrod, 65, has strabismus and a cataract in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2014, his optometrist stated, ''Pending the results of formal visual field testing which is being performed at a different office, my opinion is such that Mr. Penrod is fully capable and of sufficient vision to perform the driving tasks required to operate a comercial [*sic*] vehicle.'' Mr. Penrod reported that he has driven tractor-trailer combinations for 39 years, accumulating 975,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Harry M. Pierson, Jr.

Mr. Pierson, 66, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''He does not have any other conditions of concern and I believe his visual function is adequate to operate a commercial vehicle.'' Mr. Pierson reported that he has driven straight trucks for 12 years, accumulating 240,000 miles, and tractor-trailer combinations for 8 years, accumulating 240,000 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Daniel A. Pyle

Mr. Pyle, 56, has had strabismic amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''In my professional opinion this condition (left esotropia/lazy eye) is stable. Because this individual has adapted to this long standing condition, I feel Daniel has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Pyle reported that he has driven straight trucks for 40 years, accumulating 200,000 miles, and tractor-trailer combinations for 10 years, accumulating 150,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David P. Ramos

Mr. Ramos, 38, has a torn retina in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/800. Following an examination in 2014, his optometrist stated, ''To summarize, in my opinion, Mr. Ramos should have sufficient vision to perform commercial driving tasks.'' Mr. Ramos reported that he has driven straight trucks for 8.5 years, accumulating 255,000 miles. He holds an operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jimmy L. Stevens

Mr. Stevens, 50, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2014, his optometrist stated, ''Left eye decreased vision is long-standing, 2007 by our records and longer according to patient, but is stable. It is my opinion that the patient is capable to operate a commercial vehicle at this time; however, to ensure safety in the future, we do recommend annual eye examination.'' Mr. Stevens reported that he has driven straight trucks for 28 years, accumulating 1.5 million miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David B. Stone

Mr. Stone, 47, has complete loss of vision in his right eye due to a traumatic incident in 1984. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''After completing my exam on David Stone on October 6, 2014, it is my

opinion that he is capable of safely operating a commercial motor vehicle.'' Mr. Stone reported that he has driven straight trucks for 30 years, accumulating 150,000 miles, and tractor-trailer combinations for 25 years, accumulating 125,000 miles. He holds a Class A CDL from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dale G. Stringer

Mr. Stringer, 53, has had a macular and retinal scar in his left eye due to a traumatic incident in 1974. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''In my opinion Mr. Stringer's vision does not affect him from safely operating a commercial vehicle.'' Mr. Stringer reported that he has driven straight trucks for 5 years, accumulating 7,655 miles. He holds a Class AM CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carlyle D. Strong

Mr. Strong, 75, has had wet macular degeneration resulting in a macular scar in his right eye since 2010. The visual acuity in his right eye is 20/150, and in his left eye, 20/30. Following an examination in 2015, his optometrist stated, ''With his 20/30 OU visual acuity and normal horizontal field of vision it is my opinion that Mr. Strong has sufficient visual abilities to operate a commercial vehicle safely.'' Mr. Strong reported that he has driven straight trucks for two years, accumulating 160 miles, and tractor-trailer combinations for 53 years, accumulating 6.5 million miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael J. Tauriac, Jr.

Mr. Tauriac, 39, has had a cataract, retinal detachment, and retinal scar in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his ophthalmologist stated, ''Based on the stability of Mr. Tauriac's vision and adjustment to his level of vision over the past four years, he seems to have sufficient vision to perform the driving required to operate a commercial vehicle.'' Mr. Tauriac reported that he has driven straight trucks for 17 years, accumulating 102,000 miles. He holds a Class A CDL from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2015–0048 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2015–0048 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued On: April 30, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–10605 Filed 5–5–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0039]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Buy America waiver.

SUMMARY: This notice provides NHTSA's finding with respect to a request from the Connecticut Department of Transportation's Highway Safety Office (HSO) to waive the requirements of Buy America. NHTSA finds that a non-availability waiver is appropriate for HSO to purchase twenty-three foreign-made training motorcycles using Federal grant funds because there are no suitable motorcycles produced in the United States for safety training purposes.

DATES: The effective date of this waiver is May 18, 2015. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: May 21, 2015.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* Written comments may be faxed to (202) 493–2251.
- *Internet:* To submit comments electronically, go to the Federal regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You may also call the Docket at 202–366–9324.

FOR FURTHER INFORMATION CONTACT: For program issues, contact Barbara Sauers,

Office of Regional Operations and Program Delivery, NHTSA (phone: 202–366–0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263). You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for Connecticut's HSO to purchase twenty-three training motorcycles using grant funds authorized under 23 U.S.C. 405(f) (section 405) for training motorcycles. Section 405(f) funds are available for use by State Highway Safety Programs to implement effective programs to reduce the number of single and multi-vehicle crashes involving motorcyclists that, among other things, include supporting training of motorcyclists. 23 U.S.C. 405(f).

Buy America provides that NHTSA ''shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.'' 23 U.S.C. 313. However, NHTSA may waive those requirements if (1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent. 23 U.S.C. 313(b). In this instance, NHTSA has determined a non-availability waiver is appropriate for the twenty-three training motorcycles because there is no sufficient product produced domestically that meets the needs of Connecticut's HSO.

NHTSA recently granted a waiver to the Hawaii Department of Transportation's Motor Vehicle Safety Office, Highway Safety Section to purchase training motorcycles because the cost of domestically produced motorcycles is 25 percent more than the cost of foreign-made motorcycles. Connecticut's HSO request also meets the cost waiver conditions because purchasing the least expensive American alternative, Harley-Davidson Street 500, would increase the cost of the project more than 25 percent. However, this request should be categorized as a non-availability waiver because American motorcycle manufacturers do not produce a motorcycle designed specifically with a smaller engine displacement (250 CC), which is consistent with motorcyclist training programs. As smaller engine displacement is common for training purposes and no American manufacturer produces motorcycles with this specification, then a non-availability waiver is appropriate in this situation.

Connecticut's HSO seeks a waiver to purchase twenty-three Honda (CMX250) Rebel motorcycles at $4,055 per unit. The total purchase price for all twenty-three motorcycles is $93,265. Connecticut's training program is designed to expand motorcycle safety efforts. Connecticut asserts that this purchase will enhance its aging fleet of training motorcycles and accommodate the growing demand for training. HSO requires that its training bikes meet specific specifications. The engine displacement must be no less than one-hundred fifteen cubic centimeters and no more than two-hundred seventy-five cubic centimeters. Additionally, the motorcycles must have four stroke, electric start engines. HSO desires to use these motorcycles for its 2015 Motorcycle Safety Training Program because they are designed specifically with smaller engine displacement (250 CC), low brake horse power, and an upright seating position with typical hand and foot controls, which is consistent with motorcyclist training programs. Connecticut, however, is unable to identify any training motorcycles that meet Buy America requirements. HSO researched motorcycle models made by three American motorcycle manufacturers, Harley-Davidson, Inc., Victory Motorcycles, and Indian Motorcycle. Harley-Davidson produces a 500 CC motorcycle called the Street 500, with a MSRP of $6799. Victory Motorcycles and Indian Motorcycle produce a motorcycle with a much heavier and larger engine displacement than 500 CC, with the lowest MSRP of $12,499 for the Victory Vegas 8-ball motorcycle and the lowest MSRP of $10,999 for the Indian Scout. Connecticut's experience with motorcycles with a 500 CC engine displacement is that the bikes, in general, over power beginning riders and do not provide an appropriate upright position for these riders. HSO was unable to find a motorcycle that meets the requirements for training motorcycles that also meets the Buy America requirements. NHTSA is unaware of any other domestic motorcycle manufacturers other than Harley-Davidson, Victory, and Indian. As these manufacturers do not sell a motorcycle that meets standard requirements for motorcycle safety training purposes, a Buy America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(3), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to HSO in order to purchase twenty-three Honda (CMX250) Rebel motorcycles. This waiver applies to Connecticut and all other States seeking to use section 405 funds to purchase these motorcycles for the purposes mentioned herein. This waiver will continue through fiscal year 2015 and will allow the purchase of these items as required for Connecticut's HSO and its training programs. Accordingly, this waiver will expire at the conclusion of fiscal year 2015 (September 30, 2015). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America requirements is appropriate for certain Honda motorcycles. Written comments on this finding may be submitted through any of the methods discussed above. NHTSA may reconsider these findings, if through comment, it learns of and can confirm the existence of a comparable domestically made product to the item granted a waiver.

This finding should not be construed as an endorsement or approval of any products by NHTSA or the U.S. Department of Transportation. The United States Government does not endorse products or manufacturers.

Authority: 23 U.S.C. 313; Pub. L. 110–161.

Issued in Washington, DC, on April 29, 2015, under authority delegated in 49 CFR 1.95.

O. Kevin Vincent,

Chief Counsel.

[FR Doc. 2015–10609 Filed 5–5–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board, DOT.

ACTION: 30-day notice of request for approval of extension: Notifications of

Trails Act Agreement and Substitute Sponsorship.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval of an extension of the information collection—Notifications of Trails Act Agreement and Substitute Sponsorship—further described below. The Board previously published a notice about this collection in the **Federal Register** (80 FR 11262, March 2, 2015). That notice allowed for a 60-day public review and comment period. No comments were received.

Under 16 U.S.C. 1247(d) and the Board's regulations, the STB will issue a Certificate of Interim Trail Use (CITU) or Notice of Interim Trail Use (NITU) to a prospective trail sponsor who offers to assume managerial, tax, and legal responsibility for a right-of-way that a rail carrier would otherwise abandon. The CITU/NITU permits parties, for 180 days, to negotiate for a railbanking agreement. If parties reach an agreement, the CITU/NITU automatically authorizes railbanking/interim trail use. If no agreement is reached, then upon expiration of the negotiation period, the CITU/NITU authorizes the railroad to exercise its option to fully abandon the line without further action by the Board.

Pursuant to 49 CFR 1152.29, parties must jointly notify the Board when a trail use agreement has been reached, and must identify the exact location of the right-of-way subject to the agreement, including a map and milepost marker information. The rules also require parties to file a petition to modify or vacate the CITU/NITU if the trail use agreement applies to less of the right-of-way than covered by the CITU/NITU. Finally, the rules require that a substitute trail sponsor must acknowledge that interim trail use is subject to restoration and reactivation at any time.

Comments may now be submitted to OMB concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Notifications of Trails Act Agreement and Substitute Sponsorship.

OMB Control Number: 2140–0017.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Parties to an interim trail use agreement; substitute trail sponsors.

Number of Respondents: 40.

Estimated Time per Response: 1 hour.

Frequency: On occasion.

Total Burden Hours (annually including all respondents): 40 hours.

Total ''Non-hour Burden'' Cost: None identified. Filings are submitted electronically to the Board.

Needs and Uses: The submissions ensure that the affected public and the agency will have notice whenever a trails use agreement is reached or modified. They also ensure that any trail sponsor, including any substitute trail sponsor, acknowledges that interim trail use is subject to restoration and reactivation at any time.

Retention Period: Information in this report will be maintained in the Board's files for 10 years, after which it is transferred to the National Archives.

DATES: Comments on this information collection should be submitted by June 5, 2015.

ADDRESSES: Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board, Notifications of Trails Act Agreement and Substitute Sponsorship.'' These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Chandana L. Achanta, Surface Transportation Board Desk Officer, by email at *OIRA_SUBMISSION@OMB.EOP.GOV;* by fax at (202) 395–6974; or by mail to Room 10235, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information regarding the Notifications of Trails Act Agreement and Substitute Sponsorship, contact Chris Oehrle, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or email *PRA@stb.dot.gov.* [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: Under the PRA, a federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements or requests that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: May 1, 2015.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–10544 Filed 5–5–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4810

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

DATES: Written comments should be received on or before July 6, 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 form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

OMB Number: 1545–0430.

Form Number: 4810.

Abstract: Fiduciaries representing a dissolving corporation or a decedent's estate may request a prompt assessment of tax under Internal Revenue Code section 6501(d). Form 4810 is used to help locate the return and expedite the processing of the taxpayer's request.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, farms, and the Federal government.

Estimated Number of Respondents: 4,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 24,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 27, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–10599 Filed 5–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1098–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Contributions of Motor Vehicles, Boats, and Airplanes.

DATES: Written comments should be received on or before July 6, 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 form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Contributions of Motor Vehicles, Boats, and Airplanes.

OMB Number: 1545–1959.

Form Number: 1098–C.

Abstract: Section 884 of the American Jobs Creation Act of 2004 (Pub. L. 108–357) added new paragraph 12 to section 170(f) for contributions of used motor vehicles, boats, and airplanes. Section 170(f)(12) requires that a donee organization provide an acknowledgement to the donor of this type of property and is required to file the same information to the Internal Revenue Service. 1098–C may be used as the acknowledgement and it, or an acceptable substitute, must be filed with the IRS.

Current Actions: The department has added a box, 2a, to form 1098–C for collection of Odometer mileage data. In addition, the Department estimates an increase of responses based on its most recent data on Form 1098–C filings, from 5,000 to 151,000. The addition of box 2a and the estimated increase in the number of responses will increase the estimated annual burden hours from 1,500 to 46,810. There is an increase in the paperwork burden previously approved by OMB.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 151,000.

Estimated Time per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 46,810.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 27, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–10598 Filed 5–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14693

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 14693, Application for Reduced Rate of Withholding on Whistleblower Award Payment.

DATES: Written comments should be received on or before July 6, 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 Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Reduced Rate of Withholding on Whistleblower Award Payment.

OMB Number: 1545–XXXX.

Form Number: Form 14693.

Abstract: Form 8858 and Schedule M are used by certain U.S. persons that own a foreign disregarded entity (FDE) directly or, in certain circumstances, indirectly or constructively.

Current Actions: This new form is being submitted for OMB approval.

Type of Review: New collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 75.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 28, 2014.

Christie Preston,

IRS, Reports Clearance Officer.

[FR Doc. 2015–10597 Filed 5–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Form 4670

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4670, Request for Relief of Payment of Certain Withholding Taxes.

DATES: Written comments should be received on or before July 6, 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 form and instructions should be directed to Kerry Dennis at Internal Revenue Service, Room 129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Relief of Payment of Certain Withholding Taxes.

OMB Number: 1545–XXXX.

Form Number: 4670.

Abstract: A payor who fails to withhold certain required taxes from a payee may be entitled to relief, under sections 3402(d), 3102(f)(3), 1463 or Regulations section 1.1474–4. To apply for relief, a payor must show that the payee reported the payments and paid the corresponding tax. To secure relief as described above, a payor must obtain a separate, completed Form 4669, Statement of Payments Received from each payee for each year relief is requested. These Forms 4669 should be compiled and attached to Form 4670, Request for Relief of Payment of Certain Withholding Taxes, which will be used as a coversheet, summarizing the number of statements per year, for Forms 4669.

Current Actions: Request for new OMB Control Number.

Type of Review: Existing collection in use without an OMB number.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 9,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 29, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–10594 Filed 5–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Treasury Directive 75–02 and Directive Publication 75–02, Department of the Treasury National Environmental Policy Act (NEPA) Program

AGENCY: Office of Environment, Health, and Safety, Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public that the Department of the Treasury (Treasury or the Department) is issuing its final policy and procedures for implementing the National Environment Policy Act of 1969 (NEPA) and related executive orders and requirements. This Notice adopts the proposed Directive and accompanying guidelines, published on August 22, 2014, with minor revisions.

DATES: This Directive will be effective on May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Daniel Cain, Acting Director, Treasury Operations, at 202–622–0074 (not a toll-free number) or *Daniel.Cain@do.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. The Department's final Directive and accompanying guidelines establish a policy and procedures to ensure the integration of environmental considerations into the activities of the Department of the Treasury. A copy of the final Directive is available at *http://www.treasury.gov/about/role-of-treasury/orders-directives/Pages/directives-numeric.aspx.*

The Directive outlines roles and responsibilities for compliance with NEPA and establishes a framework for the balanced and proactive consideration of NEPA in the planning and execution of Treasury activities. Treasury's responsibilities include managing federal finances; collecting taxes, and paying bills of the United States; producing currency and coinage; managing government accounts and the public debt; supervising national banks and thrift institutions; advising on domestic and international financial, monetary, economic, trade and tax policy; enforcing federal finance and tax laws; and investigating and prosecuting tax evaders, counterfeiters, and forgers.

The final Directive includes processes for preparing Environmental Assessments, Findings of No Significant Impact, and Environmental Impact Statements. It also includes Categorical Exclusions (CE) identifying the actions that normally do not have the potential for significant environmental impacts. The Department will use this Directive in conjunction with NEPA, the Council on Environmental Quality regulations at 40 CFR parts 1500–1508, and other pertinent environmental laws, regulations, and Executive Orders.

Changes

The Department published a draft Directive (including an associated Directive Publication), and a request for comments in the **Federal Register** on August 22, 2014. 79 FR 49834. The draft Directive proposed Treasury policy for meeting the requirements under NEPA, including a proposed list of categories of Treasury actions that absent extraordinary circumstances are excluded from further consideration in an Environmental Assessment or Environmental Impact Statement, known as categorical exclusions.

The Department received three comments on the proposed Directive during the comment period. After considering the comments received, the Department now adopts the proposed Directive with minor revisions to help clarify the categorical exclusion and extraordinary circumstance analysis and documentation requirements and procedures. Specifically, the Department revised draft Directive Publication Section 7.a to eliminate language that could have suggested that Treasury bureau heads had authority to establish categorical exclusions in addition to those set forth in Appendix 1 of the Directive Publication.

The Department further revised draft Directive Publication Section 7.a to state more clearly and consistently that an extraordinary circumstance exists and will preclude reliance on a CE if the conditions specified in the extraordinary circumstances create the potential for a significant environmental impact.

Treasury also revised draft Directive Section 7.b., which, as originally worded, would have suggested that documentation was required whenever a CE was applied. As revised, the Section states that documentation is required when a CE is applied to a new or unusual activity. In addition, the revisions to this Section clarified the internal process for documentation and converted the form at Appendix 1 to a suggested format that may be adapted as necessary for application to a specific action.

The Department also made minor revisions to Appendix 1 to clarify the application of CE's A7 and B1.

Brodi Fontenot,

Assistant Secretary for Management.

[FR Doc. 2015–10593 Filed 5–5–15; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 86
Boating Infrastructure Grant Program; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 86

[Docket No. FWS–R9–WSR–2011–0083; FVWF941009000007B–XXX–FF09W11000]

RIN 1018–AW64

Boating Infrastructure Grant Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising regulations governing the administration of the national Boating Infrastructure Grant Program (BIG). We published a proposed rule in the **Federal Register** on March 28, 2012. We received responses from the public during the 60-day comment period with recommendations for changes, support for certain parts of the proposed rule, and requests for more time to review the proposed rule. We published a second proposed rule in the **Federal Register** on April 25, 2014, with a 90-day comment period. The final rule simplifies and clarifies some sections, responds to comments on both proposed rules, and considers other approaches to carrying out this grant program.

DATES: The final rule is effective on June 5, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa E. Van Alstyne, Wildlife and Sport Fish Restoration Program, Division of Policy and Programs, U.S. Fish and Wildlife Service, 703–358–1942.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Sportfishing and Boating Safety Act of 1998 established the Boating Infrastructure Grant Program (BIG). The Fish and Wildlife Service carries out the program through regulations published at 50 CFR part 86. The regulations establish a process for States, the District of Columbia, Commonwealths, and territories (States) to receive grants by proposing projects to construct and maintain facilities for transient recreational vessels at least 26 feet long. There are two subprograms in BIG. BIG Tier 1—State competes on the State level for eligible projects, and BIG Tier 2—National competes on a national level for eligible projects. Examples of eligible costs are floating docks, piers, navigational aids, boat slips, limited dredging, and restrooms.

BIG receives its funding from 2 percent of the annual appropriation from the Sport Fish Restoration and Boating Trust Fund. The Trust Fund receives revenue from: (a) Taxes on sport fishing equipment, electric outboard motors, and sonar devices; (b) taxes on special motorboat fuels and gasoline attributable to motorboats and nonbusiness use of small power equipment; and (c) import duties on fishing tackle, yachts, and pleasure craft. In FY 2015, the Service awarded over $14.3 million to States for eligible projects.

This BIG final rule is the first comprehensive update since 2001. In developing this rule, we considered the recommendations of the 2005 review of BIG published by the Sport Fishing and Boating Partnership Council, a Service Federal Advisory Committee. We actively worked with the Council and our other partners, such as the States Organization for Boating Access, BoatUS, States, and the boating public.

Background

This final rule revises title 50, part 86 of the Code of Federal Regulations (CFR), which is ''Boating Infrastructure Grant (BIG) Program.'' The primary users of these regulations are agencies in the 50 States, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa. We use *State* or *States* in this document to refer to any or all of these jurisdictions.

These regulations tell States how they may apply for and use funds from the Sport Fish Restoration and Boating Trust Fund that are dedicated by law to BIG (Dingell-Johnson Sport Fish Restoration Act, 16 U.S.C. 777c, g, and g–1).

The Catalog of Federal Domestic Assistance at *https://www.cfda.gov* describes BIG under 15.622. BIG offers grants in two subprograms, BIG Tier 1—State and BIG Tier 2—National, to construct, renovate, and maintain boating infrastructure facilities for transient recreational vessels at least 26 feet long.

We published a proposed rule for BIG in the **Federal Register** on March 28, 2012 (77 FR 18767), with a 60-day comment period ending May 29, 2012. We received 22 responses from the public. Fifteen included comments applicable to the proposed rule and 11 included requests for more time to review the proposed rule. We responded to comments and published a second proposed rule in the **Federal Register** on April 25, 2014 (79 FR 23210), with a 90-day comment period ending July 24, 2014.

We received 13 responses to the proposed rule published at 79 FR 23210. Some of the comments we received support our changes or approaches and others recommend further changes or considerations. A few comments requested more information or explanation.

We address these comments in the following section.

Response to Public Comments

We arrange the public comments by sections of the proposed rule. We do not duplicate a response we give in one section in another section. We do not present comments exactly as stated unless we enclose text within quotation marks. In many instances, we combine several similar comments and show as a single comment. We state in the response to each comment any action taken and explain our response. Some public comments led us to reexamine sections or approaches beyond the specific public comment. Based on this reexamination, we make changes to improve clarity, consistency, organization, or comprehensiveness.

We make some changes for clarification and uniformity that we do not specifically discuss. We do not explain minor changes that do not significantly affect content. We discuss any substantive changes that resulted from this reexamination in our responses to the comments. We use the word *grantee* in our responses to refer to a State that receives a BIG award. It may also apply to a subgrantee with which a State agency has a formal agreement to construct, operate, or maintain a BIG-funded facility.

The regulations at 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (78 FR 78590, December 26, 2013), became effective for Federal grants on December 26, 2014. Many citations within this regulation have been updated to reflect the current authority. The term *grant period* is replaced with the term *period of performance* at 2 CFR 200.77 and we reflect that change in both the Response to Public Comments and the body of the rule.

We use the term *proposed rule* to refer to the proposed rule published in the **Federal Register** at 79 FR 23210, April 25, 2014.

We include all sections of the proposed rule and indicate if we received no comments.

Subpart A—General

Section 86.1 What does this part do?

In this section, we introduce the terms BIG Standard and BIG Select to identify the subprograms in BIG. We consider

the terms *Tier 1* and *Tier 2* in the current rule as bureaucratic and nondescriptive of the BIG subprograms, so we proposed different names. We received many comments and some suggestions for alternative subprogram names. Most commenters stated that since the program has been active for so long, a major change would be confusing to those routinely interacting with the program. Some States noted that they have developed materials that use the current subprogram names and they would have to recreate those materials if we were to implement new subprogram names. To compromise between the commenters' desire to keep the familiar *Tier* designations and our desire to make the names more explanatory, we accept a combination of suggested subprogram naming and designate the subprograms as *BIG Tier 1—State* and *BIG Tier 2—National.* Adding the terms *State* and *National* reflects the level at which grants are competed. Continued use of *Tier 1* and *Tier 2* supports familiarity and allows for States to use printed materials on hand, changing to add the new subprogram naming as is practical and convenient for them.

Section 86.2 What is the purpose of BIG?

We received one comment supporting our statement of the purpose of BIG. The commenter said that ''the proposed rules are consistent with that mission'' and he commends the Service for continuing to focus on such facilities.

Section 86.3 What terms do I need to know?

We received one comment supporting our clarification of *day dock* use.

General

Comment 1: Clarify that the grant for a BIG-funded facility includes both Federal funds plus matching funds.

Response 1: We make no change based on this comment. The definition of *grant* includes this information.

Comment 2: Recommend adding definitions for *grantee* and *subgrantee* to help applicants understand their role in the overall rule.

Response 2: We make no change based on this comment. Section 86.1 distinguishes between a grantee and a subgrantee.

Comment 3: Add the term *subgrantee* and include a description of the wide range of potential subgrantees to include educational institutions.

Response 3: We make no change to definitions based on this comment and refer to Response 2. We do add institutions of higher education to the list of potential subgrantees at § 86.17(b).

Comment 4: Add *award* to the terms and define it as different from a *grant.*

Response 4: We make no change based on this comment. We make minor changes to the definition of *grant* to better reflect the definition at 2 CFR 200.51. The term *Federal award* at 2 CFR 200.38 refers to several types of financial assistance. To define *award* may cause confusion.

Capital Improvement

Comment 5: Clarify what you mean by *repairing.* Does *capital improvement* include routine operation and maintenance?

Response 5: We make no change based on this comment. The word *repairing* is a common term and is clear in that it means to restore an existing structure to serve an intended purpose. *Capital improvement* does not include operation or maintenance in that a capital improvement must increase the structure's useful life by 10 years or cost at least $25,000.

Comment 6: What is the basis for using $25,000 as a cap in the definition of *capital improvement*?

Response 6: We make no change based on this comment. There is not a $25,000 cap in the definition of *capital improvement.* Rather, it is a minimum threshold based on the amount in 49 CFR part 24 above which a grantee must get an appraisal before acquiring real property in a WSFR-administered program. In the coming years, we will change other regulations to reflect this value.

Contractor/Concessioner

Comment 7: We received several comments stating that the term *contractor* was unclear and used inconsistently with the typical understanding of the term.

Response 7: We agree and change the term to *concessioner.* We expanded on the definition to clarify intent.

Facility

Comment 8: Recommend changing the word *boaters* to *eligible users.*

Response 8: We make no change based on this comment. The definition of *BIG-funded facility* is specific to eligible users, but the definition of *facility* is broader and applies to all boaters.

Comment 9: Clarify that a facility can be owned by one entity, but leased long-term to another to operate and manage.

Response 9: We make no change based on this comment. We discuss that an entity other than the owner may operate a facility in the definition of *concessioner* and at § 86.17.

Grants.gov

We received one comment asking us to clarify to subgrantees that States must apply for BIG funds through *http://www.grants.gov.* Upon further consideration, we add the definition of *grants.gov* at § 86.3 to improve clarity in the rule.

Maintenance

We received several comments supporting our definition of *maintenance* and making maintenance an allowable action for BIG Tier 1—State grants.

Comment 10: Suggest you give clarification for janitorial activities in the definition of *maintenance.*

Response 10: We make no change to the definition, but clarify at § 86.16 actions we identify as janitorial.

Comment 11: The examples in the definition of *maintenance* numbered (1) Lubricating components of BIG-funded equipment and (3) Painting, pressure washing, and repointing masonry seem to be janitorial in nature and not maintenance.

Response 11: We make no change based on this comment. The examples given at (1) and (3) are maintenance actions that are done on an occasional or cyclical basis to help maintain the equipment and structures that are part of the BIG-funded facility.

To clarify our approach, *maintenance* is focused on preserving the equipment and structures for use into the future. *Operations* are done on a daily or weekly cycle (more often than cyclical maintenance) and are actions that support the availability of the equipment and structures for current public use.

Navigable Waters

Comment 12: Clarify in the definition if the waterway is supposed to connect to another waterway to give cruising linkage, or if the intent is to open the waterways definition to include large water bodies that do not give linkage to another waterway.

Response 12: We clarify the definition to mean passage of eligible vessels within the water body. To be *navigable water* for the purposes of BIG, we do not require the water body to have a navigable passage to another water body. However, the water body must be large enough to support eligible vessel travel within the water body.

Operation

Comment 13: What does *service labor* mean?

Response 13: We change the term to *service worker.* This means anyone whose job duties are to offer services to

the public. Some examples of service workers are dock hands, rest room/shower attendants, and travel assistants.

Personal Property

Comment 14: Suggest you give examples of personal property that would be eligible as match as described at § 86.32(b). Are there any limits to the types of personal property that would be eligible as match? Allowing personal property as match seems to be in conflict with § 86.32(c)(2) that states match must be an eligible activity or cost, but personal property is not listed as an eligible action at § 86.11.

Response 14: We make no change based on this comment. We do not give a list of examples of personal property in the definition because the possibilities are so extensive, it may be perceived as limiting. Personal property must meet the criteria for match at § 86.32 and must support the BIG-funded project and the eligible actions or costs of the BIG-funded project. Personal property is basically anything that is not real property, and as real property has very limited eligibility in BIG, the majority of actions and costs for a BIG-funded project will involve personal property. Personal property in a BIG-funded project may include equipment, building materials, supplies, and many other items.

Project Cost

Comment 15: Recommend rewording to state, ''the Federal Share awarded through the BIG Grant and all Match given that the award is contingent upon combining the two items to complete the Project.''

Response 15: We make no change based on this comment. The definition we give is clear and consistent with the definition at other regulations.

Program Income

Comment 16: Does the reference to period of performance include useful life?

Response 16: No. A period of performance begins with the grant start date and ends with the grant end date. All costs for work performed are incurred during the period of performance. The period of useful life extends past the period of performance. We make no change based on this comment.

Real Property

Comment 17: In the examples of real property, suggest removing the term *fixed* dock and replacing it with *permanent* dock.

Response 17: We make no change based on this comment. The word *fixed* supports that the dock is physically and firmly attached to land.

Transient

We received a comment supporting that in the proposed rule we clarify day dock usage.

Comment 18: Recommend that the definition of ''transient'' be increased to 30 days to allow increased flexibility for long-distance travelers.

Response 18: We received comments in prior reviews asking us to consider increasing the time allowed in the definition of *transient.* We reconsidered all comments on the subject and change the definition of *transient* to include a stay up to 15 days. This will allow for eligible boaters to arrange for a 2-week stay, which is a more typical visit than 10 days, and gives one-day flexibility for arrival and departure.

Comment 19: Clarify if an eligible vessel staying at a large water body that is not navigably connected to another water body must be removed from the water at the end of the transient period.

Response 19: We make no change based on this comment. *Transient* defines the period a recreational vessel at least 26 feet long may stay at any single BIG-funded facility to be an eligible vessel. We make no additional restrictions.

Useful Life

Comment 20: Recommend replacing *routine care* with *operation* in this definition.

Response 20: We make no change based on this comment. *Routine care* is broader and includes operation, best management practices, enforcing marina rules and regulations, and other actions that together add to the care of BIG-funded items.

Subpart B—Program Eligibility

Section 86.10 Who may apply for a BIG grant?

Comment 21: The same commenter suggested at several sections of this rule that we change our grant process to allow individual public and private facility owners to circumvent the State and directly apply for BIG grants. He suggests that States may continue to be advisors, but there is a large burden on States when named as the applicant for all BIG projects. The response below applies to all related comments.

Response 21: We make no change based on this comment. Limiting BIG awards to States is based on the statute that established the program (see Pub. L. 105–178, sec. 7404(a) and (d), June 9, 1998).

Section 86.11 What actions are eligible for funding?

We received several comments that support eligible actions in the proposed rule and one that specifically supports using BIG funding for monitoring BIG projects.

Comment 22: We received a comment supporting our proposed language that boat wash stations are ineligible for funding and another requesting we reconsider allowing boat wash stations as eligible under BIG. One commenter supports boat wash stations as an eligible action, stating that they are used in saltwater environments to prepare the bottom surfaces of transient vessels for boat repairs and to improve performance.

Response 22: We make no change and do not include boat wash stations as eligible because:

- Boat wash stations require that boats be removed from the water to accomplish the desired results. This is potentially an auxiliary service to transient boaters on rare occasions, but not a primary benefit for transient vessels.
- We do not include other equipment to repair and maintain vessels as eligible for BIG funding.

States may seek to fund boat wash stations under the Dingell-Johnson Sport Fish Restoration Recreational Boating Access subprogram as described at 50 CFR part 80.

Comment 23: Add recording fees as an eligible action as this will be required when we record the Notice of Federal Participation as described at § 86.18.

Response 23: We agree and make the change.

Comment 24: Consider adding at § 86.11(a)(2)(i) *cultural* to formally include those studies as eligible.

Response 24: We agree and make the change.

Comment 25: Recommend adding at § 86.11(a)(5)(vi), a reference that directs readers to the definition of *marketing.*

Response 25: We make no change based on this comment. The rule has a definition of public communication and adding a reference to marketing in this paragraph may be confusing.

Comment 26: In reference to § 86.11(a)(6) [(a)(7) in the final rule], can actions such as coordinating and monitoring be used as match for a BIG Tier 2—National grant or is it allowed only under BIG Tier 1—State grants?

Response 26: We make no change based on this comment. These actions may be offered as match when approved as project costs for an individual BIG Tier 2—National grant project and

completed during the period of performance. These actions may be associated with implementing a Statewide BIG program and may be offered as match under BIG Tier 1—State.

Comment 27: What is the process for requesting and receiving prior approval for preaward costs? How far in advance can preaward costs be approved?

Response 27: We make no change based on this comment. We will consider approving preaward costs only if an applicant negotiates with us in anticipation of the BIG award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred during the BIG period of performance and only with our written approval. The applicant assumes all risk and we will not reimburse the preaward costs if it does not receive a BIG grant. An applicant should discuss possible preaward costs with us as early in the process as possible.

Section 86.12 What types of construction and services does boating infrastructure include?

Comment 28: Recommend adding dredging.

Response 28: We make no change based on this comment. Dredging is an action and not infrastructure.

Comment 29: Recommend adding floating restrooms as possible infrastructure.

Response 29: Floating restrooms are already included at § 86.12(e). We make a minor clarifying change.

Comment 30: Why do you include access to communication and provisions in the definition of harbor of safe refuge?

Response 30: We make no change based on this comment. Our research indicates that a harbor of safe refuge includes these amenities that support vessels during an emergency.

Comment 31: Suggest at § 86.12(e) you refer to § 86.11(c) and encourage Clean Vessel Act funding.

Response 31: We make no change based on this comment. This section describes what is included in boating infrastructure. We would confuse readers to include funding information here.

Section 86.13 What operational and design features must a facility have where a BIG-funded facility is located?

We received a comment that supports the change in the proposed rule that no longer requires operators to inform boaters of the location of other pumpouts. We also received a comment supporting flexibility in water access.

Comment 32: Clarify how security and safety is a required operational and design feature, but law enforcement is not an eligible action.

Response 32: We make no change based on this comment. Law enforcement is inconsistent with the authorizing legislation (Pub. L. 105–178, June 9, 1998) and is not an eligible action. The type of security and safety that a BIG-funded facility must offer is consistent with the mission of BIG in that it offers reasonable accommodations that give eligible users basic protection. Examples are: Lighting, gates, and communication.

Comment 33: Move items at § 86.43(n) to this section as it applies to operation and design and not what to include in a grant application.

Response 33: We agree and move much of the information at § 86.43(n) to § 86.13(b)(1) through (4).

Comment 34: The reference to depth requirements is confusing. Recommend having docking or mooring sites with water access at least 6 feet deep at mean low tide in tidal waters or a minimum of 6 feet in nontidal waters.

Response 34: We make no change based on this comment. We are asking applicants to consider the water conditions at the proposed site of the BIG-funded facility and any reasons for potential depth fluctuation that could affect access by eligible vessels. We do not wish to limit this consideration to tidal or nontidal influences, but to consider natural influences and those created by human activity.

Section 86.14 How can I receive BIG funds for facility maintenance?

We received a comment supporting the flexibility for States to use BIG Tier 1—State funding for maintenance. We received a comment asking us to clarify how to extend useful life when BIG funds are used for maintenance at a facility that has received a BIG grant in the past. We clarify that a grantee must extend the useful life of the capital improvements affected by the maintenance, as appropriate.

Section 86.15 How can dredging qualify as an eligible action?

We received a comment supporting our approach for dredging and dredging-related actions in BIG.

Comment 35: Suggest that the amount of the total BIG grant the Service will allow for dredging be increased from 10 percent to 20 percent.

Response 35: In the proposed rule we allowed using BIG funds for dredging if costs for dredging-related actions do not exceed 10 percent of total BIG project costs or $200,000, whichever is less. After further consideration, we remove the 10 percent limit and will allow dredging costs up to $200,000 for both BIG Tier 1—State and BIG Tier 2—National grants.

Comment 36: Change the term *basin* to *area used by eligible users*.

Response 36: We make no change based on this comment. The regulations limit the amount of BIG funds available for dredging and eliminate the need for allocating funds to only eligible users.

Comment 37: Recommend changing § 86.15(b)(1) from *lowest tide* to *mean low water.*

Response 37: We remove the term at § 86.15(b)(1) and substitute a reference to § 86.13(a)(6) for the language that the commenter finds confusing.

Comment 38: Recommend deleting the requirement at § 86.15(d) as it is unnecessary and will likely require a new form.

Response 38: We make no change based on this comment. We include this paragraph in response to concerns from prior and current comment periods for a method or directive to ensure that grantees maintain a dredged area. A new form will not be necessary. When a State signs the Standard Form 424B or 424D it certifies that it will follow all regulations.

Comment 39: Recommend adding language at § 86.15(d) to allow flexibility for responding to unusual circumstances that affect water level.

Response 39: We add ''under typical conditions'' to indicate that we will consider flexibility under extraordinary factors that affect water level.

Comment 40: Is dredging eligible only at a facility that has received BIG funds in the past?

Response 40: No. Dredging is an eligible action. As with all other eligible actions, there is no requirement to have received a prior grant. We make no change based on this comment.

Section 86.16 What actions are ineligible for BIG funding?

We received comments that agree with the concepts in this section, specifically that we list land as an ineligible cost.

Comment 41: Clarify the difference between:

- The ineligible action at § 86.16(a)(8)(ii) General marina or agency newsletters or Web sites promoting the marina or agency; and
- The eligible action at § 86.11(a)(5)(iv) Marina newsletter articles, marina or agency Web pages, and other communications you produce

that are directly related to the BIG-funded project.

Response 41: We make no change based on this comment. The difference is that the eligible action at § 86.11(a)(5)(iv) is specific to and directly supports the BIG-funded project. The ineligible action at § 86.16(a)(8)(ii) is general in nature and focused primarily on the marina or agency apart from the BIG project or program. If a marina or agency includes specific BIG-funded project or BIG program information in any general agency communications, it may allocate the information and education costs accordingly.

Comment 42: Suggest you revise § 86.16(a)(5) to clarify that roads and parking lots and possibly other land surface improvements may be funded with BIG if there is damage to the surface as a result of completing the BIG project.

Response 42: We clarify at § 86.11(a)(1) that repairing or restoring roads, parking lots, walkways, and other surface areas damaged as a direct result of BIG-funded construction is an eligible action. This must be limited only to the surface that receives the damage and a reasonable surrounding distance needed to insure the public can safely travel on the surface.

Comment 43: Remove the word *facilities* at § 86.16(a)(6) as it may create confusion when interpreting definitions at § 86.3.

Response 43: We agree and make the change.

Comment 44: Clarify the differences between maintenance and janitorial duties at §§ 86.3 and 86.16.

Response 44: We make no change at § 86.3 based on this comment. We clarify § 86.16(a)(2) by giving examples of possible janitorial duties.

Section 86.17 Who must own the site of a BIG-funded facility?

Comment 45: What documentation would a grantee need from a subgrantee that does not own the site of a BIG-funded facility to show it follows § 86.17(a)?

Response 45: We make no change based on this comment. We state in § 86.17(a) that any entity that does not own the site of a BIG-funded project must have a contractual arrangement showing that it, or the owner, will operate the BIG-funded facility for the useful life. The contractual arrangement must convey grant responsibilities to a subgrantee or operator and it must be acceptable to the State. The documentation will become part of the application when we award the grant. If the owner signs the grant, there is no need for additional documentation.

Comment 46: Clarify that State agencies other than the agency receiving the grant may be subgrantees.

Response 46: We agree and change the section to clarify this.

Comment 47: May Federal agencies, corporations, companies, and partnerships qualify as subgrantees?

Response 47: We make no change based on this comment. Corporations, companies, and partnerships that we will accept as subgrantees are either commercial enterprises or nonprofit organizations and are already listed as eligible subgrantees. A Federal agency may participate as a landowner that has a contractual relationship with a State subgrantee or through a reimbursable agreement. However, a Federal agency cannot be a subgrantee.

Comment 48: Remove the requirement that subgrantees that are commercial enterprises are subject to future regulations.

Response 48: We agree and removed § 86.17(c)(2) because we are uncertain how future regulations will be applied. We retain information at § 86.17(c)(1) as § 86.17(c) to remind grantees and subgrantees that businesses have other Federal requirements they must follow.

Section 86.18 How can I ensure that a BIG-funded facility continues to serve its intended purpose for its useful life?

We received comments that support this section.

Comment 49: What does the word ''record'' mean at § 86.18(b)?

Response 49: We make no change based on this comment. Recording means entering into a book of public records the written instruments affecting the grant interest in the real property it is located on. Recording with reference to the deed notifies all interested parties of the grantee's continuing responsibility to manage the BIG-funded facility for the purposes of the grant.

Comment 50: When would we know if a Notice of Federal Participation is required?

Response 50: We make no change based on this comment. A grantee must record a Notice of Federal Participation for all projects according to guidance from your Regional Office. We may, in consultation with a State, conclude that the project is too small to justify the cost of recording. If we approve that approach, the grantee is not required to record the interest for that project. Even if we tell the grantee we do not require them to record the interest, a State may choose to record it, or require its subgrantee to record it.

Comment 51: You should not require recording of the Federal interest after applications are received. Adding these requirements later can jeopardize partner relationships.

Response 51: We make no change based on this comment. We clarify this section based on other comments. It is the State's responsibility to direct potential subgrantees to these regulations or otherwise alert them to this and other potential obligations, compliance requirements, and future responsibilities.

Section 86.19 What if a BIG-funded facility would benefit both eligible and ineligible users?

We received comments supporting the changes that allow us to work with a grantee to correctly allocate costs after the application is received, but before we consider the application for award. We remove § 86.19(b) as it restates information in the opening paragraph. We renumber §§ 86.19(c) through (h) as §§ 86.19(b) through (g).

Comment 52: Remove assigning ''100 percent'' of the project costs as it is confusing.

Response 52: We define ''project cost'' at § 86.3 as the combination of the Federal share and the matching share. However, in the interest of clarity we rephrase to state ''all eligible project costs'' instead of ''100 percent.''

Comment 53: Change § 86.19(c) [now § 86.19(b)] so that applicants must properly allocate funds before the due date. The breakdown on allocated costs must be shown at the time of the application and not when the Director announces the award. Applications for BIG Tier 2—National grants cannot be reviewed and ranked without appropriate information.

Response 53: We make changes to clarify this paragraph. We expect that applicants will read both the regulations and the Notice of Funding Opportunity (NOFO) and make good faith efforts to appropriately allocate funds in their applications. However, we do not wish to reject an application simply for an error or misinterpretation in allocating funds. We include this paragraph so that we have the flexibility to work with the applicant before the award to resolve any problems. Paragraph (a) of this section clearly states that we expect an applicant to show and explain in the application the breakdown of costs and reasoning behind the cost allocation. We change paragraph (c) to clarify that after the application due date, we may work with applicants to resolve any issues. However, we must approve how an applicant allocates funds before we will

consider the application for a possible award.

Comment 54: Recommend you refer to § 86.43(i) at § 86.19(a)(2) of this section to link the two sections.

Response 54: We agree and insert the reference.

Comment 55: The example at § 86.19(d)(1) [now § 86.19(c)(1)] should have costs allocated between eligible and ineligible uses. Marinas may intentionally design or relocate uses to take advantage of BIG funding and also get a secondary benefit.

Response 55: We make no change based on this comment. An application must clearly state the primary purpose of the project and justify the approach. If BIG-eligible projects have a secondary use that does not interfere with the primary purpose, there is no loss to the program objectives.

Comment 56: The exception at § 86.19(d)(3) [now § 86.19(c)(3)] could be problematic. For example, a gangway with an estimated cost of $4,500 does not have to allocate funds between eligible and ineligible uses. What happens if the gangway goes to bid and comes in costing $10,000? The first expectation was that the BIG grant would cover 100 percent of the costs; in the second, the BIG grant covers only 90 percent of the costs, leaving $1,000 for the applicant to give as additional match. On top of that, would the $10,000 have to be allocated between eligible and ineligible uses after the fact?

Response 56: We make no change based on this comment. We include this section to reduce the burden of allocating costs for components of the BIG-funded project that have relatively little value. Section 86.19(d)(3) [now § 86.19(c)(3)] states that each year we will post the minimal value in the annual NOFO based on the formula as applied to the maximum award we offer that year. If the maximum award (Federal plus match) is $2 million, applying the formula will allow States to forego allocating costs for a component with a value of $5,000 or less.

In the scenario given in the comment, the total estimate for the gangway is $4,500, which means the grantee will receive $3,375 in BIG funding and give $1,125 in non-Federal match. After the grant is awarded, if the actual cost of an item is $5,500 more than originally projected, the grantee must pay the extra cost from a non-Federal source. If an applicant does not allocate costs for an item because the estimated value is below the threshold and later finds the actual cost exceeds that value, it must contact the Regional Office. The Regional Office will inform the applicant or grantee if it must assume additional costs to compensate for ineligible use. Regardless of whether an applicant chooses the option at § 86.19(c)(3), if the cost of a component is more than twice the original estimate, the grantee will incur additional, unexpected costs.

It is always an option for the applicant to choose to allocate costs for all components of the grant, regardless of the value. We offer the option at § 86.19(c)(3) as an alternative, but applicants do not have to use it.

Subpart C—Federal Funds and Match

We received a comment supporting all amendments and additions to this subpart.

Section 86.30 What is the source of BIG funds?

No comments received.

Section 86.31 How does the Service know how much money will be available for BIG grants each year?

No comments received.

Section 86.32 What are the match requirements?

Comment 57: Recommend you change the word ''State'' at § 86.32(a) to ''you'' to reflect the convention stated at § 86.1(b).

Response 57: We agree and make the change.

Section 86.33 What information must I give on match commitments, and where do I give it?

We received comments supporting the changes and specifically for removing the requirement for all match providers to produce a letter of commitment.

Section 86.34 What if a partner is not willing or able to follow through on a match commitment?

We received a comment supporting this section.

Subpart D—Application for a Grant

Section 86.40 What are the differences between BIG Standard (now BIG Tier 1—State) and BIG Select (now BIG Tier 2—National) grants?

Comment 58: We received several comments supporting the flexibility to increase annual BIG Tier 1—State funding. We also received comments that stated their support is contingent on adequate funds for BIG Tier 2—National projects.

Response 58: We agree that flexibility for larger funding amounts through Tier 1—State grants will allow States to plan smaller projects that could not successfully compete for Tier 2—National funds, but are beneficial to eligible users. We revised this section to assure States they will receive funding for requests up to $200,000 annually. We also add that we may increase the annual award a State may request if there are enough funds available and it is advantageous to the program. This will allow us to be flexible in awarding funding during the award period and potentially during the funding year, if we determine it is in the best interest of BIG.

Comment 59: Recommend that flexibility for awarding BIG Tier 1—State be considered only if BIG Tier 2—National applications do not exceed available funds in a given fiscal year. The BIG Tier 1—State NOFO should be posted after BIG Tier 2—National applications are received and after consulting with stakeholders.

Response 59: We make no change based on this comment. We adjust this section as discussed in Response 58, but the availability of BIG Tier 1—State funds will not depend on how much remains after the BIG Tier 2—National selections are made. We want to assure States they will have adequate BIG funding to maintain a viable program and to plan for needed actions. However, we will retain the flexibility to limit initial BIG Tier 1—State awards to $200,000 and have the flexibility to consider adding requested BIG funds above this threshold later during the funding year if additional funds are available.

Comment 60: If you are considering more than a 20 percent increase in the minimum funding for BIG Tier 1—State, you should first seek stakeholder input.

Response 60: We make no change based on this comment. However, we will consider consulting with our partners on possible approaches for implementing future annual changes.

Section 86.41 How do I apply for a grant?

Comment 61: You should inform subgrantees in the regulations that the State will send in their applications through *http://www.grants.gov.*

Response 61: We add the definition of *grants.gov* at § 86.3 and state that we require States to use *http://www.grants.gov* to apply for BIG grants.

Comment 62: Clarify at § 86.41(b) that the term ''certify'' means to sign.

Response 62: We make no change based on this comment. Certifying by an authorized State representative may be done electronically or by other means in the future. We will inform applicants of acceptable ways to certify in the annual NOFO.

Comment 63: Clarify that the agency eligible to apply for a BIG grant must be the one designated by the Governor and not a specific State agency.

Response 63: We make no change based on this comment. It is clear at § 86.10 that only one agency in each State may apply for BIG and the officials who may designate that agency in your State.

Comment 64: Switch § 86.41(b) and (c) to reflect that the form must be certified before submitting the grant application.

Response 64: We agree and make the recommended change.

Section 86.42 What do I have to include in a grant application?

Comment 65: Remove ''budget information'' from the list of items required in a grant application as it is already required at § 86.43 under project statement.

Response 65: We agree and removed budget information from the list of required items. We also clarify by adding a reference to § 86.43 in this paragraph.

Comment 66: Delete paragraph (c) as it refers to what is needed after the award. Recommend adding this to § 86.61.

Response 66: We agree and clarify this section to reflect what an applicant must include at the time of application. We refer to § 86.61 for additional requirements that will become part of the application after we approve the project.

Section 86.43 What information must I put in the project statement?

Comment 67: This section is burdensome for applicants, some with minimal grant experience, and requires unnecessary information. Recommend clarifying or changing to indicate additional information would be required once the project is selected for funding.

Response 67: We make no change based on this comment. The commenter did not state what parts of this section are burdensome. The State is the applicant and should work with potential subgrantees to develop the project statement. The information required in the project statement is standard for most grant programs. It is also necessary to determine allowability of costs and to rank applications in a competitive grant program.

Comment 68: The requirement to add names and qualifications of known contractors is burdensome at the application stage.

Response 68: We change the term *contractor* to *concessioner* at § 86.43(e)(2). We ask an applicant to give information in an application on known or anticipated concessioners or subgrantees. If an applicant has not identified concessioners or subgrantees in the application, it must inform us of this and be ready to respond to our requests for this additional information following § 86.42(c).

Comment 69: Combine this section with the criteria at §§ 86.51 through 86.60 to simplify preparing and reviewing applications.

Response 69: We make no change based on this comment. The project statement is required for both BIG Tier 1—State and BIG Tier 2—National applications. The criteria at §§ 86.51 through 86.60 are applied only to BIG Tier 2—National applications. It would be confusing to those applying for a BIG Tier 1—State grant to include criteria with the project statement. We will consider giving nonregulatory assistance to BIG Tier 2—National applicants to help them include criteria in their project statements.

Comment 70: This section appears to be solely for the purpose of aligning with WSFR's project reporting system, Wildlife Tracking and Reporting Actions for the Conservation of Species (TRACS). Clarify the content and reduce redundancy.

Response 70: We make no change based on this comment. A project statement (called a program narrative statement) was required by Office of Management and Budget (OMB) Circular No. A–102 and is supported by 2 CFR part 200, § 200.210 and appendix I to part 200. We give further details in this rule to help applicants give us the information we need to make informed decisions for funding. We use many terms that correlate to the TRACS performance reporting system to reduce confusion when completing those reports.

Comment 71: One commenter suggested alternative language for this section.

Response 71: We do not make any suggested change that applies only to BIG Tier 2—National, or that is a minimal change that does not significantly improve the final rule. We appreciate the examples and additional information the commenter presents and will consider them for future nonregulatory guidance. We did not use the word ''engineering'' in discussing the approach because we do not want to confuse applicants into thinking it is a requirement to employ an engineer. We used some of the suggestions to reformat the paragraph at § 86.43(i) and to clarify or further explain at paragraphs (b), (c), (e), (g)(3), (i), and (j).

Comment 72: Combine purpose and objective.

Response 72: We make no change based on this comment. Purpose and objective are two separate and distinct parts of a project statement. The purpose refers to the reason for the project and will include verbs such as create, improve, and increase. Objectives are brief guidelines that will help a grantee achieve project goals by stating more specifically the intended outputs, such as: The number of slips for transient boaters, the linear feet of new dock space, the time needed to complete that goal, and any information that describes that the goal is attainable and relevant.

Comment 73: You should give examples of measurable and verifiable objectives.

Response 73: We make no change based on this comment. We will consider offering further guidance outside of regulation.

Comment 74: It may be difficult for applicants to state a useful life for a capital improvement at the application stage.

Response 74: We make changes to clarify approach and expectations. At § 86.43(f), we change ''state'' to ''estimate'' and add a sentence that a grantee will finalize useful life during the approval process. This change informs an applicant that it must include information on useful life in the application, but it will be reviewed and may be changed, if necessary, when it receives an award. We also make clarifying changes at § 86.75, which is § 86.74 in this final rule.

An applicant may seek guidance from technical literature and from vendors, engineers, and others knowledgeable individuals to estimate the useful life of each capital improvement. We will reject an application that does not have the required estimates for useful life. Once a project is approved for an award, the Service may confer with the grantee on the estimate given in the application. A grantee must finalize the useful life before the award.

If an applicant is seeking points for the criterion at § 86.51(c)(2) as described at § 86.59(b)(2), it must give adequate information in the application to support the request for consideration under the criterion. If we find before we approve the grant that an applicant cannot show a reasonably expected increased benefit to earn the extra point(s), we will subtract the point(s) related to that criterion from the total score for that project and adjust awards accordingly.

Comment 75: No minimum useful life is identified. The current rule states

useful life is 20 years. Does this mean applicants can decide another period for useful life?

Response 75: We explained in the preamble of the proposed rule published at 77 FR 18767 on March 28, 2012, that we propose to eliminate the 20-year requirement and replace it with a useful life requirement based on capital improvements. The useful life determination described at §§ 86.73 and 86.74 will help grantees to better understand their responsibilities.

Section 86.44 What if I need more than the maximum Federal share and required match to complete my BIG-funded project?

We revise this section in response to a comment that asked us to reference this section at § 86.73. Upon further consideration, we concluded the two sections contain almost identical content, so we combine all the information at § 86.44.

Comment 76: Add an option to this section that will allow grantees to reduce the scope of their project if they find that actual costs greatly exceed projected costs.

Response 76: We make no change based on this comment. In BIG Tier 2-National project review and ranking, the scope is a major factor that influences the amount of points that a project receives. If the scope were reduced, it could impact the score and ranked order. It is important that applicants are thorough when preparing their application and consider all factors that could influence costs during the period of performance.

Section 86.45 If the Service does not select my grant application for funding, can I apply for the same project the following year?

No comments received.

Section 86.46 What changes can I make in a grant application after I submit it?

Comment 77: Clarify and give examples for changes after the due date as found at paragraph (b). If part of an application is found to be ineligible, will you allow applicants to change the scope, budget, etc., and continue the review and ranking?

Response 77: We clarify and reformat paragraph (b) to state that if an applicant proposes using BIG funds for an action that we identify as ineligible, we will decide on a case-by-case basis whether we will consider the rest of the application for funding. We do not give examples in the regulation as there are many possible scenarios and to give any examples may make the regulation more confusing. We may seek advice from the applicant or members of the advisory panel, but we will make the final decision. If we decide to accept the application with the ineligible costs removed, we will ask the applicant to change the application accordingly.

Comment 78: Delete paragraph (f) on accepting reduced funding as this does not foster the competitive aspect of the program unless offered to all non-funded applicants.

Response 78: We make changes in this paragraph to clarify this issue. We review and rank all competitive grant applications according to the BIG criteria, arrange them in ranked order, and award available funds to projects, starting with those ranked the highest. The amount of available funds and the amount of funding requests never match. Paragraph (f) describes the approach we may use when funding is still available, but the next ranked project cannot be funded at the level requested. We may approach the applicant for the next highest ranked project to offer the remaining funds. If the applicant declines, we may continue the process to maximize BIG Tier 2—National funding.

Subpart E—Project Selection

We received a comment supporting all amendments and additions to this subpart.

Section 86.50 Who ranks BIG Tier 2—National grant applications?

No comments received.

Section 86.51 What criteria does the Service use to evaluate BIG Tier 2—National applications?

Comment 79: Suggest a project achieve a score of at least 65 percent of the total available in order to be considered for funding. A project that receives below this score is clearly not competitive and should not be considered, even if there is funding available.

Response 79: We agree with the approach to set a minimum standard for funding BIG Tier 2—National applications as an incentive for developing more competitive projects. As we did not discuss this in the proposed rule, we change this section to allow us to set a scoring standard in the NOFO. We will use feedback from States, advisors, and others to assess if we wish to set a minimum total score standard. We may announce in the NOFO a minimum total score of 23, which is 65 percent of the maximum total score available in criterion at paragraphs (a) and (b).

Comment 80: Consider awarding points for projects in federally designated disaster areas so we can leverage BIG funds to aid in the recovery.

Response 80: We make no change based on this comment. We score competitive applications based on need as described at § 86.52. We will consider all factors in an application that address the need for the project, including those factors as they may relate to disaster response and rebuilding.

Comment 81: We received two comments recommending we adjust the points in the ranking criteria to create a possible total of 100. One of these comments includes removing § 86.51(c)(2) and (c)(3). One commenter included a table that showed these changes and added designations from § 86.43 that correspond to the criteria.

Response 81: We do not accept the suggestions for revising scoring and removing two paragraphs at § 86.51(c). Many comments we received in response to the proposed rule published at 77 FR 18767, March 28, 2012, stated they want a point range for scoring each criterion, but that a wide range is not effective. In response, we reduced the point range for scoring in the proposed rule published April 25, 2014. We received comments supporting §§ 86.51(c)(2) and (c)(3) and we will retain those sections.

The criterion at § 86.51(c)(2) is important because it encourages applicants to consider the future, plan for projects that extend the availability of the BIG-funded facility, and improve services to eligible users. This criterion also addresses the desire for grantees to build projects using design and processes that improve resiliency to the effects of climate change. Many States asked us to include the criterion at § 86.51(c)(3) to recognize the value of those operators who voluntarily participate in Clean Marina and other similar programs. We agree and recognize the benefit to eligible users.

We agree that information to help applicants relate criteria to the project statement is desirable, but not through this regulation. We will work with our partners to develop and distribute further guidance to help applicants.

Comment 82: The criterion at § 86.51(a)(2) does not address justification for the cost of the project. Instead, it focuses on comparing costs with benefits as a means of comparing one application to another. Recommend changing the question to be more about how costs compare to benefits rather than if the costs are justified by the benefits.

Response 82: We do not make a change at § 86.51(a)(2), but we agree that the explanation for this criterion at § 86.53 could be interpreted that we would compare an application to others in the same grant cycle. We change § 86.53 to state we will consider the costs as they relate to the benefits for individual projects and not as projects compare to each other in the same grant cycle. We also add guidance at paragraph § 86.53(d) recommending that an applicant inform us if project costs are inflated due to: (a) Specialized materials to increase the useful life, (b) the cost of transporting materials to a remote location, (c) unusual costs associated with producing benefits at a certain site or in a certain geographic area, or (d) the cost of providing environmentally friendly facilities.

Comment 83: Recommend replacing *in-kind* with *substantial* because in-kind is just another type of match and it should not matter what type of match it is.

Response 83: We make no change based on this comment. We received many comments on this subject while preparing for this rulemaking. We responded to recommendations to allow us to consider the nonmonetary contributions of partners as well as the monetary contributions. The purpose of the criterion at § 86.51(b)(2) is to allow for partnerships in smaller communities to rank well even if they do not result in large financial contributions. The word *substantial* is subjective and could result in negating the spirit of giving credit for smaller contributors.

Section 86.52 What does the Service consider when evaluating a project on the need for more or improved boating infrastructure?

When evaluating a project on the need for more or improved boating infrastructure facilities as described at § 86.52(c), we will consider creating accessibility for eligible vessels by increasing water depth. We received a comment supporting this factor.

Section 86.53 What factors does the Service consider for benefits to eligible users that justify the cost?

We make changes to this section based on comments received under § 86.51. See Response 82.

Comment 84: Construction costs can vary widely across the country for reasons such as meeting hurricane standards, installing bubbler systems where ice is a factor, and adding transportation costs for remote locations. Recommend applicants be told to explain why higher costs may be justified.

Response 84: We agree and make changes as discussed in Response 82.

Comment 85: Recommend adding consideration for costs associated with making the project a harbor of safe refuge.

Response 85: We agree and add paragraph (e) to tell applicants to include this information.

Section 86.54 What does the Service consider when evaluating a project on boater access to significant destinations and services that support transient boater travel?

We received a comment supporting the focus on both attractions and boater services in the ranking criterion at § 86.51(a)(3).

Comment 86: Recommend including proximity to a harbor of safe refuge under this criterion.

Response 86: We agree and add at paragraph (c) that we will consider *safety* as well as services.

Section 86.55 What does the Service consider as a partner for the purposes of these ranking criteria?

No comments received.

Section 86.56 What does the Service consider when evaluating a project that includes more than the minimum match?

Comment 87: Recommend deleting the word *cash* at paragraph (a) because it precludes additional points for in-kind contributions.

Response 87: We make no change based on this comment. In-kind contributions are discussed at § 86.57.

Comment 88: We received two comments recommending a different standard for awarding points based on percentage of additional cash match. Both recommendations were based on increasing the total points at § 86.51 that may be considered for this criterion for a maximum of 25 points.

Response 88: We did not accept the recommended changes at this section as we did not accept the related recommended changes in Comment 81. However, upon further review we change the percent ranges to encourage applicants to offer more match to their project.

Section 86.57 What does the Service consider when evaluating contributions that a partner brings to a project?

No comments received.

Section 86.58 What does the Service consider when evaluating a project for a physical component, technology, or technique that will improve eligible user access?

No comments received.

Section 86.59 What does the Service consider when evaluating a project for innovative physical components, technology, or techniques that improve the BIG project?

Comment 89: We consider § 86.59(b)(4) and (5) to be unneeded and a potential obstacle to participation. These two requirements are typically considered during project design and would be enforced during the permitting process.

Response 89: We make no change based on this comment. This section is not a requirement, and there is no reason for it to be an obstacle to participation. This section allows us to consider additional points for innovative physical components, technology, or techniques that improve the BIG project. The items at § 86.59(b)(4) and (5) are examples of how an applicant could qualify for these additional points by exceeding the compliance requirements. If an applicant is required to use a physical component, technology, or technique to comply with local, State, or Federal regulations, then we do not consider additional points under this criterion. This section is for applicants who voluntarily choose an innovative approach that increases the resilience of project components or otherwise improves the project.

Section 86.60 What does the Service consider when evaluating a project for demonstrating a commitment to environmental compliance, sustainability, and stewardship?

We received a comment that supports the additional point we offer for marinas that have received official recognition for their voluntary commitment to exceeding required standards.

Section 86.61 What happens after the Director approves projects for funding?

No comments received. We delete § 86.42(c) and refer to this section.

Subpart F—Grant Administration

Section 86.70 What standards must I follow when constructing a BIG-funded facility?

No comments received.

Section 86.71 How much time do I have to complete the work funded by a BIG grant?

We received several comments supporting the length of the period of performance and the amendment to allow a first extension for up to 2 years. The commenters state that the length of the period of performance is important to ensure project completion.

Comment 90: Clarify that we could have almost 6 years to complete a project if we combine the 3-year period of performance with the 3-year period of obligation.

Response 90: There is potential that combining the obligation period with the period of performance could result in 6 years from the beginning of the fiscal year the project is awarded to the end of the period of performance. However, this may not always be true. A grantee may coordinate with us after we award a grant to set a start date for the period of performance within the obligation period. We add that we will work with a grantee to set a start date within the 3-year period of obligation.

Section 86.72 What if I cannot complete the project during the period of performance?

No comments received.

Section 86.73 What if I need more funds to finish a project?

Comment 91: Recommend adding a reference in this section to § 86.44 as the two sections are related.

Response 91: We agree, and upon further review we consider most of § 86.73 and § 86.44 to be redundant. We revise § 86.44 to include additional information from § 86.73 and delete the content of § 86.73. We renumber §§ 86.74 through 86.79 as §§ 86.73 through 86.78.

Section 86.74 [now § 86.73] How long must I operate and maintain a BIG-funded facility, and who is responsible for the cost of facility operation and maintenance?

Comment 92: Recommend the owner of the BIG-funded facility be responsible for continued operation and maintenance and not the State.

Response 92: We make no change based on this comment. A State may enter into a contractual agreement with the facility owner, subgrantee, or other type of operator that designates them as the responsible party for continued operation and maintenance. However, should they not fulfill their obligations, the State as grantee is ultimately responsible.

Section 86.75 [now § 86.74] How do I determine the useful life of a BIG-funded facility?

Comment 93: We received two comments recommending this section be simplified to avoid confusion.

Response 93: We considered these comments and clarify this section by presenting it as a step-by-step process. We emphasize that the initial application must include a useful life estimate, but the estimate may be based on information from resources that are typically available when developing a grant application. We also clearly allow a State to choose only one of the methods for finalizing useful life in the grant and use that method exclusively for BIG in that State.

Comment 94: Recommend changing the language so that it is clear how to apply the process. It is unclear how components relate to the larger systems and what would happen if a smaller component is no longer useful, but necessary for continued use of a larger one. For example, if a gangway costs less than $25,000 and it falls into disrepair, can the operator remove and not replace it, even if it is necessary to access the dock system?

Response 94: We changed this section to clarify at § 86.74(a)(1)(iv) and (v) that each smaller component must be associated with a capital improvement. If it supports more than one, the smaller component must be associated with the capital improvement with the longest expected useful life.

Section 86.76 [now § 86.75] How should I credit BIG?

No comments received.

Section 86.77 [now § 86.76] How can I use the logo for BIG?

No comments received.

Section 86.78 [now § 86.77] How must I treat program income?

We received a comment supporting our approach to clarifying program income.

Comment 95: Recommend you add that we should tell you if project construction is completed before the end of the period of performance to reduce the impact of income earned.

Response 95: We agree and add paragraph (e) to recommend grantees tell us when project construction is completed.

Section 86.79 [now § 86.78] How must I treat income earned after the period of performance?

No comments received.

Subpart G—Facility Operations and Maintenance

Section 86.90 How much must an operator of a BIG-funded facility charge for using the facility?

We received several comments supporting the change to allow marinas to offer services for free if that is the prevailing rate.

Comment 96: What if a town or city council mandates a high fee just to raise revenue? It seems unfair to make boaters pay the higher fee.

Response 96: We agree and added language at § 86.90(c) that we will accept a State or locally imposed fee schedule if it is reasonable and does not impose an undue burden on eligible users.

Comment 97: Clarify that when determining prevailing rates that similar facilities are being compared. It would not be fair to compare the rates from a private, member-only marina to a public or private marina open to the public. Another example of differing types of facilities would be a public dock connected to a city center compared to a public dock connected to an island.

Response 97: We state at § 86.90(a) that the facilities we consider when determining prevailing rates must offer similar services or amenities. We respond to this comment by adding that they are to be similarly situated as well.

Section 86.91 May an operator of a BIG-funded facility increase or decrease user fees during its useful life?

No comments received.

Section 86.92 Must an operator of a BIG-funded facility allow public access?

Comment 98: Change the word ''operator'' to ''contractor'' to match the definitions.

Response 98: We make no change to this section based on this comment. We clarify by adding the term ''operator'' at § 86.3.

Section 86.93 May I prohibit overnight use by eligible vessels at a BIG-funded facility?

Comment 99: Clarify if we can change to a day-use only facility after the project is completed, but before it reaches the end of its useful life. Would we use the guidance at Subpart H to do this?

Response 99: If a grantee wishes to convert a Tier 1-State or a Tier 2-National project from an overnight to a day-use facility, it must contact the Regional Office for guidance. A subgrantee must contact their State, which will in turn contact the Regional Office. The change in usage will alter the scope of the project, and deviation from the original project scope may constitute a breach of a grant agreement. Grantees must receive our approval before making any changes in the scope of a project at any time during its useful life. [See 2 CFR 200.201(b)(5) and 200.308(b)]

Section 86.94 Must I give information to eligible users and the public about BIG-funded facilities?

We received several comments supporting the change to allow using signs and other forms of emerging communication to inform eligible users about the facility and eligible uses.

Subpart H—Revisions and Appeals

Section 86.100 Can I change the information in a grant application after I receive a grant?

No comments received.

Section 86.101 How do I ask for revision of a grant?

No comments received.

Section 86.102 Can I appeal a decision?

No comments received.

Section 86.103 Can the Director authorize an exception to this part?

No comments received.

Subpart I—Information Collection

Section 86.110 What are the information collection requirements of this part?

No comments received.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

The Regulatory Flexibility Act requires an agency to consider the impact of final rules on small entities, *i.e.,* small businesses, small organizations, and small government jurisdictions. If there is a significant economic impact on a substantial number of small entities, the agency must perform a Regulatory Flexibility Analysis. This is not required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the Regulatory Flexibility Act to require Federal agencies to state the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

We have examined this final rule's potential effects on small entities as required by the Regulatory Flexibility Act. We have determined that the changes in the final rule do not have a significant impact and do not require a Regulatory Flexibility Analysis because the changes:

a. Give information to State fish and wildlife agencies that allows them to apply for and administer grants more easily, more efficiently, and with greater flexibility. Only State fish and wildlife agencies may receive BIG grants.

b. Address changes in law and regulation. This helps grant applicants and recipients by making the regulation consistent with current standards.

c. Reword and reorganize the regulation to make it easier to understand.

d. Allow small entities to voluntarily become subgrantees of agencies and any impact on these subgrantees would be beneficial.

The Service has determined that the changes primarily affect State governments and any small entities affected by the changes voluntarily enter into mutually beneficial relationships with a State agency. They are primarily concessioners and subgrantees and the impact on these small entities will be very limited and beneficial in all cases.

Consequently, we certify that because this final rule will not have a significant economic effect on a substantial number of small entities, a Regulatory Flexibility Analysis is not required.

In addition, this final rule is not a major rule under SBREFA (5 U.S.C. 804(2)) and will not have a significant impact on a substantial number of small entities because it does not:

a. Have an annual effect on the economy of $100 million or more.

b. Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions.

c. Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. The Act requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of a final rule with Federal mandates that may result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. We have determined the following under the Unfunded Mandates Reform Act:

a. As discussed in the determination for the Regulatory Flexibility Act, this final rule will not have a significant economic effect on a substantial number of small entities.

b. The regulation does not require a small government agency plan or any other requirement for expending local funds.

c. The programs governed by the current regulations and enhanced by the changes potentially assist small governments financially when they occasionally and voluntarily participate as subgrantees of an eligible agency.

d. The final rule clarifies and improves upon the current regulations allowing State, local, and tribal governments and the private sector to receive the benefits of grant funding in a more flexible, efficient, and effective manner.

e. Any costs incurred by a State, local, or tribal government or the private sector are voluntary. There are no mandated costs associated with the final rule.

f. The benefits of grant funding outweigh the costs. The Federal Government provides up to 75 percent of the total project costs in each requested grant to the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia. The Federal Government will also waive the first $200,000 of match for each grant to the Commonwealth of the Northern Mariana Islands and the territories of Guam, the U.S. Virgin Islands, and American Samoa. Of the 50 States and 6 other jurisdictions that voluntarily are eligible to apply for grants in these programs

each year, 95 percent have participated. This is clear evidence that the benefits of this grant funding outweigh the costs.

g. This final rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

This final rule will not have significant takings implications under E.O. 12630 because it will not have a provision for taking private property. Therefore, a takings implication assessment is not required.

Federalism

This final rule will not have sufficient Federalism effects to warrant preparing a federalism summary impact statement under E.O. 13132. It would not interfere with the States' ability to manage themselves or their funds. We work closely with the States administering these programs. They helped us identify those sections of the current regulations needing further consideration and new issues that prompted us to develop a regulatory response. In drafting the final rule, we received comments from the Sport Fishing and Boating Partnership Council, a nongovernmental committee established under the Federal Advisory Committee Act; the States Organization for Boating Access; the Joint Federal/State Task Force on Federal Assistance Policy; and individual States.

Civil Justice Reform

The Office of the Solicitor has determined under E.O. 12988 that the rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The final rule will help grantees because it:

a. Updates the regulations to reflect changes in policy and practice and recommendations received during the past 14 years;

b. Makes the regulations easier to use and understand by improving the organization and using plain language;

c. Modifies the final rule to amend 50 CFR part 86 published in the **Federal Register** at 66 FR 5282 on January 18, 2001, based on subsequent experience; and

d. Adopts recommendations on new issues received from State fish and wildlife agencies and the Sport Fishing and Boating Partnership Council since we published the current rule.

Paperwork Reduction Act

This final rule does not contain new information collection requirements that require approval under the PRA (44 U.S.C. 3501 *et seq.*). OMB has reviewed and approved the U.S. Fish and Wildlife Service application and reporting requirements associated with the Boating Infrastructure Grant Program and assigned OMB Control Number 1018–0109, which expires September 30, 2015. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have analyzed this rule under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and part 516 of the Departmental Manual. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required due to the categorical exclusion for administrative changes given at 516 DM 8.5A(3).

Government-to-Government Relationship With Tribes

We have evaluated potential effects on federally recognized Indian tribes under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2. We have determined that there are no potential effects. This final rule will not interfere with the tribes' ability to manage themselves or their funds.

Energy Supply, Distribution, or Use (E.O. 13211)

E.O. 13211 addresses regulations that significantly affect energy supply, distribution, and use, and requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under E.O. 12866 and does not affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 86

Administrative practice and procedure, Boats and boating safety, Fishing, Grants administration, Grant programs, Harbors, Intermodal transportation, Marine resources, Natural resources, Navigation (water), Recreation and recreation areas, Reporting and recordkeeping requirements, Rivers, Signs and symbols, Vessels, Water resources, Waterways.

Regulation Promulgation

For the reasons discussed in the preamble, we amend title 50 of the Code of Federal Regulations, chapter I, subchapter F, by revising part 86 to read as follows:

PART 86—BOATING INFRASTRUCTURE GRANT PROGRAM

Subpart A—General

Sec.

86.1 What does this part do?
86.2 What is the purpose of BIG?
86.3 What terms do I need to know?

Subpart B—Program Eligibility

86.10 Who may apply for a BIG grant?
86.11 What actions are eligible for funding?
86.12 What types of construction and services does boating infrastructure include?
86.13 What operational and design features must a facility have where a BIG-funded facility is located?
86.14 How can I receive BIG funds for facility maintenance?
86.15 How can dredging qualify as an eligible action?
86.16 What actions are ineligible for BIG funding?
86.17 Who must own the site of a BIG-funded facility?
86.18 How can I ensure that a BIG-funded facility continues to serve its intended purpose for its useful life?
86.19 What if a BIG-funded facility would benefit both eligible and ineligible users?

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86.30 What is the source of BIG funds?
86.31 How does the Service know how much money will be available for BIG grants each year?
86.32 What are the match requirements?
86.33 What information must I give on match commitments, and where do I give it?
86.34 What if a partner is not willing or able to follow through on a match commitment?

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86.40 What are the differences between BIG Tier 1—State grants and BIG Tier 2—National grants?
86.41 How do I apply for a grant?
86.42 What do I have to include in a grant application?
86.43 What information must I put in the project statement?
86.44 What if I need more than the maximum Federal share and required match to complete my BIG-funded project?
86.45 If the Service does not select my grant application for funding, can I apply for the same project the following year?
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86.50 Who ranks BIG Tier 2—National grant applications?

86.51 What criteria does the Service use to evaluate BIG Tier 2—National applications?
86.52 What does the Service consider when evaluating a project on the need for more or improved boating infrastructure?
86.53 What factors does the Service consider for benefits to eligible users that justify the cost?
86.54 What does the Service consider when evaluating a project on boater access to significant destinations and services that support transient boater travel?
86.55 What does the Service consider as a partner for the purposes of these ranking criteria?
86.56 What does the Service consider when evaluating a project that includes more than the minimum match?
86.57 What does the Service consider when evaluating contributions that a partner brings to a project?
86.58 What does the Service consider when evaluating a project for a physical component, technology, or technique that will improve eligible user access?
86.59 What does the Service consider when evaluating a project for innovative physical components, technology, or techniques that improve the BIG project?
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86.61 What happens after the Director approves projects for funding?

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86.70 What standards must I follow when constructing a BIG-funded facility?
86.71 How much time do I have to complete the work funded by a BIG grant?
86.72 What if I cannot complete the project during the period of performance?
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86.75 How should I credit BIG?
86.76 How can I use the logo for BIG?
86.77 How must I treat program income?
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86.90 How much must an operator of a BIG-funded facility charge for using the facility?
86.91 May an operator of a BIG-funded facility increase or decrease user fees during its useful life?
86.92 Must an operator of a BIG-funded facility allow public access?
86.93 May I prohibit overnight use by eligible vessels at a BIG-funded facility?
86.94 Must I give information to eligible users and the public about BIG-funded facilities?

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86.100 Can I change the information in a grant application after I receive a grant?
86.101 How do I ask for a revision of a grant?
86.102 Can I appeal a decision?
86.103 Can the Director authorize an exception to this part?

Subpart I—Information Collection

86.110 What are the information-collection requirements of this part?

Authority: 16 U.S.C. 777c, g, and g–1.

Subpart A—General

§ 86.1 What does this part do?

(a) This part tells States how they may apply for and receive grants from the Boating Infrastructure Grant program (BIG) Tier 1-State and Tier 2-National subprograms. Section 86.40 describes the differences between these two subprograms.

(b) The terms *you, your,* and *I* refer to a State agency that applies for or receives a BIG grant. *You* may also apply to a subgrantee with which a State agency has a formal agreement to construct, operate, or maintain a BIG-funded facility.

(c) The terms *we, us,* and *our* refer to the U.S. Fish and Wildlife Service.

§ 86.2 What is the purpose of BIG?

The purpose of BIG is to construct, renovate, and maintain boating infrastructure facilities for transient recreational vessels at least 26 feet long.

§ 86.3 What terms do I need to know?

For the purposes of this part, we define these terms:

BIG-funded facility means only the part of a facility that we fund through a BIG grant.

Boating infrastructure means all of the structures, equipment, accessories, and services that are necessary or desirable for a facility to accommodate eligible vessels. See § 86.12 for examples of boating infrastructure.

Capital improvement means:

(1) A new structure that costs at least $25,000 to build; or

(2) Altering, renovating, or repairing an existing structure if it increases the structure's useful life by 10 years or if it costs at least $25,000.

Concessioner means an entity with which a State has a written agreement to operate or manage a BIG-funded facility. The agreement with a concessioner may or may not involve a financial exchange. A concessioner is not a contractor or vendor. You pay a contractor or vendor to perform specific duties or supply specific materials according to a written contract. Concessioners, vendors, and contractors are not grant recipients.

Construction means the act of building or significantly altering, renovating, or repairing a structure. Clearing and reshaping land and demolishing structures are types or phases of construction. Examples of structures are buildings, docks, piers, breakwaters, and slips.

Director means:

(1) The Director of the Fish and Wildlife Service whom the Secretary of the Interior has delegated authority to administer BIG nationally; or

(2) A deputy or another person whom the Director has delegated authority over BIG.

Eligible user means an operator or passenger of an eligible vessel.

Eligible vessel means a transient recreational vessel at least 26 feet long. The term includes vessels that are owned, loaned, rented, or chartered. The term does not include:

(1) Commercial vessels;

(2) Vessels that dock or operate permanently from the facility where a BIG-funded project is located; or

(3) Vessels that receive payment to routinely transport passengers on a prescribed route, such as cruise ships, dive boats, and ferries.

Facility means the structures, equipment, and operations that:

(1) Provide services to boaters at one location; and

(2) Are under the control of a single operator or business identified in the grant application.

Grant means an approved award of money, the principal purpose of which is to transfer funds from a Federal awarding agency to the non-Federal entity (grantee) to carry out an authorized public purpose and includes the matching cash and any matching in-kind contributions. The legal instrument used is a grant agreement.

Grants.gov is a centralized location for States and other entities to find and apply for Federal funding. It is located at *http://www.grants.gov.* We require States to use grants.gov, or any system that replaces it, to apply for BIG grants.

Maintenance means keeping structures or equipment in a condition to serve the intended purpose. It includes cyclical or occasional actions to keep facilities fully functional. It does not include operational actions such as janitorial work. Examples of maintenance actions are:

(1) Lubricating mechanical components of BIG-funded equipment;

(2) Replacing minor components of a BIG-funded improvement, such as bolts, boards, and individual structural components; and

(3) Painting, pressure washing, and repointing masonry.

Marketing means an activity that promotes a business to interested

customers for the financial benefit of the facility. It may include a plan for sales techniques and strategies, business communication, and business development. A business uses marketing to find, satisfy, and keep a customer.

Match means the value of any cash or in-kind contributions required or volunteered to complete the BIG-funded facility that are not borne by the Federal Government, unless a Federal statute authorizes such match. Match must follow the criteria at 2 CFR 200.306(b).

Navigable waters means waters that are deep and wide enough for the passage of eligible vessels within the water body.

Operation means actions that allow a BIG-funded facility or parts of a BIG-funded facility to perform their function on a daily or frequent basis. Examples of operation are janitorial work, service workers, facility administration, utilities, rent, taxes, and insurance.

Operator means an individual or entity that is responsible for operating a BIG-funded facility. An operator may be a grantee, a subgrantee, a concessioner, or another individual or entity that the grantee has an arrangement with to operate the BIG-funded facility.

Personal property means anything tangible or intangible that is not real property.

Program income means gross income earned by the grantee or subgrantee that is directly generated by a grant-supported activity, or earned as a result of the grant, during the period of performance.

Project means one or more related actions that are eligible for BIG funding, achieve specific goals and objectives of BIG, and in the case of construction, occur at only one facility.

Project cost means total allowable costs incurred under BIG and includes Federal funds awarded through the BIG grant and all non-Federal funds given as the match or added to the Federal and matching shares to complete the BIG-funded project.

Public communication means communicating with the public or news media about specific actions or achievements directly associated with BIG. The purpose is to inform the public about BIG-funded projects or the BIG program.

Real property means one, several, or all interests, benefits, and rights inherent in owning a parcel of land. A parcel includes anything physically and firmly attached to it by a natural or human action. Examples of real property in this rule include fee and leasehold interests, easements, fixed docks, piers, permanent breakwaters, buildings, utilities, and fences.

Regional Office means the main administrative office of one of the Service's geographic Regions in which a BIG-funded project is located. Each Regional Office has a:

(1) *Regional Director* appointed by the Director to be the chief executive official of the Region and authorized to administer Service activities in the Region, except for those administered directly by the Service's Headquarters Office; and

(2) *Division of Wildlife and Sport Fish Restoration (WSFR)* or its equivalent that administers BIG grants.

Renovate means to rehabilitate all or part of a facility to restore it to its intended purpose or to expand its purpose to allow use by eligible vessels or eligible users.

Scope of a project means the purpose, objectives, approach, and results or benefits expected, including the useful life of any capital improvement.

Service means the U.S. Fish and Wildlife Service.

State means any State of the United States, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa.

Transient means travel to a single facility for day use or staying at a single facility for up to 15 days.

Useful life means the period during which a BIG-funded capital improvement is capable of fulfilling its intended purpose with adequate routine care and maintenance. See §§ 86.73 and 86.74.

Subpart B—Program Eligibility

§ 86.10 Who may apply for a BIG grant?

One agency in each eligible State may apply for a BIG grant if authorized to do so by:

(a) A statute or regulation of the eligible jurisdiction;

(b) The Governor of the State, Commonwealth, or territory; or

(c) The Mayor of the District of Columbia.

§ 86.11 What actions are eligible for funding?

(a) The following actions are eligible for BIG funding if they are for eligible users or eligible vessels:

(1) Construct, renovate, or maintain publicly or privately owned boating infrastructure (see § 86.12) following the requirements at § 86.13. This may include limited repair or restoration of roads, parking lots, walkways, and other surface areas damaged as a direct result of BIG-funded construction.

(2) Conduct actions necessary to construct boating infrastructure, such as:

(i) Engineering, economic, environmental, historic, cultural, or feasibility studies or assessments; and

(ii) Planning, permitting, and contracting.

(3) Dredging a channel, boat basin, or other boat passage following the requirements at § 86.15.

(4) Install navigational aids to give transient vessels safe passage between a facility and navigable channels or open water.

(5) Produce information and education materials specific to BIG or a BIG-funded project and that credit BIG as a source of funding when appropriate. Examples of eligible actions include:

(i) Locating BIG-funded facilities on charts and cruising guides;

(ii) Creating Statewide or regional brochures telling boaters about BIG and directing them to BIG-funded facilities;

(iii) Advertising a BIG-funded facility in print or electronic media with the emphasis on BIG, the BIG-funded facility, or services for eligible users, and not on marketing the marina as a whole;

(iv) Marina newsletter articles, marina or agency Web pages, and other communications you produce that are directly related to the BIG-funded project;

(v) Giving boaters information and resources to help them find and use the BIG-funded facility; and

(vi) Public communication.

(6) Record the Federal interest in the real property.

(7) Use BIG Tier 1—State grant awards to administer BIG Tier 1—State and BIG Tier 2—National grants, or grant programs, Statewide. This includes coordinating and monitoring to ensure BIG-funded facilities are well-constructed, meet project objectives, and serve the intended purpose for their useful life; and to manage BIG grant performance or accomplishments.

(b) You may ask your Regional Office to approve preaward costs for eligible actions. You incur preaward costs at your own risk, as we will only reimburse you for preaward costs we approved if you receive a grant.

(c) Applicants may seek funding for installing pumpout facilities through the Clean Vessel Act Grant Program (CVA) instead of including the cost as part of a BIG grant application. A State may require a pumpout be funded through CVA, Catalog of Federal Domestic Assistance number 15.616.

(d) Other actions may qualify for BIG funding, subject to our approval, if they

achieve the purposes of BIG. We will describe actions we approve and how they are eligible for BIG funding in the full text of the annual Notice of Funding Opportunity (NOFO).

§ 86.12 What types of construction and services does boating infrastructure include?

Boating infrastructure may include:

(a) Boat slips, piers, mooring buoys, floating docks, dinghy docks, day docks, and other structures for boats to tie-up and gain access to the shore or services.

(b) Fuel stations, restrooms, showers, utilities, and other amenities for transient-boater convenience.

(c) Lighting, communications, buoys, beacons, signals, markers, signs, and other means to support safe boating and give information to aid boaters.

(d) Breakwaters, sea walls, and other physical improvements to allow an area to offer a harbor of safe refuge. A *harbor of safe refuge* is an area that gives eligible vessels protection from storms. To be a harbor of safe refuge, the facility must offer a place to secure eligible vessels and offer access to provisions and communication for eligible users.

(e) Equipment and structures for collecting, disposing of, or recycling liquid or solid waste from eligible vessels or for eligible users.

§ 86.13 What operational and design features must a facility have where a BIG-funded facility is located?

(a) At project completion, a facility where a BIG-funded facility is located must:

(1) Be open to eligible users and operated and maintained for its intended purpose for its useful life;

(2) Clearly designate eligible uses and inform the public of restrictions;

(3) Offer security, safety, and service for eligible users and vessels;

(4) Be accessible by eligible vessels on navigable waters;

(5) Allow public access as described at § 86.92;

(6) Have docking or mooring sites with water access at least 6 feet deep at the lowest tide or fluctuation, unless the facility qualifies under paragraph (c) of this section; and

(7) Have an operational pumpout station if:

(i) Eligible vessels stay overnight; and

(ii) Available pumpout service is not located within 2 nautical miles; or

(iii) State or local laws require one on site.

(b) We will waive the pumpout requirement if you show in the grant application the inability to install a pumpout.

(1) We will review your request and will grant the waiver if you present circumstances that show:

(i) A hardship due to lack of utilities or other difficult obstacles, such as a BIG-funded facility on an island with no power or a remote location where the equipment cannot be serviced or maintained regularly;

(ii) State or local law does not allow septic-waste disposal facilities at the location;

(iii) You are in the process of applying for a CVA grant for the same award year as the BIG grant to install a pumpout station as part of the BIG-funded facility; or

(iv) You have received a CVA grant and will install a pumpout station as part of the BIG-funded facility on or before the time the BIG-funded facility is completed.

(2) When we waive the pumpout requirement, the BIG-funded facility must inform boaters:

(i) They are required to properly treat or dispose of septic waste; and

(ii) Where they can find information that will direct them to nearby pumpout stations.

(3) If we deny your request, we will follow the process described in the annual NOFO.

(4) If you seek an allowance based on this paragraph, you must include supporting information in the grant application as described at § 86.43(n)(1).

(c) We will allow water access at a depth less than 6 feet if you can show that the BIG-funded facility will serve its intended purpose for typical eligible users that visit that location.

(d) Any of these design features may already be part of the facility, or be funded through another source, and need not be included as part of the BIG project.

§ 86.14 How can I receive BIG funds for facility maintenance?

(a) For BIG Tier 1—State and BIG Tier 2—National grants:

(1) You may request BIG funds for facility maintenance only if you will complete the maintenance action during the period of performance.

(2) You may apply user fees collected at the BIG-funded facility after the period of performance to the maintenance of the facility.

(b) For BIG Tier 1—State grants:

(1) You may request BIG funds for one-time or as-needed maintenance costs at any BIG-eligible facility as long as the costs are discrete and follow paragraph (a) of this section.

(2) If you use BIG funds for maintenance at a facility that has received a BIG grant in the past, you must extend the useful life of each affected capital improvement accordingly.

(3) States may limit or exclude BIG maintenance funding they make available to subgrantees.

(c) For BIG Tier 2—National grants, you may request BIG funds for maintenance if it directly benefits eligible users and is directly related to the BIG project. You are responsible for all maintenance costs after the period of performance except as provided at paragraph (b) of this section.

§ 86.15 How can dredging qualify as an eligible action?

(a) Dredging in this part includes the physical action of removing sediment from the basin and any associated actions, such as engineering, permitting, dredge-material management, and other actions or costs that occur because of the dredging. Dredging can qualify as an eligible action under the grant only if the costs for the dredging-related actions do not exceed $200,000.

(b) When you complete the project, the BIG-funded dredged area must:

(1) Have navigable water depth to accommodate eligible vessels as described at § 86.13(a)(6);

(2) Allow safe, accessible navigation by eligible vessels to, from, and within the BIG-funded facility; and

(3) Allow eligible vessels to dock safely and securely at transient slips.

(c) You must show in the grant application that:

(1) Dredging is needed to fulfill the purpose and objectives of the proposed project; and

(2) You have allocated the dredging costs between the expected use by eligible vessels and ineligible vessels.

(d) You certify by signing the grant application that you have enough resources to maintain the dredged area at the approved width and depth for the useful life of the BIG-funded facility, under typical conditions.

§ 86.16 What actions are ineligible for BIG funding?

(a) These actions or costs are ineligible for BIG funding:

(1) Law enforcement.

(2) Direct administration and operation of the facility, such as salaries, utilities, and janitorial duties. Janitorial duties may include:

(i) Routine cleaning;

(ii) Trash and litter collection and removal; and

(iii) Restocking paper products.

(3) Developing a State plan to construct, renovate, or maintain boating infrastructure.

(4) Acquiring land or any interest in land.

(5) Constructing, renovating, or maintaining roads or parking lots,

except limited action as described at § 86.11(a)(1).

(6) Constructing, renovating, or maintaining boating infrastructure for:

(i) Shops, stores, food service, other retail businesses, or lodging;

(ii) Facility administration or management, such as a harbormaster's or dockmaster's office; or

(iii) Transportation, storage, or services for boats on dry land, such as dry docks, haul-outs, and boat maintenance and repair shops.

(7) Purchasing or operating service boats to transport boaters to and from mooring areas.

(8) Marketing. Examples of ineligible marketing actions include:

(i) Giveaway items promoting the business or agency;

(ii) General marina or agency newsletters or Web sites promoting the marina or agency;

(iii) Exhibits at trade shows promoting anything other than the BIG-funded facility; and

(iv) Outreach efforts directed at the marina as a business or the agency as a whole and not focused on BIG or the BIG-funded facility.

(9) Constructing, renovating, or maintaining boating infrastructure that does not:

(i) Include design features as described at § 86.13;

(ii) Serve eligible vessels or users; and

(iii) Allow public access as described at § 86.92.

(10) Purchase of supplies and other expendable personal property not directly related to achieving the project objectives.

(b) Other activities may be ineligible for BIG funding if they are inconsistent with the:

(1) Purpose of BIG; or

(2) Applicable Cost Principles at 2 CFR part 200, subpart F.

§ 86.17 Who must own the site of a BIG-funded facility?

(a) You or another entity approved by us must own or have a legal right to operate the site of a BIG-funded facility. If you are not the owner, you must be able to show, before we approve your grant, that your contractual arrangements with the owner of the site will ensure that the owner will use the BIG-funded facility for its authorized purpose for its useful life.

(b) Subgrantees or concessioners may be a local or tribal government, a nonprofit organization, a commercial enterprise, an institution of higher education, or a State agency other than the agency receiving the grant.

(c) Subgrantees that are commercial enterprises are subject to 2 CFR part 200, subparts A through D, for grant administrative requirements.

§ 86.18 How can I ensure that a BIG-funded facility continues to serve its intended purpose for its useful life?

(a) When you design and build your BIG-funded facility, you must consider the features, location, materials, and technology in reference to the geological, geographic, and climatic factors that may have an impact on its useful life.

(b) You must record the Federal interest in real property that includes a BIG-funded capital improvement according to the assurances required in the grant application and guidance from the Regional WSFR Office.

(c) If we direct you to do so, you must require that subgrantees record the Federal interest in real property that includes a BIG-funded capital improvement.

(d) If we do not direct you to act as required by paragraph (c) of this section, you may require subgrantees to record the Federal interest in real property that includes a BIG-funded capital improvement.

(e) You must state in your subaward that subgrantees must not alter the ownership, purpose, or use of the BIG-funded facility as described in the project statement without the approval of you and the WSFR Regional Office.

(f) You may impose other requirements on subgrantees, as allowed by law, to reduce State liability for the BIG-funded facility. Examples are insurance, deed restrictions, and a security interest agreement, which uses subgrantee assets to secure performance under the grant.

§ 86.19 What if a BIG-funded facility would benefit both eligible and ineligible users?

You may assign any share of the costs to the BIG grant only if the BIG-funded facility or a discrete element of the BIG-funded facility benefits only eligible users. If a cost does not exclusively benefit eligible users, you must allocate costs accordingly. A discrete element has a distinct purpose, such as a fuel station, pumpout facility, breakwater, or dock system.

(a) You must clearly show and explain in the project statement:

(1) The anticipated benefits of each project, discrete elements, and major components;

(2) The breakdown of costs, as described at § 86.43(i), including the basis or method you use to allocate costs between eligible and ineligible users; and

(3) Your reasoning in determining how to allocate costs, based on paragraphs (a) through (e) of this section and any other guidance in the annual NOFO.

(b) After you submit the application, if we do not agree with your cost allocation using paragraph (a) of this section, we will contact you. We may ask you to clarify your information. If we do not agree that the allocation is equitable, we may negotiate an equitable allocation. We must be able to agree that you are appropriately allocating costs between eligible and ineligible users based on the expected use before we consider your application for award.

(c) If a proposed BIG-funded facility, or a discrete element, minor component, or single action of the BIG-funded project, gives a secondary or minimal benefit to all users, we will not require you to allocate costs between eligible and ineligible users for that benefit. Examples of how we will apply this rule are:

(1) The primary purpose is to benefit eligible users directly, with the secondary benefit for both eligible and ineligible users. You must clearly state the exclusive benefit to eligible users in your application. The secondary benefit cannot exclude eligible users from the primary purpose. For example, if you construct a dock system for exclusive use by eligible vessels and a secondary benefit of the dock system is protection of the marina from wave action, you would not have to allocate costs for the secondary benefit. However, the secondary benefit cannot be docking for ineligible vessels because it would exclude eligible users from the primary purpose.

(2) The secondary benefit to ineligible users is not the primary purpose, is minimal, and you do not add special features to accommodate ineligible users. For example, you do not have to allocate costs between user groups for a gangway from the transient dock, designed exclusively for eligible users, even though it is accessible to the general public. However, if you construct the gangway to accommodate the expected ineligible users, then you must allocate costs between user groups.

(3) The expected benefits to both eligible and ineligible users have minimal value. If the component has a value of .0025 percent or less than the maximum available Federal award plus required match, you do not have to allocate costs for that component. We will post the amount of the minimal value each year in the annual NOFO. For example, if the total maximum Federal award and required match for a BIG Tier 2—National project is $2 million, you do not have to allocate costs between user groups for any

discrete project element, component, or action with a value of $5,000 or less.

(d) Examples of actions for which you must allocate costs between user groups are the following, unless paragraph (b) of this section applies:

(1) You propose a 200-foot dock for eligible user tie-up spaces that you attach to the shore at a boat launch. It will attract ineligible use as a tie-up for boaters as they enter and exit the water. You must allocate costs between the expected eligible and ineligible use.

(2) You propose a breakwater, fuel station, pumpout station, restroom, dredging, navigational aids, or other multiuse or multipurpose action.

(e) Examples of actions for which you do not need to allocate costs between user groups are:

(1) You propose to construct, renovate, or maintain docks specifically for eligible vessels.

(2) You propose to produce information and educational materials specific to BIG.

(f) You must clearly inform boaters when access by ineligible users is limited or restricted following the guidance at § 86.94.

(g) We may ask you to clarify or change how you allocate costs in your grant application if they do not meet our standards. We may reject costs or applications that do not allocate costs between eligible and ineligible users according to the requirements of this section and the NOFO.

Subpart C—Federal Funds and Match

§ 86.30 What is the source of BIG funds?

(a) BIG receives Federal funding as a percentage of the annual revenues to the Sport Fish Restoration and Boating Trust Fund (Trust Fund) [26 U.S.C. 4161(a), 4162, 9503(c), and 9504].

(b) The Trust Fund receives revenue from sources including:

(1) Excise taxes paid by manufacturers on sportfishing equipment and electric outboard motors;

(2) Fuel taxes attributable to motorboats and nonbusiness use of small-engine power equipment; and

(3) Import duties on fishing tackle, yachts, and pleasure craft.

§ 86.31 How does the Service know how much money will be available for BIG grants each year?

(a) We estimate funds available for BIG grants each year based on the revenue projected for the Trust Fund. We include this estimate when we issue a NOFO at *http://www.grants.gov.*

(b) We calculate the actual amount of funds available for BIG grants based on tax collections, any funds carried over from previous fiscal years, and available unobligated BIG funds.

§ 86.32 What are the match requirements?

(a) The Act requires that you or another non-Federal partner must pay at least 25 percent of eligible and allowable BIG-funded facility costs. We must waive the first $200,000 of the required match for each grant to the Commonwealth of the Northern Mariana Islands and the territories of American Samoa, Guam, and the U.S. Virgin Islands (48 U.S.C. 1469a).

(b) Match may be cash contributed during the funding period or in-kind contributions of personal property, structures, and services including volunteer labor, contributed during the period of performance.

(c) Match must be:

(1) Necessary and reasonable to achieve project objectives;

(2) An eligible activity or cost;

(3) From a non-Federal source, unless you show that a Federal statute authorizes the specific Federal source for use as match; and

(4) Consistent with 2 CFR 200.29 and 200.306, and any other applicable sections of 2 CFR part 200. This includes any regulations or policies that replace or supplement 2 CFR part 200.

(d) Match must not include:

(1) An interest in land or water;

(2) The value of any structure completed before the beginning of the period of performance, unless the Service approves the activity as a preaward cost;

(3) Costs or in-kind contributions that have been or will be counted as satisfying the cost-sharing or match requirement of another Federal grant, a Federal cooperative agreement, or a Federal contract, unless authorized by Federal statute; or

(4) Any funds received from another Federal source, unless authorized by Federal statute.

§ 86.33 What information must I give on match commitments, and where do I give it?

(a) You must give information on the amount and the source of match for your proposed BIG-funded facility on the standard grant application form at *http://www.grants.gov.*

(b) You must also give information on the match commitment by the State, a subgrantee, or other third party in the project statement under ''Match and Other Contributions.''

(c) In giving the information required at paragraph (b) of this section, you must:

(1) State the amount of matching cash;

(2) Describe any matching in-kind contributions;

(3) State the estimated value of any in-kind contributions; and

(4) Explain the basis of the estimated value.

§ 86.34 What if a partner is not willing or able to follow through on a match commitment?

(a) You are responsible for all activity and funding commitments in the grant application. If you discover that a partner is not willing or able to meet a grant commitment, you must notify us that you will either:

(1) Replace the original partner with another partner who will deliver the action or the funds to fulfill the commitment as stated in the grant application; or

(2) Give either cash or an in-kind contribution(s) that at least equals the value and achieves the same objective as the partner's original commitment of cash or in-kind contribution.

(b) If a partner is not willing or able to meet a match commitment and you do not have enough money to complete the BIG-funded facility as proposed, you must follow the requirements at §§ 86.44 and 86.100.

Subpart D—Application for a Grant

§ 86.40 What are the differences between BIG Tier 1—State grants and BIG Tier 2—National grants?

COMPARISON OF BIG TIER 1—STATE AND BIG TIER 2—NATIONAL GRANTS

	BIG Tier 1—State	BIG Tier 2—National
(a) What actions are eligible for funding?	Those listed at § 86.11	Those listed at § 86.11 except § 86.11(a)(7).
(b) What is the amount of Federal funds I can receive in one BIG grant?	Each year we make at least $200,000 available to each State. We may increase the award that States may request annually to an amount above $200,000 if enough funds are available and it is advantageous to the program mission. We announce each year in the annual NOFO posted at *http://www.grants.gov* the maximum Federal funds you may request.	We may limit funding to a maximum award of $1.5 million. We may increase the maximum funding you may request if enough funds are available and it is advantageous to the program mission. We announce each year in the annual NOFO posted at *http://www.grants.gov* the recommended maximum Federal funds you may request.
(c) How many grant applications can I submit each year?	Each State can only request up to the annual funding limit each year. You can do this by sending in one grant application with one project or multiple projects. The Regional WSFR Office may ask a State with multiple projects to prepare a separate grant request for each project, as long as the total of all projects does not exceed the annual funding limit.	No limit.
(d) How does the Service choose grant applications for funding?	We fund a single grant or multiple grants per State up to the maximum annual funding amount for that year.	We score each grant application according to ranking criteria at § 86.51. We recommend applications, based on scores and available funding, to the Director. The Director selects the applications for award.

§ 86.41 How do I apply for a grant?

(a) If you want to apply to be a subgrantee, you must send an application to the State agency that manages BIG following the rules given by your State. We award BIG funds only to States.

(b) The director of your State agency (see § 86.10) or an authorized representative must certify all standard forms submitted in the grant application process in the format that we designate.

(c) States must submit a grant application through *http://www.grants.gov.* The Catalog of Federal Domestic Assistance (CFDA) number for BIG is 15.622.

(d) If your State supports Executive Order 12372, Intergovernmental Review of Federal Programs, you must send copies of all standard forms and supporting information to the State Clearinghouse or Single Point of Contact identified at *http://www.whitehouse.gov/omb/grants_spoc/* before sending it through *http://www.grants.gov.*

§ 86.42 What do I have to include in a grant application?

(a) When you submit a BIG grant application, you must include standard forms, a BIG project statement as described at § 86.43, documents, maps, images, and other information asked for in the annual NOFO at *http://www.grants.gov,* CFDA 15.622, in the format we ask for.

(b) You must include supporting documentation explaining how the proposed work complies with applicable laws and regulations. You must also state the permits, evaluations, and reviews you need to complete the project. After we approve your project, you will follow guidance at § 86.61 to complete requirements that will become part of your application.

(c) After we review your application, any responses to our requests to give more information or to clarify information become part of the application.

(d) Misrepresentations of the information you give in an application may be a reason for us to:

(1) Reject your application; or

(2) Terminate your grant and require repayment of Federal funds awarded.

§ 86.43 What information must I put in the project statement?

You must put the following information in the project statement:

(a) *Need.* Explain why the project is necessary and how it fulfills the purpose of BIG. To demonstrate the need for the project you must:

(1) For construction projects, describe existing facilities available for eligible vessels near the proposed project. Support your description by including images that show existing structures and facilities, the proposed BIG-funded facility, and relevant details, such as the number of transient slips and the amenities for eligible users.

(2) Describe how the proposed project fills a need or offers a benefit not offered by the existing facilities identified at paragraph (a)(1) of this section.

(3) Give information to support the number of transient boats expected to use the area of the proposed project and show that the existing facilities identified at paragraph (a)(1) of this section are not enough to support them.

(b) *Purpose.* State the desired outcome of the project in general or abstract terms, but in such a way that we can review the information and apply it to the competitive review. Base the purpose on the need as described in paragraph (a) of this section.

(c) *Objectives.* Identify specific, measurable, attainable, relevant, and time-bound (SMART) outputs related to the need you are addressing.

(d) *Results or benefits expected.* (1) Describe each capital improvement, service, or other product that will result from the project, and its purpose.

(2) Describe how the structures, services, or other products will:

(i) Achieve the need described at paragraph (a) of this section; and

(ii) Benefit eligible users.

(e) *Approach.* (1) Describe the methods to be used to achieve the objectives. Show that you will use sound design and proper procedures. Include enough information on the status of needed permits, land use approvals, and other compliance requirements for us to make a preliminary assessment.

(2) Give the name, contact information, qualifications, and role of each known concessioner or subgrantee.

(3) Explain how you will exercise control to ensure the BIG-funded facility continues to achieve its authorized

purpose during the useful life of the BIG-funded project.

(f) *Useful life.* Estimate the useful life in years of each capital improvement for the proposed project. Explain how you estimated the useful life of each capital improvement. You must reference a generally accepted method used to determine useful life of a capital improvement. You will finalize useful life during the approval process. See §§ 86.73 and 86.74.

(g) *Geographic location.* (1) State the location using Global Positioning System (GPS) coordinates in the format we ask for in the annual NOFO.

(2) State the local jurisdiction (county, city, town, or equivalent), street address, and water body associated with the project.

(3) Include maps in your application, such as:

(i) A small State map that shows the general location of the project;

(ii) A local map that shows the facility location and the nearest community, public road, and navigable water body; and

(iii) Maps or images that show proximity to significant destinations, services that support eligible users, terrain considerations, access, or other information applicable to your project.

(iv) Any other map that supports the information in the project statement.

(h) *Project officer.* If the Federal Aid Coordinator for the State agency will be the project officer, enter the term *State Federal Aid Coordinator* under this heading. If the State Federal Aid Coordinator will not be the project officer, give the name, title, work address, work email, and work telephone number of the contact person. The project officer identified should have a detailed knowledge of the project. State whether the project officer has the authority to sign requests for prior approval, project reports, and other communications committing the grantee to a course of action.

(i) *Budget narrative.* Provide costs and other information sufficient to show that the project will result in benefits that justify the costs. You must use reasonably available resources to develop accurate cost estimates for your project to insure the successful completion of your BIG-funded facility. You should discuss factors that would influence project costs as described at § 86.53(d). Costs must be necessary and reasonable to achieve the project objectives.

(1) You must state how you will allocate costs between eligible and ineligible users following the requirements at § 86.19 and explain the method used to allocate costs equitably between anticipated benefits for eligible and ineligible users.

(2) State sources of cash and in-kind values you include in the project budget.

(3) Describe any item that has cost limits or requires our approval and estimate its cost or value. Examples are dredging and preaward costs.

(j) *Match and other partner contributions.* Identify the cash and in-kind contributions that you, a partner, or other entity contribute to the project and describe how the contributions directly and substantively benefits completion of the project. See §§ 86.32 and 86.33 for required information.

(k) *Fees and program income, if applicable.* (1) See § 86.90 for the information that you must include on the estimated fees that an operator will charge during the useful life of the BIG-funded facility.

(2) See §§ 86.77 and 86.78 for an explanation of how you may use program income. If you decide that your project is likely to generate program income during the period of performance, you must:

(i) Estimate the amount of program income that the project is likely to generate; and

(ii) Indicate how you will apply program income to Federal and non-Federal outlays.

(l) *Relationship with other grants.* Describe the relationship between the BIG-funded facility and other relevant work funded by Federal and non-Federal grants that is planned, expected, or in progress.

(m) *Timeline.* Describe significant milestones in completing the project and any accomplishments to date.

(n) *General.* (1) If you seek a waiver based on § 86.13(b), you must include the request and supporting information in the grant application following the instructions in the annual NOFO.

(2) Include any other description or document we ask for in the annual NOFO or that you need to support your proposed project.

(o) *Ranking criteria.* In BIG Tier 2—National applications, you must respond to each of the questions found in the ranking criteria at § 86.51. We also publish the questions for these criteria in the annual NOFO at *http://www.grants.gov.*

(1) In addressing the ranking criteria, refer to the information at §§ 86.52 through 86.60 and any added information we ask for in the annual NOFO.

(2) You may give information relevant to the ranking criteria as part of the project statement. If you take this approach, you must reference the criterion and give supporting information to reflect the guidance at §§ 86.52 through 86.60.

§ 86.44 What if I need more than the maximum Federal share and required match to complete my BIG-funded project?

(a) If you plan a BIG project that you cannot complete with the recommended maximum Federal award and the required match, you may:

(1) Find other sources of non-Federal funds to complete the project;

(2) Divide your larger project into smaller, distinct, stand-alone projects and apply for more than one BIG grant, either in the same year or in different years. One project cannot depend on the anticipated completion of another; or

(3) Combine your BIG Tier 1—State and BIG Tier 2—National funding to complete a project at a single location.

(b) If you are awarded a grant and find you cannot complete a BIG project with the Federal funds and required match, you may:

(1) Find other sources of non-Federal funds to complete the project.

(2) Consider if BIG Tier 1—State funds are available to help complete the project. This is not a guaranteed option.

(3) Ask for approval to revise the grant by following the requirements at subpart H of this part.

(c) For BIG Tier 2—National grants, we review and rank each application individually, and each must compete with other applications for the same award year.

(d) If you receive a BIG grant for one of your applications, we do not give preference to other applications you submit.

(e) If you do not complete your project, we may take one or more of the remedies for noncompliance found at 2 CFR 200.338, and any other regulations that apply.

§ 86.45 If the Service does not select my grant application for funding, can I apply for the same project the following year?

Yes. If we do not select your BIG grant application for funding, you can apply for the same project the following year or in later years.

§ 86.46 What changes can I make in a grant application after I submit it?

(a) After you submit your grant application, you can add or change information up to the date and time that the applications are due.

(b) After the application due date and before we announce selected projects, you can add or change information in your application only if it does not affect the scope of the project, would not affect the score of the application,

and is not a correction (see paragraph (c) of this section).

(1) During this period we may ask you to change the useful life following the requirements at § 86.74 or allocation of costs between users of the BIG project following the requirements at § 86.19.

(2) If your application proposes using BIG funds for an action we identify as ineligible, we will decide on a case-by-case basis whether we will allow you to change your application to remove identified ineligible costs and if we will consider your application for funding.

(c) You must inform us of any incorrect information in an application as soon as you discover it, either before or after receiving an award.

(d) We may ask you at any point in the application process to:

(1) Clarify, correct, explain, or supplement data and information in the application;

(2) Justify the eligibility of a proposed action; or

(3) Justify the allowability of proposed costs or in-kind contributions.

(e) If you do not respond fully to our questions at paragraph (d) of this section in the time allotted, we may decide not to consider your application for funding.

(f) If your application is competitive, but funding is limited and we cannot fully fund your project, we may tell you the amount of available funds and ask you if you wish to accept the reduced funding amount. We will decide on a case-by-case basis if we will consider changes to the scope of your project based on the reduced funding. Any changes to the scope of a project must not result in reducing the number of points enough to lower your project's ranking position. If you choose to accept the reduced amount, you must amend your application to reflect all changes, including the difference in Federal and non-Federal funding.

Subpart E—Project Selection

§ 86.50 Who ranks BIG Tier 2—National grant applications?

We assemble a panel of our professional staff to review, rank, and recommend grant applications for funding to the Director. This panel may include representatives of our Regional Offices, with Headquarters staff overseeing the review, ranking, and recommendation process. Following the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix), the Director may invite nongovernmental organizations and other non-Federal entities to take part in an advisory panel to make recommendations to the Director.

§ 86.51 What criteria does the Service use to evaluate BIG Tier 2—National applications?

Our panel of professional staff and any invited participants evaluate BIG Tier 2—National applications using the ranking criteria in the following table and assign points within the range for each criterion. We may give added information to guide applicants regarding these criteria in the annual NOFO on *http://www.grants.gov.* This may include the minimum total points that your application must receive in order to qualify for award.

Ranking criteria	Points
(a) Need, Access, and Cost Efficiency	20 total possible points.
(1) Will the proposed boating infrastructure meet a need for more or improved facilities?	0–10.
(2) Will eligible users receive benefits from the proposed boating infrastructure that justify the cost of the project?.	0–7.
(3) Will the proposed boating infrastructure accommodate boater access to significant destinations and services that support transient boater travel?.	0–3.
(b) Match and Partnerships	10 total possible points.
(1) Will the proposed project include private, local, or State funds greater than the required minimum match?.	0–7.
(2) Will the proposed project include contributions by private or public partners that contribute to the project objectives?.	0–3.
(c) Innovation	6 total possible points.
(1) Will the proposed project include physical components, technology, or techniques that improve eligible-user access?.	0–3.
(2) Will the proposed project include innovative physical components, technology, or techniques that improve the BIG-funded project?.	0–2.
(3) Has the facility where the project is located demonstrated a commitment to environmental compliance, sustainability, and stewardship and has an agency or organization officially recognized the facility for its commitment?.	0–1.
(d) Total possible points	36.

§ 86.52 What does the Service consider when evaluating a project on the need for more or improved boating infrastructure?

In evaluating a proposed project under the criterion at §§ 86.51(a)(1) on the need for more or improved boating infrastructure facilities, we consider whether the project will:

(a) Construct new boating infrastructure in an area that lacks it, but where eligible vessels now travel or would travel if the project were completed;

(b) Renovate a facility to:

(1) Improve its physical condition;

(2) Follow local building codes;

(3) Improve generally accepted safety standards; or

(4) Adapt it to a new purpose for which there is a demonstrated need;

(c) Create accessibility for eligible vessels by reducing wave action, increasing depth, or making other physical improvements;

(d) Expand an existing marina or mooring site that is unable to accommodate current or projected demand by eligible vessels; or

(e) Make other improvements to accommodate an established eligible need.

§ 86.53 What factors does the Service consider for benefits to eligible users that justify the cost?

(a) We consider these factors in evaluating a proposed project under the criterion at § 86.51(a)(2) on whether benefits to eligible users justify the cost:

(1) Total cost of the project;

(2) Total benefits available to eligible users upon completion of the project; and

(3) Reliability of the data and information used to decide benefits relative to costs.

(b) You must support the benefits available to eligible users by clearly

describing them in the project statement and explaining how they relate to *Need* at § 86.43(a).

(c) We will consider the cost relevant to all benefits to eligible users that are adequately supported in the application. We may consider the availability of preexisting structures and amenities, but only in the context of the need identified at § 86.43(a).

(d) Describe in your application any factors that would influence project costs, such as:

(1) The need for specialized materials to meet local codes, address weather or terrain, or extend useful life;

(2) Increased transportation costs due to location; or

(3) Other factors that may increase costs, but whose actions support needed benefits.

(e) Describe any costs that are associated with providing a harbor of safe refuge.

§ 86.54 What does the Service consider when evaluating a project on boater access to significant destinations and services that support transient boater travel?

In evaluating a proposed project under the criterion on boater access at § 86.51(a)(3), we consider:

(a) The degree of access that the BIG-funded facility will give;

(b) The activity, event, or landmark that makes the BIG-funded facility a destination, how well known the attraction is, how long it is available, and how likely it is to attract boaters to the facility; and

(c) The availability of services and safety near the BIG-funded facility, how easily boaters can access them, and how well they serve the needs of eligible users.

§ 86.55 What does the Service consider as a partner for the purposes of these ranking criteria?

(a) The following may qualify as partners for purposes of the ranking criteria:

(1) A non-Federal entity, including a subgrantee.

(2) A Federal agency other than the Service.

(b) The partner must commit to a financial contribution or an in-kind contribution, or to take a voluntary action during the period of performance.

(c) In-kind contributions or actions must be necessary and contribute directly and substantively to the completion of the project. You must explain in the grant application how they are necessary and contribute to completing the project.

(d) A governmental entity may be a partner unless its contribution to completing the project is a mandatory duty of the agency, such as reviewing a permit application. A voluntary action by a government agency or employee is a partnership.

§ 86.56 What does the Service consider when evaluating a project that includes more than the minimum match?

(a) When we evaluate a project under the criterion for match at § 86.51(b)(1), we consider how much cash the applicant and partners commit above the required minimum match of 25 percent of project costs.

(b) The contribution may be from a State, a single source, or any combination of sources.

(c) We will award points as follows:

Percent cash match	Points
26–30	1
31–35	2
36–40	3
41–45	4
46–50	5
51–80	6
81 or higher	7

(d) We must waive the first $200,000 in match for the entities described at § 86.32(a). We will determine the required match by subtracting the waived amount from the required 25 percent match and award points using the table at paragraph (c) of this section.

§ 86.57 What does the Service consider when evaluating contributions that a partner brings to a project?

(a) We consider these factors for partner contributions in evaluating a proposed project under the criterion at § 86.51(b)(2):

(1) The significance of the contribution to the success of the project;

(2) How the contribution supports the actions proposed in the project statement;

(3) How the partner demonstrates its commitment to the contribution; and

(4) The ability of the partner to fulfill its commitment.

(b) We may consider the combined contributions of several partners, according to the factors at paragraph (a) of this section.

(c) To receive consideration for this criterion, you must show in your application how a partner, or group of partners, significantly supports the project by addressing the factors in paragraph (a) of this section.

(d) You may describe partner contributions in the project statement.

(e) Under this criterion, partner contributions need not exceed the 25 percent required match.

§ 86.58 What does the Service consider when evaluating a project for a physical component, technology, or technique that will improve eligible user access?

(a) In evaluating a proposed project under the criterion at § 85.51(c)(1), we consider whether the project will increase the availability of the BIG-funded facility for eligible users or improve eligible boater access to the facility by:

(1) Using a new technology or technique; or

(2) Applying a new use of an existing technology or technique.

(b) We will not award points for following access standards set by law.

(c) We will consider if you choose to complete the project using an optional or advanced technology or technique that will improve access, or if you go beyond the minimum requirements.

(d) To receive consideration for this criterion, you must describe in the grant application the current standard and how you will exceed the standard.

§ 86.59 What does the Service consider when evaluating a project for innovative physical components, technology, or techniques that improve the BIG project?

(a) In evaluating a proposed project under the criterion at § 86.51(c)(2), we consider if the project will include physical components, technology, or techniques that are:

(1) Newly available; or

(2) Repurposed in a unique way.

(b) Examples of the type of innovations we will consider are components, technology, or techniques that:

(1) Extend the useful life of the BIG-funded project;

(2) Are designed to allow the operator to save costs, decrease maintenance, or improve operation;

(3) Are designed to improve BIG-eligible services or amenities;

(4) Reduce the carbon footprint of the BIG-funded facility. *Carbon footprint* means the impact of the total set of greenhouse gas emissions;

(5) Are used during construction specifically to reduce negative environmental impacts, beyond compliance requirements; or

(6) Improve facility resilience.

§ 86.60 What does the Service consider when evaluating a project for demonstrating a commitment to environmental compliance, sustainability, and stewardship?

(a) In evaluating a project under the criterion at § 86.51(c)(3), we consider if the application documents that the facility where the BIG-funded project is located has received official recognition for its voluntary commitment to

environmental compliance, sustainability, and stewardship by exceeding regulatory requirements.

(b) The official recognition must be part of a voluntary, established program administered by a Federal or State agency, local governmental agency, Sea Grant or equivalent entity, or a State or Regional marina organization.

(c) The established program must require the facility to use management and operational techniques and practices that will ensure it continues to meet the high standards of the program and must contain a component that requires periodic review.

(d) The facility must have met the criteria required by the established program and received official recognition by the due date of the application.

§ 86.61 What happens after the Director approves projects for funding?

(a) After the Director approves projects for funding, we notify successful applicants of the:

(1) Amount of the grant;

(2) Documents or clarifications required, including those required for compliance with applicable laws and regulations;

(3) Approvals needed and format for processing approvals; and

(4) Time constraints.

(b) After we receive the required forms and documents, we approve the project and the terms of the grant and obligate the grant in the Federal financial management system.

(c) BIG funds are available for Federal obligation for 3 Federal fiscal years, starting October 1 of the fiscal year that funds become available for award. We do not make a Federal obligation until you meet the grant requirements. Funds not obligated within 3 fiscal years are no longer available.

Subpart F—Grant Administration

§ 86.70 What standards must I follow when constructing a BIG-funded facility?

(a) You must design and build a BIG-funded facility so that each structure meets Federal, State, and local standards.

(b) A Region or a State may require you to have plans reviewed by a subject-matter expert if there are questions as to the safety, structural stability, durability, or other construction concerns for projects that will cost more than $100,000.

§ 86.71 How much time do I have to complete the work funded by a BIG grant?

(a) We must obligate a grant within 3 Federal fiscal years of the beginning of the Federal fiscal award year.

(b) We will work with you to set a start date within the 3-year period of obligation. We assign a period of performance that is no longer than 3 years from the grant start date.

(c) You must complete your project within the period of performance unless you ask for and receive a grant extension.

§ 86.72 What if I cannot complete the project during the period of performance?

(a) If you cannot complete the project during the 3-year period of performance, you may ask us for an extension. Your request must be in writing, and we must receive it before the end of the original period of performance.

(b) An extension is considered a revision of a grant and must follow guidance at § 86.101.

(c) We will approve an extension up to 2 years if your request:

(1) Describes in detail the work you have completed and the work that you plan to complete during the extension;

(2) Explains the reasons for delay;

(3) Includes a report on the status of the project budget; and

(4) Includes assurance that you have met or will meet all other terms and conditions of the grant.

(d) If you cannot complete the project during the extension period, you may ask us for a second extension. Your request must be in writing, and we must receive it before the end of the first extension. Your request for a second extension must include all of the information required at paragraph (b) of this section and, it must show that:

(1) The extension is justified;

(2) The delay in completion is not due to inaction, poor planning, or mismanagement; and

(3) You will achieve the project objectives by the end of the second extension.

(e) We require that the Regional Director and the Service's Assistant Director for the Wildlife and Sport Fish Restoration Program approve requests to extend a project beyond 5 years of the grant start date.

§ 86.73 How long must I operate and maintain a BIG-funded facility, and who is responsible for the cost of facility operation and maintenance?

(a) You must operate and maintain a BIG-funded facility for its authorized purpose for its useful life. See §§ 86.3, 86.43(f), and 86.74.

(b) Catastrophic events may shorten the useful life of a BIG-funded facility. If it is not feasible or is cost-prohibitive to repair or replace the BIG-funded facility, you may ask to revise the grant to reduce the useful-life obligation.

(c) You are responsible for the costs of the operation and maintenance of the BIG-funded facility for its useful life, except as allowed at § 86.14(b).

§ 86.74 How do I determine the useful life of a BIG-funded facility?

You must determine the useful life of your BIG-funded project using the following:

(a) You must give an informed estimate of the useful life of the BIG-funded project in your grant application, including the information in Steps 1, 2, and 3, in paragraphs (a)(1) through (3) of this section, as applicable.

(1) *Step 1.* Identify all capital improvements that are proposed in your project. We may reject your application if you do not include an estimate for useful life.

(i) Use the definition of *capital improvement* at § 86.3.

(ii) The capital improvement must be a structure or system that serves an identified purpose.

(iii) Consider the function of the components in your application and group those with a similar purpose together as structures or systems.

(iv) All auxiliary components of your project (those that are not directly part of the structure or system) must be identified as necessary for the continued use of an identified capital improvement. For example, a gangway is not part of the dock system, but is necessary for access to and from the dock system, so it could be included in the useful life of the dock system.

(v) Attach an auxiliary component as identified at paragraph (a)(1)(iv) of this section to only one capital improvement. If it supports more than one, choose the one with the longest useful life.

(vi) Examples of structures or systems that could potentially make up a single capital improvement are a: Rest room/shower building; dock system; breakwater; seawall; basin, as altered by dredging; or fuel station.

(2) *Step 2.* Estimate the useful life of each capital improvement identified in Step 1 in paragraph (a)(1) of this section.

(i) State how you determine the useful life estimate.

(ii) Identify factors that may influence the useful life of the identified capital improvement, such as: Marine environment, wave action, weather conditions, and heavy usage.

(iii) Examples of sources to obtain estimates for useful life information when developing your application are: Vendors, engineers, contractors, or others with expertise or experience with a capital improvement.

(3) *Step 3.* If you are asking us to consider additional points for a physical

component, technology, or technique under the criterion at § 86.51(c) that will increase the useful life, you must describe in your application:

(i) The capital improvement or component that you will apply the criterion at § 86.51(c) to;

(ii) The expected increase in useful life;

(iii) The sources of information that support your determination of an extended useful life; and

(iv) A description of how you expect the useful life will be increased.

(b) After you submit your application, but before we award your grant, you must:

(1) Confirm the useful life for each capital improvement using a generally accepted method.

(2) Provide any additional documents or information, if we request it.

(3) Consult and obtain agreement for your final useful life determinations at the State or Regional level, or both.

(4) Revise your application, as needed, to include the final useful life determination(s).

(c) If we find before we award the grant that you are unable to support your determination of an extended useful life at § 86.51(c), we will reduce your score and adjust the ranking of applications accordingly.

(d) You must finalize useful life in your grant by one of the following methods:

(i) State several useful-life expectations, one for each individual capital improvement you identified at paragraph (a)(1) of this section; or

(ii) State a single useful life for the whole project, based on the longest useful life of the capital improvements you identified at paragraph (a)(1) of this section.

(e) States may decide to use only one of the methods described at paragraph (d) of this section for all BIG-funded projects in their State.

§ 86.75 How should I credit BIG?

(a) You must use the Sport Fish Restoration logo to show the source of BIG funding:

(b) Examples of language you may use to credit BIG are:

(1) A Sport Fish Restoration–Boating Infrastructure Grant funded this facility thanks to your purchase of fishing equipment and motorboat fuel.

(2) A Sport Fish Restoration–Boating Infrastructure Grant is funding this construction thanks to your purchase of fishing equipment and motorboat fuel.

(3) A Sport Fish Restoration–Boating Infrastructure Grant funded this pamphlet thanks to your purchase of fishing equipment and motorboat fuel.

(c) States may ask for approval of alternative language to follow ordinances and restrictions for posting information where the project is located.

§ 86.76 How can I use the logo for BIG?

(a) You must use the Sport Fish Restoration logo on:

(1) BIG-funded facilities;

(2) Printed or Web-based material or other visual representations of BIG projects or achievements; and

(3) BIG-funded or BIG-related educational and informational material.

(b) You must require a subgrantee to display the logo in the places and on materials described at paragraph (a) of this section.

(c) Businesses that contribute to or receive from the Trust Fund that we describe at § 86.30 may display the logo in conjunction with its associated products or projects.

(d) The Assistant Director or Regional Director may authorize other persons, organizations, agencies, or governments not identified in this section to use the logo for purposes related to BIG by entering into a written agreement with the user. The user must state how it intends to use the logo, to what it will attach the logo, and the relationship to BIG.

(e) The Service and the Department of the Interior make no representation or endorsement whatsoever by the display of the logo as to the quality, utility, suitability, or safety of any product, service, or project associated with the logo.

(f) The user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from:

(1) Any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and

(2) Any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo.

(g) No one may use any part of the logo in any other manner unless the Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director authorizes it. Unauthorized use of the logo is a violation of 18 U.S.C. 701 and subjects the violator to possible fines and imprisonment.

§ 86.77 How must I treat program income?

(a) You must follow the applicable program income requirements at 2 CFR 200.80 and 200.307 if you earn program income during the period of performance.

(b) We authorize the following options in the regulations cited at paragraph (a) of this section:

(1) You may deduct the costs of generating program income from the gross income if you did not charge these costs to the grant. An example of costs that may qualify for deduction is maintenance of the BIG-funded facility that generated the program income.

(2) Use the addition alternative for program income only if:

(i) You describe the source and amount of program income in the project statement according to § 86.43(k)(2); and

(ii) We approve your proposed use of the program income, which must be for one or more of the actions eligible for funding at § 86.11.

(3) Use the deduction alternative for program income that does not qualify under paragraph (b)(2) of this section.

(c) We do not authorize the cost-sharing or matching alternative in the regulations cited at paragraph (a) of this section.

(d) For BIG Tier 1-State grants with multiple projects that you may complete at different times, we recommend that States seek our advice on how to apply for and manage grants to reduce unintended program income.

(e) If your project is completed before the end of the period of performance, we recommend you notify us and ask for advice on how to adjust the period of performance to manage potential program income.

§ 86.78 How must I treat income earned after the period of performance?

You are not accountable to us for income earned by you or a subgrantee after the period of performance as a result of the grant except as required at §§ 86.90 and 86.91.

Subpart G—Facility Operations and Maintenance

§ 86.90 How much must an operator of a BIG-funded facility charge for using the facility?

(a) An operator of a BIG-funded facility must charge reasonable fees for using the facility based on prevailing rates at other publicly and privately owned local facilities similarly situated

and offering a similar service or amenity.

(b) If other publicly and privately owned local facilities offer BIG-funded services or amenities free of charge, then a fee is not required.

(c) If the BIG-funded facility has a State or locally imposed fee structure, we will accept the mandated fee structure if it is reasonable and does not impose an undue burden on eligible users.

(d) You must state proposed fees and the basis for the fees in your grant application. The information you give may be in any format that clearly shows how you arrived at an equitable amount.

§ 86.91 May an operator of a BIG-funded facility increase or decrease user fees during its useful life?

(a) An operator of a BIG-funded facility may increase or decrease user fees during its useful life without our prior approval if they are consistent with prevailing market rates. The grantee may impose separate restrictions on an operator or subgrantee.

(b) If the grantee or we discover that fees charged by the operator of a BIG-funded facility do not follow § 86.90 and the facility unfairly competes with other marinas or makes excessive profits, the grantee must notify the operator in writing. The operator must respond to the notice in writing, and either justify or correct the fee schedule. If the operator justifies the fee schedule, the grantee and we must allow reasonable business decisions and only call for a change in the fee schedule if the operator is unable to show that the increase or decrease is reasonable.

§ 86.92 Must an operator of a BIG-funded facility allow public access?

(a) *Public access* in this part means access by eligible users, for eligible activities, or by other users for other activities that either support the purpose of the BIG-funded project or do not interfere with the purpose of the BIG-funded project. An operator of a BIG-funded facility must not allow activities that interfere with the purpose of the project.

(b) An operator of a BIG-funded facility must allow public access to any part of the BIG-funded facility during its useful life, except as described at paragraphs (e) and (f) of this section.

(c) An operator of a BIG-funded facility must allow reasonable public access to other parts of the facility that would normally be open to the public and must not limit access in any way that discriminates against any member of the public.

(d) The site of a BIG-funded facility must be:

(1) Accessible to the public; and

(2) Open for reasonable periods.

(e) An operator may temporarily limit public access to all or part of the BIG-funded facility due to an emergency, repairs, construction, or as a safety precaution. (f) An operator may limit public access when seasonally closed for business.

§ 86.93 May I prohibit overnight use by eligible vessels at a BIG-funded facility?

You may prohibit overnight use at a BIG-funded facility if you state in the approved grant application that the facility is only for day use. If after we award the grant you wish to change to day use only, you must follow the requirements at subpart H of this part.

§ 86.94 Must I give information to eligible users and the public about BIG-funded facilities?

(a) You must give clear information using signs or other methods at BIG-funded facilities that:

(1) Direct eligible users to the BIG-funded facility;

(2) Include restrictions and operating periods or direct boaters where to find the information; and

(3) Restrict ineligible use at any part of the BIG-funded facility designated only for eligible use.

(i) You do not need to notify facility users of any restrictions for shared-use areas and amenities that you have already decided have predictable mixed use and you have allocated following § 86.19.

(ii) You must notify facility users of benefits that you decide are only for eligible users, such as boat slips and moorage.

(b) You may use new technology and methods of communication to inform boaters.

Subpart H—Revisions and Appeals

§ 86.100 Can I change the information in a grant application after I receive a grant?

(a) To change information in a grant application after you receive a grant, you must propose a revision of the grant and we must approve it.

(b) We may approve a revision if:

(1) For BIG Tier 1—State and BIG Tier 2—National awards, the revision:

(i) Would not significantly decrease the benefits of the project; and

(ii) Would not increase Federal funds.

(2) For BIG Tier 2—National awards, the revision:

(i) Involves process, materials, logistics, or other items that have no significant effect on the factors used to decide the score; and

(ii) Keeps an equal or greater percentage of the non-Federal matching share of the total BIG project costs.

(c) We may approve a decrease in the Federal funds requested in the application subject to paragraph (b) of this section.

(d) The Regional WSFR Office must follow its own procedures for review and approval of any changes to a BIG Tier 1—State grant.

(e) The Regional WSFR Office must receive approval from the WSFR Headquarters Office for any changes to a BIG Tier 2—National grant that involves cost or affects project benefits.

§ 86.101 How do I ask for a revision of a grant?

(a) You must ask for a revision of a grant by sending us the following documents:

(1) The standard form used to apply for Federal assistance, which is available at *http://www.grants.gov.* You must use this form to update or ask for a change in the information that you included in the approved grant application. The authorized representative of your agency must certify this form.

(2) A statement attached to the standard form at paragraph (a)(1) of this section that explains:

(i) The proposed changes and how the revision would affect the information that you submitted with the original grant application; and

(ii) Why the revision is necessary.

(b) You must send any revision of the scope to your State Clearinghouse or Single Point of Contact if your State supports this process under Executive Order 12372, Intergovernmental Review of Federal Programs.

§ 86.102 Can I appeal a decision?

You can appeal the Director's, Assistant Director's, or Regional Director's decision on any matter subject to this part according to 2 CFR 200.341.

(a) You must send the appeal to the Director within 30 calendar days of the date that the Director, Assistant Director, or Regional Director mails or otherwise informs you of a decision.

(b) You may appeal the Director's decision under paragraph (a) of this section to the Secretary of the Interior within 30 calendar days of the date that the Director mailed the decision. An appeal to the Secretary must follow procedures at 43 CFR part 4, subpart G, ''Special Rules Applicable to Other Appeals and Hearings.''

§ 86.103 Can the Director authorize an exception to this part?

The Director can authorize an exception to any requirement of this part that is not explicitly required by

law if it does not conflict with other laws or regulations or the policies of the Department of the Interior or the Office of Management and Budget (OMB).

Subpart I—Information Collection

§ 86.110 What are the information-collection requirements of this part?

OMB has reviewed and approved the U.S. Fish and Wildlife information collection requirements (project narratives, reports, and amendments) in this part and assigned OMB Control No. 1018–0109. We 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. You may send comments on any aspect of the information collection requirements to the Service Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

Dated: April 21, 2015.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–09961 Filed 5–5–15; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Proclamation 9270—National Small Business Week, 2015
Proclamation 9271—Public Service Recognition Week, 2015

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Vol. 80, No. 87
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Presidential Documents

Title 3—

The President

Proclamation 9270 of May 1, 2015

National Small Business Week, 2015

By the President of the United States of America

A Proclamation

America's small businesses are the backbone of our economy, employing half of our country's private sector workforce and creating nearly two out of every three new jobs in our country. Representing the quintessential American ideals of hard work and ingenuity, small businesses—from startups to mom-and-pop shops—are crucial to our national prosperity and economic security. During National Small Business Week, we recommit to advancing these vital enterprises, and we celebrate their contributions to our collective American story.

From day one, my Administration has made supporting our Nation's small businesses a priority. We have fought to ensure our tax code reflects our values and encourages growth, and part of that effort includes making sure those who take risks and do the hard work of turning a good idea into a great business get a fair deal. That is why I have signed into law 18 different tax cuts for small businesses, which are helping them thrive in the 21st-century economy. By investing in our infrastructure, expanding access to credit, and assisting entrepreneurs as they start out and scale up, we are continuing to bolster America's small business community.

My Administration is committed to ensuring small businesses have the tools, resources, and expertise they need to succeed. Last year, we built on the success of my QuickPay initiative—which has already generated over $1 billion in cost savings for small businesses—by launching SupplierPay, a new partnership with the private sector to strengthen small businesses by increasing their working capital. The Affordable Care Act is working to expand insurance coverage, reduce health care costs, and improve the quality of care—all of which help small businesses and our economy. Additionally, the law allows small businesses access to SHOP, a competitive marketplace where they can look for coverage that meets their needs and where they cannot be charged more for operating in blue-collar industries, employing women, or insuring people with pre-existing conditions. We are also focused on injecting capital into emerging, entrepreneurial communities, supporting ventures operated by women, veterans, and underserved populations. And we continue to work to open new markets for small exporters because we know trade promotion bolsters our small businesses and their employees.

Our small businesses represent what is best about our Nation—the idea that with determination and responsibility, anyone can build a better life for themselves and their loved ones. For more than two centuries, American innovation has sparked ideas that have changed our lives and the course of our history for the better. This week, we recognize the role small businesses play as pillars of our communities and engines of our growing economy, and we rededicate ourselves to fostering the entrepreneurial spirit that has forged the strongest economy the world has ever known.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 4 through May 8, 2015, as National Small Business Week. I call upon all Americans

to recognize the contributions of small businesses to the competitiveness of the American economy with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–11103
Filed 5–5–15; 11:15 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9271 of May 1, 2015

Public Service Recognition Week, 2015

By the President of the United States of America

A Proclamation

A Government of, by, and for the people is sustained only through the hard work and extraordinary sacrifice of millions of citizens willing to serve the country they love. From the moment an early band of patriots first came together to secure the blessings of liberty for all, public servants have worked to create a more perfect Union. Today—in every city and every town—Americans proudly carry forward this tradition of service, which has built our Nation and strengthened its promise. This week, we recognize all those who dedicate their lives to this noble pursuit, and we celebrate the tremendous difference they make every day.

In the face of difficult challenges, public servants give new life to the values that bind our Nation together. Civil servants are scientists and teachers, social workers and first responders—they are the leaders of today's progress and the innovators of tomorrow's breakthroughs. With determination and resolve, they defend our country overseas and work to widen the circle of opportunity and prosperity here at home. And despite tough circumstances—including pay freezes, budget cuts, sequestration, and a political climate that too often does not sufficiently value their work—these exceptional leaders continue to make real the fundamental truth that people who love their country can change it.

With more than 2 million civilian workers and more than 1 million active duty service members, our Federal workforce represents extraordinary possibility. Our Government can and must be a force for good, and together, we can make sure our democracy works for all Americans. We know there are some things we do better when we join in common purpose, and with hard work and a commitment worthy of our Nation's potential, we can keep our country safe, guarantee basic security, and ensure everyone has a shot at success.

As President, I am dedicated to engaging our workforce and investing in the people who strive every day to help our Nation live up to its limitless promise. My Administration is advancing efforts to train and develop the next generation of civil servants and equip them with the skills to lead change, build coalitions, and collaborate across Government to solve big problems. We are also finding new ways to improve how we recruit, empower, and retain the most diverse and very best talent, ensuring careers in public service will continue to attract the brightest of the coming generations. I am committed to lifting up the outstanding work that is done every day and to fostering an environment where all our employees feel valued, engaged, and included.

Public service is a calling which has meant so much to so many. It embodies our sense of shared values and reflects our drive to serve a cause beyond our own—to give back to our Nation, leave our mark, and nudge history forward. There is no greater opportunity to help more people or to make a bigger difference. During Public Service Recognition Week, we honor the women and men who power our local, State, and Federal governments, and we recommit to tackling the toughest challenges with the most talented workforce.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 3 through May 9, 2015, as Public Service Recognition Week. I call upon all Americans to recognize the hard work and dedication of our Nation's public servants and to observe this week by expressing their gratitude and appreciation through appropriate activities, events, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–11109
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